



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4677

Introduced 1/12/2006, by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16H-10

720 ILCS 5/17-1

from Ch. 38, par. 17-1

Amends the Criminal Code of 1961. Includes a currency exchange in the definition of financial institution under the Illinois Financial Crime Law. In the statute concerning deceptive practices, provides that a person who, with the intent to defraud, makes or causes to be made any false statement in writing in order to obtain services from a currency exchange, knowing such writing to be false, and with the intent that it be relied upon, is guilty of a Class A misdemeanor. Effective immediately.

LRB094 17479 RLC 52774 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Sections 16H-10 and 17-1 as follows:

6 (720 ILCS 5/16H-10)

7 Sec. 16H-10. Definitions. In this Article unless the
8 context otherwise requires:

9 (a) "Financial crime" means an offense described in this
10 Article.

11 (b) "Financial institution" means any bank, savings bank,
12 savings and loan association, credit union, trust company,
13 currency exchange, or a ~~other~~ depository of money, or medium of
14 savings and collective investment.

15 (Source: P.A. 93-440, eff. 8-5-03.)

16 (720 ILCS 5/17-1) (from Ch. 38, par. 17-1)

17 Sec. 17-1. Deceptive practices.

18 (A) Definitions.

19 As used in this Section:

20 (i) ~~A~~ "Financial institution" means any bank, savings
21 and loan association, credit union, or other depository of
22 money, or medium of savings and collective investment.

23 (ii) An "account holder" is any person~~r~~ having a
24 checking account or savings account in a financial
25 institution.

26 (iii) To act with the "intent to defraud" means to act
27 wilfully, and with the specific intent to deceive or cheat,
28 for the purpose of causing financial loss to another, or to
29 bring some financial gain to oneself. It is not necessary
30 to establish that any person was actually defrauded or
31 deceived.

1 (B) General Deception.

2 A person commits a deceptive practice when, with intent to
3 defraud, the person does any of the following:

4 (a) He or she causes another, by deception or threat,
5 to execute a document disposing of property or a document
6 by which a pecuniary obligation is incurred. ~~or~~

7 (b) Being an officer, manager or other person
8 participating in the direction of a financial institution,
9 he or she knowingly receives or permits the receipt of a
10 deposit or other investment, knowing that the institution
11 is insolvent. ~~or~~

12 (c) He or she knowingly makes or directs another to
13 make a false or deceptive statement addressed to the public
14 for the purpose of promoting the sale of property or
15 services. ~~or~~

16 (d) With intent to obtain control over property or to
17 pay for property, labor or services of another, or in
18 satisfaction of an obligation for payment of tax under the
19 Retailers' Occupation Tax Act or any other tax due to the
20 State of Illinois, he or she issues or delivers a check or
21 other order upon a real or fictitious depository for the
22 payment of money, knowing that it will not be paid by the
23 depository. Failure to have sufficient funds or credit with
24 the depository when the check or other order is issued or
25 delivered, or when such check or other order is presented
26 for payment and dishonored on each of 2 occasions at least
27 7 days apart, is prima facie evidence that the offender
28 knows that it will not be paid by the depository, and that
29 he or she has the intent to defraud. In this paragraph (d),
30 "property" includes rental property (real or personal).

31 (e) He or she issues or delivers a check or other order
32 upon a real or fictitious depository in an amount exceeding
33 \$150 in payment of an amount owed on any credit transaction
34 for property, labor or services, or in payment of the
35 entire amount owed on any credit transaction for property,

1 labor or services, knowing that it will not be paid by the
2 depository, and thereafter fails to provide funds or credit
3 with the depository in the face amount of the check or
4 order within 7 ~~seven~~ days of receiving actual notice from
5 the depository or payee of the dishonor of the check or
6 order.

7 Sentence.

8 A person convicted of a deceptive practice under paragraph
9 ~~paragraphs~~ (a), (b), (c), (d), or ~~through~~ (e) of this
10 subsection (B), except as otherwise provided by this Section,
11 is guilty of a Class A misdemeanor.

12 A person convicted of a deceptive practice in violation of
13 paragraph (d) a second or subsequent time shall be guilty of a
14 Class 4 felony.

15 A person convicted of deceptive practices in violation of
16 paragraph (d), when the value of the property so obtained, in a
17 single transaction, or in separate transactions within a 90 day
18 period, exceeds \$150, shall be guilty of a Class 4 felony. In
19 the case of a prosecution for separate transactions totaling
20 more than \$150 within a 90 day period, such separate
21 transactions shall be alleged in a single charge and provided
22 in a single prosecution.

23 (C) Deception on a Bank or Other Financial Institution.

24 (1) False Statements.

25 ~~1)~~ Any person who, with the intent to defraud, makes or
26 causes to be made, any false statement in writing in order to
27 obtain an account with a bank or other financial institution,
28 or to obtain credit from a bank or other financial institution,
29 or to obtain services from a currency exchange, knowing such
30 writing to be false, and with the intent that it be relied
31 upon, is guilty of a Class A misdemeanor.

32 For purposes of this subsection (C), a false statement
33 shall mean any false statement representing identity, address,
34 or employment, or the identity, address or employment of any
35 person, firm or corporation.

1 (2) Possession of Stolen or Fraudulently Obtained Checks.

2 ~~2~~ Any person who possesses, with the intent to obtain
3 access to funds of another person held in a real or fictitious
4 deposit account at a financial institution, makes a false
5 statement or a misrepresentation to the financial institution,
6 or possesses, transfers, negotiates, or presents for payment a
7 check, draft, or other item purported to direct the financial
8 institution to withdraw or pay funds out of the account
9 holder's deposit account with knowledge that such possession,
10 transfer, negotiation, or presentment is not authorized by the
11 account holder or the issuing financial institution is guilty
12 of a Class A misdemeanor. A person shall be deemed to have been
13 authorized to possess, transfer, negotiate, or present for
14 payment such item if the person was otherwise entitled by law
15 to withdraw or recover funds from the account in question and
16 followed the requisite procedures under the law. In the event
17 that the account holder, upon discovery of the withdrawal or
18 payment, claims that the withdrawal or payment was not
19 authorized, the financial institution may require the account
20 holder to submit an affidavit to that effect on a form
21 satisfactory to the financial institution before the financial
22 institution may be required to credit the account in an amount
23 equal to the amount or amounts that were withdrawn or paid
24 without authorization.

25 Any person who, within any 12 month period, violates this
26 Section with respect to 3 or more checks or orders for the
27 payment of money at the same time or consecutively, each the
28 property of a different account holder or financial
29 institution, is guilty of a Class 4 felony.

30 (3) Possession of Implements of Check Fraud.

31 Any person who possesses, with the intent to defraud~~7~~ and
32 without the authority of the account holder or financial
33 institution, any check imprinter, signature imprinter, or
34 "certified" stamp is guilty of a Class A misdemeanor.

35 A person who within any 12 month period violates this
36 subsection (C) as to possession of 3 or more such devices at

1 the same time or consecutively, is guilty of a Class 4 felony.

2 (4) Possession of Identification Card.

3 ~~4)~~ Any person, who, with the intent to defraud, possesses
4 any check guarantee card or key card or identification card for
5 cash dispensing machines without the authority of the account
6 holder or financial institution, is guilty of a Class A
7 misdemeanor.

8 A person who, within any 12 month period, violates this
9 Section at the same time or consecutively with respect to 3 or
10 more cards, each the property of different account holders, is
11 guilty of a Class 4 felony.

12 A person convicted under this Section, when the value of
13 property so obtained, in a single transaction, or in separate
14 transactions within any 90 day period, exceeds \$150 shall be
15 guilty of a Class 4 felony.

16 (Source: P.A. 92-633, eff. 1-1-03; 92-646, eff. 1-1-03; revised
17 10-3-02.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.