



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4578

by Rep. Kay Hatcher

SYNOPSIS AS INTRODUCED:

720 ILCS 5/17-1

from Ch. 38, par. 17-1

Amends the Criminal Code of 2012. Provides that a person also commits a deceptive practice when he or she knowingly obtains, by deception, the signature of another person to a document. Provides that knowingly obtaining, by deception, the signature of another person to a document is a Class A misdemeanor. Provides that a second offense is a Class 4 felony and a third or subsequent offense is a Class 3 felony. Defines "by deception" as including knowingly misrepresenting or omitting any fact material to a document or transaction involving a document. Effective immediately.

LRB098 17711 RLC 52826 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 2012 is amended by adding
5 Section 17-1 as follows:

6 (720 ILCS 5/17-1) (from Ch. 38, par. 17-1)
7 Sec. 17-1. Deceptive practices.

8 (A) General deception.

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

11 (1) He or she knowingly causes another, by deception or
12 threat, to execute a document disposing of property or a
13 document by which a pecuniary obligation is incurred.

14 (1.5) He or she knowingly obtains, by deception, the
15 signature of another person to a document.

16 (2) Being an officer, manager or other person
17 participating in the direction of a financial institution,
18 he or she knowingly receives or permits the receipt of a
19 deposit or other investment, knowing that the institution
20 is insolvent.

21 (3) He or she knowingly makes a false or deceptive
22 statement addressed to the public for the purpose of

1 promoting the sale of property or services.

2 As used in this subsection (A), "by deception" includes
3 knowingly misrepresenting or omitting any fact material to a
4 document or transaction involving the document.

5 (B) Bad checks.

6 A person commits a deceptive practice when:

7 (1) With intent to obtain control over property or to
8 pay for property, labor or services of another, or in
9 satisfaction of an obligation for payment of tax under the
10 Retailers' Occupation Tax Act or any other tax due to the
11 State of Illinois, he or she issues or delivers a check or
12 other order upon a real or fictitious depository for the
13 payment of money, knowing that it will not be paid by the
14 depository. The trier of fact may infer that the defendant
15 knows that the check or other order will not be paid by the
16 depository and that the defendant has acted with intent to
17 defraud when the defendant fails to have sufficient funds
18 or credit with the depository when the check or other order
19 is issued or delivered, or when such check or other order
20 is presented for payment and dishonored on each of 2
21 occasions at least 7 days apart. In this paragraph (B)(1),
22 "property" includes rental property (real or personal).

23 (2) He or she issues or delivers a check or other order
24 upon a real or fictitious depository in an amount exceeding
25 \$150 in payment of an amount owed on any credit transaction

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

8 (C) Bank-related fraud.

9 (1) False statement.

10 A person commits false statement bank fraud if he or she,
11 with intent to defraud, makes or causes to be made any false
12 statement in writing in order to obtain an account with a bank
13 or other financial institution, or to obtain credit from a bank
14 or other financial institution, or to obtain services from a
15 currency exchange, knowing such writing to be false, and with
16 the intent that it be relied upon.

17 For purposes of this subsection (C), a false statement
18 means any false statement representing identity, address, or
19 employment, or the identity, address, or employment of any
20 person, firm, or corporation.

21 (2) Possession of stolen or fraudulently obtained checks.

22 A person commits possession of stolen or fraudulently
23 obtained checks when he or she possesses, with the intent to
24 obtain access to funds of another person held in a real or
25 fictitious deposit account at a financial institution, makes a

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

20 (3) Possession of implements of check fraud.

21 A person commits possession of implements of check fraud
22 when he or she possesses, with the intent to defraud and
23 without the authority of the account holder or financial
24 institution, any check imprinter, signature imprinter, or
25 "certified" stamp.

1 (D) Sentence.

2 (1) The commission of a deceptive practice in violation
3 of this Section, except as otherwise provided by this
4 subsection (D), is a Class A misdemeanor.

5 (2) For purposes of paragraphs (A) (1) and (B) (1):

6 (a) The commission of a deceptive practice in
7 violation of paragraph (A) (1) or (B) (1), when the value
8 of the property so obtained, in a single transaction or
9 in separate transactions within a 90-day period,
10 exceeds \$150, is a Class 4 felony. In the case of a
11 prosecution for separate transactions totaling more
12 than \$150 within a 90-day period, those separate
13 transactions shall be alleged in a single charge and
14 prosecuted in a single prosecution.

15 (b) The commission of a deceptive practice in
16 violation of paragraph (B) (1) a second or subsequent
17 time is a Class 4 felony.

18 (3) For purposes of paragraph (C) (2), a person who,
19 within any 12-month period, violates paragraph (C) (2) with
20 respect to 3 or more checks or orders for the payment of
21 money at the same time or consecutively, each the property
22 of a different account holder or financial institution, is
23 guilty of a Class 4 felony.

24 (4) For purposes of paragraph (C) (3), a person who
25 within any 12-month period violates paragraph (C) (3) as to
26 possession of 3 or more such devices at the same time or

1 consecutively is guilty of a Class 4 felony.

2 (5) For purposes of paragraph (A)(1.5), knowingly
3 obtaining, by deception, the signature of another person to
4 a document is a Class A misdemeanor. A second offense is a
5 Class 4 felony. A third or subsequent offense is a Class 3
6 felony.

7 (E) Civil liability. A person who issues a check or order
8 to a payee in violation of paragraph (B)(1) and who fails to
9 pay the amount of the check or order to the payee within 30
10 days following either delivery and acceptance by the addressee
11 of a written demand both by certified mail and by first class
12 mail to the person's last known address or attempted delivery
13 of a written demand sent both by certified mail and by first
14 class mail to the person's last known address and the demand by
15 certified mail is returned to the sender with a notation that
16 delivery was refused or unclaimed shall be liable to the payee
17 or a person subrogated to the rights of the payee for, in
18 addition to the amount owing upon such check or order, damages
19 of treble the amount so owing, but in no case less than \$100
20 nor more than \$1,500, plus attorney's fees and court costs. An
21 action under this subsection (E) may be brought in small claims
22 court or in any other appropriate court. As part of the written
23 demand required by this subsection (E), the plaintiff shall
24 provide written notice to the defendant of the fact that prior
25 to the hearing of any action under this subsection (E), the

1 defendant may tender to the plaintiff and the plaintiff shall
2 accept, as satisfaction of the claim, an amount of money equal
3 to the sum of the amount of the check and the incurred court
4 costs, including the cost of service of process, and attorney's
5 fees.

6 (Source: P.A. 96-1432, eff. 1-1-11; 96-1551, eff. 7-1-11.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.