

AN ACT concerning regulation.

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

Section 5. The Financial Institutions Digital Signature Act is amended by changing Sections 1, 5, and 10 as follows:

(205 ILCS 705/1)

Sec. 1. Short title. This Act may be cited as the Financial Institutions Electronic Documents and Digital Signature Act.

(Source: P.A. 90-575, eff. 3-20-98.)

(205 ILCS 705/5)

Sec. 5. Definitions. As used in this Act:

"Digital signature" means an encrypted electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.

"Financial institution" means a bank, a savings and loan association, a ~~or~~ savings bank, or a credit union, ~~established under the laws of this or any other state or established under the laws of the United States the deposits of which are insured by the Federal Deposit Insurance Corporation or other agency of the federal government.~~

"Substitute check" means a paper reproduction of an original check, as defined in the Check Clearing for the 21st Century Act (12 U.S.C. 5001, et seq.), as amended from time to time, and the rules promulgated thereunder.

(Source: P.A. 90-575, eff. 3-20-98.)

(205 ILCS 705/10)

Sec. 10. Electronic documents; digital signatures.

(a) If in the regular course of business, a financial institution possesses, records, or generates any document,

representation, image, substitute check, reproduction, or combination thereof, of any agreement, transaction, act, occurrence, or event by any electronic or computer-generated process that accurately reproduces, comprises, or records the agreement, transaction, act, occurrence, or event, the recording, comprising, or reproduction shall have the same force and effect under the laws of this State as one comprised, recorded, or created on paper or other tangible form by writing, typing, printing, or similar means.

(b) In any communication, acknowledgement, agreement, or contract between a financial institution and its customer, in which a signature is required or used, any party to the communication, acknowledgement, agreement, or contract may affix a signature by use of a digital signature, and the digital signature, when lawfully used by the person whose signature it purports to be, shall have the same force and effect as the use of a manual signature if it is unique to the person using it, is capable of verification, is under the sole control of the person using it, and is linked to data in such a manner that if the data are changed, the digital signature is invalidated. Nothing in this Section shall require any financial institution or customer to use or permit the use of a digital signature.

(Source: P.A. 90-575, eff. 3-20-98.)

Section 10. The Criminal Code of 1961 is amended by changing Section 17-3 as follows:

(720 ILCS 5/17-3) (from Ch. 38, par. 17-3)

Sec. 17-3. Forgery.

(a) A person commits forgery when, with intent to defraud, he knowingly:

(1) makes or alters any document apparently capable of defrauding another in such manner that it purports to have been made by another or at another time, or with different provisions, or by authority of one who did not give such

authority; or

(2) issues or delivers such document knowing it to have been thus made or altered; or

(3) possesses, with intent to issue or deliver, any such document knowing it to have been thus made or altered; or

(4) unlawfully uses the digital signature, as defined in the Financial Institutions Electronic Documents and Digital Signature Act, of another; or

(5) unlawfully uses the signature device of another to create an electronic signature of that other person, as those terms are defined in the Electronic Commerce Security Act.

(b) An intent to defraud means an intention to cause another to assume, create, transfer, alter or terminate any right, obligation or power with reference to any person or property. As used in this Section, "document" includes, but is not limited to, any document, representation, or image produced manually, electronically, or by computer.

(c) A document apparently capable of defrauding another includes, but is not limited to, one by which any right, obligation or power with reference to any person or property may be created, transferred, altered or terminated. A document includes any record or electronic record as those terms are defined in the Electronic Commerce Security Act.

(d) Sentence.

Forgery is a Class 3 felony.

(Source: P.A. 90-575, eff. 3-20-98; 90-759, eff. 7-1-99; 91-357, eff. 7-29-99.)

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