



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2404

Introduced 2/16/2005, by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

205 ILCS 705/1
205 ILCS 705/5
205 ILCS 705/10
720 ILCS 5/17-3

from Ch. 38, par. 17-3

Amends the Financial Institutions Digital Signature Act. Changes the short title of the Act to the Financial Institutions Electronic Documents and Digital Signature Act and makes corresponding changes. Defines "substitute check" and makes changes to the definition of "financial institution". Includes a substitute check among those items that may be possessed, recorded, or generated by a financial institution by any electronic or computer-generated process and provides that the substitute check and all other documents, representations, images, and reproductions generated by an electronic or computer-generated process shall have the same force and effect under the laws of this State as one comprised, recorded, or created on paper or any other tangible form. Effective immediately.

LRB094 08280 MKM 38469 b

1 AN ACT concerning regulation.

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

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

6 (205 ILCS 705/1)

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

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

10 (205 ILCS 705/5)

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

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

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

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

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

27 (205 ILCS 705/10)

28 Sec. 10. Electronic documents; digital signatures.

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

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

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

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

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

27 (720 ILCS 5/17-3) (from Ch. 38, par. 17-3)

28 Sec. 17-3. Forgery.

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

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

1 authority; or

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

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

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

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

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

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

26 (d) Sentence.

27 Forgery is a Class 3 felony.

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

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