

AN ACT concerning criminal law.

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

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

(720 ILCS 5/16H-10)

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

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

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

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

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

Sec. 17-1. Deceptive practices.

(A) Definitions.

As used in this Section:

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

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

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

(B) General Deception.

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

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

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

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

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

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

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

Sentence.

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

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

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

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

(1) False Statements.

~~1)~~ Any person who, with the intent to defraud, makes or causes to be made, ~~any~~ any false statement in writing in order to obtain an account with a bank or other financial institution, or to obtain credit from a bank or other financial institution, or 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.

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

(2) Possession of Stolen or Fraudulently Obtained Checks.

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

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

(3) Possession of Implements of Check Fraud.

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

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

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

(4) Possession of Identification Card.

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

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

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

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

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