

Representative A. Lamont Tyler proposes the following substitute bill:

**UNAUTHORIZED ELECTRONIC
TRANSACTIONS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: A. Lamont Tyler

This act modifies the Uniform Commercial Code to create a penalty for certain unauthorized electronic transactions.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

70A-4-112, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **70A-4-112** is enacted to read:

70A-4-112. Liability for unauthorized electronic fund transfers.

(1) For purposes of this section:

(a) "unauthorized electronic transaction" means an electronic transfer of monies from an account:

(i) initiated by a person other than the customer that maintains the account; and

(ii) without authority to initiate the transfer; and

(b) "unauthorized electronic transaction" does not include an electronic fund transfer:

(i) initiated with the fraudulent intent of the customer or a person acting with the knowledge of the customer;

(ii) that is initiated by:

(A) a bank; or

(B) an employee of a bank; or

(iii) initiated in reliance on a written contract between the customer and the person that



26 initiates the transfer of the monies.

27 (2) A person may not request or receive monies through an unauthorized electronic
28 transaction.

29 (3) In addition to any other liability under this title, a person that violates Subsection (2):

30 (a) shall return to the customer:

31 (i) any monies transferred in violation of Subsection (2); and

32 (ii) any penalties imposed on the customer as a result of the unauthorized electronic
33 transaction; and

34 (b) is liable to the customer of the account from which the monies are transferred for an
35 amount equal to the greater of:

36 (i) \$200; or

37 (ii) three times the amount requested to be transferred by the unauthorized electronic
38 transaction.

39 (4) (a) To collect an amount that a customer is owed under Subsection (3), the customer
40 may file a civil action in any court of competent jurisdiction.

41 (b) A court shall award the prevailing party in a civil action described in Subsection (4)(a):

42 (i) attorney fees, except that the attorneys fees may not exceed the amount described in
43 Subsection (3)(b); and

44 (ii) court costs.

45 (5) Notwithstanding Subsection (3)(b), a person is not liable under Subsection (3)(b) if that
46 person can demonstrate that:

47 (a) there was an authorization for the electronic transfer of funds that was requested by the
48 person;

49 (b) the electronic transfer of funds was inadvertently transferred from an account other
50 than the account for which there was an authorization; and

51 (c) promptly upon discovery of the inadvertent transfer, the person takes the actions
52 required by Subsection (3)(a).