
DIGEST

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HB 722 Original

2020 Regular Session

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Abstract: Provides for the enforcement of electronic signatures by financial institutions and authorizes recovery of costs and attorney fees.

Present law (R.S. 9:2601, et seq., Louisiana Uniform Electronic Transactions Act) provides for the effect, use, and enforceability of electronic records and electronic signatures involved in a transaction between two or more persons relating to the conduct of business, commercial, or governmental affairs with certain exceptions. Present law (R.S. 9:2610) further provides for the effect of change or error involving an electronic signature or record.

Proposed law explicitly provides that electronic signatures used in transactions by and with financial institutions are enforceable to the full extent of the law.

Proposed law provides that if the purported signer claims that the electronic signature sought to be enforced by a financial institution is not his own, the purported signer has the burden of proving that the electronic signature is invalid or unenforceable.

Proposed law provides that a financial institution may submit corroborating evidence to provide that an electronic signature is that of the purported signer and provides examples of such evidence.

Proposed law provides that in any litigation or arbitration where a purported signer of an electronic record disputes the validity or enforceability of an electronic signature sought to be enforced by a financial institution as authorized by present law, reasonable attorney fees and costs may be recovered as follows:

- (1) If the purported signer proves that the electronic signature is invalid or unenforceable, the purported signer shall recover from the financial institution his reasonable attorney fees and costs.
- (2) If the signer does not prove that the electronic signature is invalid or unenforceable, the financial institution shall recover from the signer its reasonable attorney fees and costs.

Present law provides for definitions. Proposed law applies present law definitions to proposed law.

(Amends R.S. 13:3733.1(A)(intro. para.); Adds R.S. 13:3733.3)