

From: Eric Werne [e.werner@fsbspearman.com]
Sent: Friday, September 10, 2010 3:54 PM
To: 'Eric Werne'; Overdraft Comments
Subject: Thought of the OD programs

Importance: High
FDIC, Sheila Bear, and Whom else this reaches,

I would first like to thank you for the opportunity of an open forum environment for public comments. I am a small town, main street, community banker in the rural Texas panhandle. My Bank does offer a formal Overdraft Program and, as with all depository financial institutions, we have an “ad-hoc” program (meaning if the account balance is negative the item is either PAID or RETURNED) The open forum gave me the opportunity to read over 150 national comments from other people so as to familiarize myself with others concerns/comments as well as those in my neighborhood. In review of the hundreds of comments and questions that I received or reviewed; I have noticed three main categories that I would like to comment on.

PROCESSING OF ITEMS –There are several ways to process incoming credits and debits to a bank account (as written, as received, high to low, low to high, etc.) The most used is either as received or high to low. Common belief seems to be that Banks process High to Low in order to increase consumer cost, but I would like to enlighten people as to another reason. High is generally a more important debit transaction. Seriously, your car payment, insurance premium, or utility bill is likely more important than a \$2.00 cup of coffee. Just think of the recourse of a returned payment, utility, or premium. This could affect your credit rating for future credit, jobs, etc. along with jeopardizing your new Federal Health Care coverage or utility rating. Not to mention the criminal consequences from “Theft by Check”. In Texas, the maximum penalties are as follows:

MAXIMUM Penalties for Theft by Check: Fine Amounts Do Not Include Restitution, Fees, or Court Costs	
Value of Property Less than \$20	Fine of \$500
Value of Property \$20 to \$500	Fine of \$2,000 Plus Six Months Jail Time
Value of Property \$500 to \$1,500	Fine of \$4,000 Plus Jail Time of One Year
Value of Property \$1,500 to \$20,000	Fine of \$10,000 Plus State jail time of Six Months to Two Years
Value of Property \$20,000 to \$100,000	Fine of \$10,000 Plus Prison time of Two to Ten Years
Value of Property \$200,000 plus	Fine of \$10,000 Plus Prison Time of Five to Ninety Years or Life

Without Overdraft privileges offered by Banks, this is the TRUE alternative.

RESPONSIBILITY – Several comments were made that never acknowledge that the responsibility of the insufficient account is the Account Holder, not the Bank. I will GAURANTEE you that banks do not charge NSF fees for accounts that are not insufficient funds. It is sad that we have become a “victim” society. It is illegal to write a check that does not have sufficient funds to cover the amount. Please refer to above table.

NON-DISCUSSED ISSUES – A list of thoughts to leave you with is one of which I believe to hold great importance. The Debit Card/Point of Sale transactions that are at the center of this subject were first introduced in order for merchants to verify funds (of a deposit account) in lieu of accepting a personal check (which could be insufficient). In today’s reality, these funds do not have to be verified for certain purchases/amounts as per cardholder agreements. Therefore, this leaves the Banks liable for the monies tendered. Why are the Merchants and/or Merchant Services companies not being held responsible for verification of funds? Also, why do they not share in any costs? It seems as though the Banks are being blamed for charging a service fee to VALUED customers as an option to that customer breaking the law. Can you imagine the Point of Sale transactions that would be declined if funds would have to be verified and held instantaneously?

In long and strenuous thought of today’s challenges and circumstances surrounding these new rules coming down from FDIC, I can only hope that responsibility finds its way back into the consumers themselves. I for one am very appreciative when my Bank accepts my insufficient check instead of returning it, charging me to cover FDIC’s fed line fee, and not having to go to the Merchant, pay that fee, and all the embarrassment that goes with it.

Sincerely,
Eric S. Werner
Concerned Citizen

P.S. Any return comments would be greatly appreciated.