

AMENDED IN ASSEMBLY MAY 4, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1080

Introduced by Assembly Member Charles Calderon

February 18, 2011

An act to add Section 1798.825 to the Civil Code, relating to Internet transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1080, as amended, Charles Calderon. Internet transactions: verification: banking and financial services.

Existing law sets forth comprehensive provisions governing funds transfers, as defined, including provisions related to the issuance and acceptance of payment orders, requirements for verification, the effect of errors, the effect of acceptance of a payment order, and related provisions.

~~This bill would require a business that provides banking or other financial services, as specified, over the Internet to implement and maintain reasonable policies and procedures for authenticating and verifying the legitimacy of a consumer transaction over the Internet, as specified. The bill would authorize the imposition of a civil penalty in the amount of \$3,000 and the institution of a civil action by a consumer for a violation of this requirement.~~

This bill would require a business that provides banking or other financial services and that allows for the movement of specified funds over the Internet to collect and report, on an annual basis, information

relating to unauthorized transfers of funds over the Internet, and to post this report on its Internet Web site, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1798.825 is added to the Civil Code, to
2 read:

3 1798.825. (a) A business that provides banking and other
4 financial services and that allows for the movement of funds under
5 the ownership and control of a person or business over the Internet
6 shall collect and report, on an annual basis, the following
7 information:

8 (1) The number of instances in which an unauthorized transfer
9 of funds occurred over the Internet.

10 (2) The total sum of unauthorized funds transferred over the
11 Internet.

12 (b) The collection of these statistics shall be limited to customers
13 affected in California.

14 (c) The report shall be conspicuously posted on the Internet
15 Web site of the bank or financial institution.

16 ~~SECTION 1. Section 1798.825 is added to the Civil Code, to~~
17 ~~read:~~

18 ~~1798.825.—(a) A business that provides banking or other~~
19 ~~financial services that allows movement of funds or change of~~
20 ~~personal account information under the ownership or control of a~~
21 ~~person or business over the Internet shall implement and maintain~~
22 ~~reasonable policies and procedures for authenticating and verifying~~
23 ~~the legitimacy of a consumer transaction made over the Internet.~~

24 ~~(b) The policies and procedures that a business implements~~
25 ~~pursuant to subdivision (a) shall, at a minimum, be consistent with~~
26 ~~the best industry practices promulgated by the Federal Financial~~
27 ~~Institutions Examination Council, as they may be updated from~~
28 ~~time to time.~~

29 ~~(c) The business providing banking or other financial services~~
30 ~~that allows movement of funds or change of personal account~~
31 ~~information under the ownership or control of a person or business~~
32 ~~over the Internet shall utilize an out-of-band, two-factor~~
33 ~~authentication solution to ensure strong authentication and identity~~

1 ~~management of users performing transactions and accessing~~
2 ~~financial account information over the Internet.~~

3 ~~(d) Subdivisions (a), (b), and (c) shall apply to transactions~~
4 ~~initiated via the Internet that result in any of the following:~~

5 ~~(1) The movement of funds to a new entity, account, or~~
6 ~~destination that is not a bill pay recipient recognized by the~~
7 ~~business in an established list of payment recipients.~~

8 ~~(2) A transfer to a previously established recipient account that~~
9 ~~is inconsistent with prior payments sent to that account or that is~~
10 ~~200 percent or greater than any previous payment to that account.~~

11 ~~(3) An update of account information.~~

12 ~~(4) The establishment of a new account or line of credit.~~

13 ~~(e) A civil penalty in the amount of three thousand dollars~~
14 ~~(\$3,000) may be imposed on a business that fails to conduct an~~
15 ~~Internet transaction with a consumer in compliance with the~~
16 ~~policies and procedures required pursuant to subdivisions (a), (b),~~
17 ~~and (c).~~

18 ~~(f) Any consumer injured by a fraudulent transaction in violation~~
19 ~~of the requirements specified in subdivisions (a), (b), and (c) may~~
20 ~~institute a civil action to recover damages.~~

21 ~~(g) The rights and remedies under this section are cumulative~~
22 ~~with each other and with any other rights and remedies under law.~~

23 ~~(h) Any entity regulated by the Department of Insurance is~~
24 ~~exempt from the requirements of this section. However, this~~
25 ~~exemption does not apply to any entity that is regulated by both~~
26 ~~the Department of Insurance and the Department of Financial~~
27 ~~Institutions.~~

28 ~~(i) For purposes of this section:~~

29 ~~(1) “Accessing financial account information” shall mean any~~
30 ~~change to the information associated with an account that risks~~
31 ~~exposing the consumer to monetary loss.~~

32 ~~(2) “Consumer” shall mean any person or entity that is a~~
33 ~~customer of a business providing banking or other financial~~
34 ~~services.~~

35 ~~(3) “Out-of-band, two-factor authentication” shall mean that~~
36 ~~the manner of confirming the details of an online financial services~~
37 ~~transaction and the identity of its initiator shall employ a~~
38 ~~communications channel other than the Internet.~~

39 ~~(4) “Payment order” shall mean either an actual, specific~~
40 ~~instruction to pay a specific amount to a specific payee, or the~~

1 enrollment of that payee as an entity that is eligible for valid
2 payments at some future time. If the latter is authenticated by
3 multiple separate means as provided in this section, then subsequent
4 payments to that entity are not included in this definition and are
5 not subject to this section.

6 (5) ~~“Strong authentication” shall mean the confirmation via a~~
7 ~~communication channel other than the Internet of both the identity~~
8 ~~of the initiator of a transaction and that the details of that~~
9 ~~transaction are those intended by its initiator.~~

10 (6) ~~“Update of account information” includes, but is not limited~~
11 ~~to, a change in any of the following:~~

12 (A) ~~Profile information, including addresses, telephone numbers,~~
13 ~~and e-mail addresses.~~

14 (B) ~~Payee or payroll information.~~

15 (C) ~~Any other information that may place the account holder’s~~
16 ~~funds at risk.~~