

By Senator Rouson

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1 A bill to be entitled
2 An act relating to misdescription of beneficiaries and
3 banks; amending s. 670.207, F.S.; revising
4 requirements for rights as a beneficiary of a payment
5 order and acceptance of the order when the beneficiary
6 is a nonexistent or unidentifiable person or account;
7 removing rules relating to accepted payment orders;
8 amending s. 670.208, F.S.; revising requirements
9 relating to the misdescription of banks for
10 intermediaries and beneficiaries; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 670.207, Florida Statutes, is amended to
16 read:

17 670.207 Misdescription of beneficiary.—

18 (1) (a) Subject to subsection (2), if, in a payment order
19 received by the beneficiary's bank, the name, bank account
20 number, or other identification of the beneficiary refers to a
21 nonexistent or unidentifiable person or account, no person has
22 rights as a beneficiary of the order and acceptance of the order
23 cannot occur.

24 (b) ~~(2)~~ If A payment order received by the beneficiary's
25 bank must identify ~~identifies~~ the beneficiary both by name and
26 by an identifying or bank account number. If ~~and~~ the name and
27 number identify different persons, no person has rights as a ~~the~~
28 ~~following rules apply:~~

29 ~~(a) Except as otherwise provided in subsection (3), if the~~

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30 ~~beneficiary's bank does not know that the name and number refer~~
31 ~~to different persons, it may rely on the number as the proper~~
32 ~~identification of the beneficiary of the order and acceptance of~~
33 ~~the order cannot occur.~~

34 (2) (a) The beneficiary's bank must need not determine in
35 good faith, and using reasonable care, whether the name and
36 number refer to the same person. The duty of reasonable care
37 must include, at a minimum, an automated system for name and
38 number match which escalates any transaction with any
39 discrepancy to a human reviewer.

40 (b) If the bank cannot reasonably verify beneficiary's bank
41 pays the person identified by name or knows that the name and
42 number refer to the same person identify different persons, no
43 person has rights as beneficiary except the person paid by the
44 beneficiary's bank if that person was entitled to receive
45 payment from the originator of the funds transfer. If no person
46 has rights as beneficiary, acceptance of the order cannot occur
47 until the bank has verified with the originator or the receiving
48 bank that the payment order should be processed and any
49 discrepancy is corrected.

50 (3) If a payment order described in subsection (2) is
51 accepted, the originator's payment order described the
52 beneficiary inconsistently by name and number, and the
53 beneficiary's bank pays any person whom the originator did not
54 intend to pay, then the originator is not obliged to pay its
55 order, unless the originator was grossly negligent in sending
56 the original instructions, and the beneficiary's bank was
57 diligent in ascertaining whether the number and name referred to
58 the same person. the person identified by number as permitted by

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59 ~~paragraph (2)(a), the following rules apply:~~

60 ~~(a) If the originator is a bank, the originator is obliged~~
61 ~~to pay its order.~~

62 ~~(b) If the originator is not a bank and proves that the~~
63 ~~person identified by number was not entitled to receive payment~~
64 ~~from the originator, the originator is not obliged to pay its~~
65 ~~order unless the originator's bank proves that the originator,~~
66 ~~before acceptance of the originator's order, had notice that~~
67 ~~payment of a payment order issued by the originator might be~~
68 ~~made by the beneficiary's bank on the basis of an identifying or~~
69 ~~bank account number even if it identifies a person different~~
70 ~~from the named beneficiary. Proof of notice may be made by any~~
71 ~~admissible evidence. The originator's bank satisfies the burden~~
72 ~~of proof if it proves that the originator, before the payment~~
73 ~~order was accepted, signed a writing stating the information to~~
74 ~~which the notice relates.~~

75 ~~(4) In a case governed by paragraph (2)(a), If the~~
76 ~~beneficiary's bank improperly rightfully pays any the person~~
77 ~~identified by number and that person was not entitled or~~
78 ~~intended to receive payment from the originator, the amount paid~~
79 ~~may be recovered from that person to the extent allowed by the~~
80 ~~law governing mistake and restitution. as follows:~~

81 ~~(a) If the originator is obliged to pay its payment order~~
82 ~~due to gross negligence as stated in subsection (3), the~~
83 ~~originator has the right to recover. Otherwise, the bank that~~
84 ~~has borne the loss of the order has the right to recover.~~

85 ~~(b) If the originator is not a bank and is not obliged to~~
86 ~~pay its payment order, the originator's bank has the right to~~
87 ~~recover.~~

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88 (5) (a) A bank accepting orders at a location in this state,
89 or from a customer who resides in this state, must comply with
90 this section.

91 (b) The bank shall enter into an agreement with any
92 counterparty bank requiring name identification as described in
93 this section and, if any beneficiary bank does not engage in
94 name identification and any loss occurs, the receiving bank
95 shall indemnify the originator.

96 Section 2. Section 670.208, Florida Statutes, is amended to
97 read:

98 670.208 Misdescription of intermediary bank or
99 beneficiary's bank.—

100 ~~(1) This subsection applies to a~~ Any payment order
101 identifying an intermediary bank or the beneficiary's bank must
102 use both ~~only by~~ an identifying number and a name.

103 ~~(a) The receiving bank must may rely on the number as the~~
104 ~~proper identification of the intermediary or beneficiary's bank~~
105 ~~and need not~~ determine whether the number identifies a bank and
106 whether the bank identified by number matches the name provided.

107 ~~(b) The sender is obliged to compensate the receiving bank~~
108 ~~for any loss and expenses incurred by the receiving bank as a~~
109 ~~result of its reliance on the number in executing or attempting~~
110 ~~to execute the order.~~

111 ~~(2) This subsection applies to a payment order identifying~~
112 ~~an intermediary bank or the beneficiary's bank both by name and~~
113 ~~an identifying number if the name and number identify different~~
114 ~~persons.~~

115 ~~(a) If the sender is a bank, the receiving bank may rely on~~
116 ~~the number as the proper identification of the intermediary or~~

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117 ~~beneficiary's bank if the receiving bank, when it executes the~~
118 ~~sender's order, does not know that the name and number identify~~
119 ~~different persons. The receiving bank need not determine whether~~
120 ~~the name and number refer to the same person or whether the~~
121 ~~number refers to a bank. The sender is obliged to compensate the~~
122 ~~receiving bank for any loss and expenses incurred by the~~
123 ~~receiving bank as a result of its reliance on the number in~~
124 ~~executing or attempting to execute the order.~~

125 ~~(b) If the sender is not a bank and the receiving bank~~
126 ~~proves that the sender, before the payment order was accepted,~~
127 ~~had notice that the receiving bank might rely on the number as~~
128 ~~the proper identification of the intermediary or beneficiary's~~
129 ~~bank even if it identifies a person different from the bank~~
130 ~~identified by name, the rights and obligations of the sender and~~
131 ~~the receiving bank are governed by paragraph (a), as though the~~
132 ~~sender were a bank. Proof of notice may be made by any~~
133 ~~admissible evidence. The receiving bank satisfies the burden of~~
134 ~~proof if it proves that the sender, before the payment order was~~
135 ~~accepted, signed a writing stating the information to which the~~
136 ~~notice relates.~~

137 ~~(c) Regardless of whether the sender is a bank, the~~
138 ~~receiving bank may rely on the name as the proper identification~~
139 ~~of the intermediary or beneficiary's bank if the receiving bank,~~
140 ~~at the time it executes the sender's order, does not know that~~
141 ~~the name and number identify different persons. The receiving~~
142 ~~bank must need not determine whether the name and number refer~~
143 ~~to the same intermediary or beneficiary bank person.~~

144 ~~(d) If the receiving bank determines ~~knows~~ that the name~~
145 ~~and number identify different banks ~~persons~~, reliance on either~~

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146 the name or the number in executing the sender's payment order
147 is a breach of the obligation stated in s. 670.302(1)(a).
148 Section 3. This act shall take effect July 1, 2024.