Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

State of Arkansas
82nd General Assembly
Regular Session, 1999

By: Senators Fitch, Hill, Hunter, Kennedy, B. Lewellen, Roebuck, Ross, K. Smith, Webb, B. Walker

For An Act To Be Entitled
"AN ACT PERMITTING PUBLIC ENTITIES TO ACCEPT PHOTOGRAPHIC COPIES OR DIGITAL IMAGES OF CANCELED CHECKS IN LIEU OF THE ORIGINAL DOCUMENTS; AND FOR OTHER PURPOSES."

Subtitle
"AN ACT TO PERMIT PUBLIC ENTITIES TO ACCEPT DIGITAL CHECK IMAGES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Purpose. The State of Arkansas and its political subdivisions have the responsibility to properly account for all financial transactions. In order to help fulfill this responsibility, the State of Arkansas and other public entities are required to maintain books and records of transactions. The State of Arkansas and its political subdivisions recognize that through the use of computers and electronic data, banking and the flow of information are continuing to change. With this change, it is important that the State of Arkansas and its political subdivisions continue to receive evidentiary information concerning financial transactions. The purpose of this act is to permit public entities to accept photographic copies or digital images of financial transactions, and to require financial institutions to furnish the needed documentation in a readable, meaningful, permanent format.
SECTION 2. Public entities defined. As used in this act, public entity or public entities means state agencies including all constitutional offices and agencies, boards, and commissions, state institutions of higher education, municipalities, counties, school districts, educational cooperatives, improvement districts, and other public officials or public offices. Public entities shall maintain records of all transactions with financial institutions.

SECTION 3. Eligibility to accept public funds. In order for a financial institution to be eligible to be a depository of public funds, the financial institution must furnish the public entity documentation, as required herein, of transactions with or through that institution.

SECTION 4. Transaction summaries. On a monthly basis, financial institutions shall furnish public entities statements summarizing all transactions of the public entity. Unless the public entity and the financial institution have a written agreement to receive digital images or copies in compliance with the provisions of this act, the financial institutions shall return all original canceled checks to the public entity along with the transaction summary or statement.

SECTION 5. Approval by the Division of Legislative Audit. Any financial institution desiring to provide public entities images of canceled checks on paper or digital media as provided in this act shall provide a sample of imaged documents or the digital media to the Division of Legislative Audit for review. Upon receipt, the Division of Legislative Audit shall immediately review and notify the financial institution whether or not the imaged documents or digital media are in compliance with this act.

SECTION 6. Digital images or copies of documentation. (a) Agreement. After a financial institution has received written notification from the Division of Legislative Audit that the submitted samples of its imaged documents or digital media comply with the provisions of this act, and upon agreement with the public entity, the financial institution may provide public entities canceled check images in the media type and quality approved by the
(b) Complete image. The canceled check copies or digital images of financial transactions provided the public entity by the financial institutions must be legible and show both the front and back images of the canceled checks.

(c) Digital images. (1) If a financial institution provides the canceled check images on digital media, the images shall be provided on a read-only CD-ROM or other agreed upon digital media that would provide a permanent and tamper-proof record.

(2) If particular software is needed to view or search the digital images, the financial institution shall provide such software to the public entity, and upon request, to the Division of Legislative Audit. When using the appropriate software, the canceled check images must be clear and readable.

(3) Before delivery of the CD-ROM or other digital media to the public entity, the financial institution shall perform random verification of the legibility of the contents of the data. The financial institution shall submit a letter, or other method approved by the Division of Legislative Audit, acknowledging verification of the contents along with the CD-ROM or other digital media to the public entity.

(4) The financial institution may also provide a duplicate copy of the check images on digital media, conforming to the specifications provided herein, to the Division of Legislative Audit monthly.

(d) Paper images. If a financial institution provides the canceled check images on paper, the images must be of such clarity and size so that the details may be read without the aid of a magnifying device. The financial institution must be able to, and at the request of the Division of Legislative Audit must, provide duplicate copies of any checks and statements delivered to a public entity with the same clarity and size as the imaged documents previously delivered.

(e) Authentication of paper images. (1) If the financial institution provides canceled check images on paper, the financial institution shall implement one of the following procedures to provide verification of the authenticity of the records retained by the public entity:

(A) A duplicate copy of the check images on paper and statements mailed to the Division of Legislative Audit monthly:
(B) The use of an identifying mark unique to the financial institution on the paper images of checks sent to the public entity;

(C) The delivery of a duplicate copy of the check images on digital media, conforming to the digital imaging specifications set forth in this Act, to the Division of Legislative Audit monthly; or

(D) Any other authenticating method approved by the Division of Legislative Audit.

(2) The financial institution is authorized to elect which of the foregoing procedures it shall implement to provide authentication of paper images relating to the accounts of each public entity. Upon reasonable notice to the Division of Legislative Audit and the public entity, the financial institution may elect to implement one of the other authentication procedures or elect to provide images on digital media as set forth in this act.

SECTION 7. Request of records by Legislative Audit. (a) Upon request by the Legislative Auditor, a financial institution shall provide a copy of a public entity's financial information directly to the Division of Legislative Audit staff without delay or approval from the public entity.

(b) The financial institutions may provide the digital transaction statements and digital canceled check images to the Division of Legislative Audit in a media format allowed under the provisions of this act for public entities, or other media mutually agreed upon by the financial institution and the Division of Legislative Audit.

(c) No bank shall be liable for making available to the Division of Legislative Audit staff any of the information required under the provisions of this Act.

(d) Any cost associated with providing this information to the Division of Legislative Audit shall be borne by the public entity being audited or investigated.

SECTION 8. Any financial institution providing check images to counties under the provision of Arkansas Code Annotated § 14-21-108 shall comply with the provisions of this act within one hundred twenty (120) days from the effective date of this act.

SECTION 9. The provisions of this act do not change, amend, or repeal
any laws or regulations regarding a financial institution's normal obligations and responsibilities to maintain customer financial records.

SECTION 10. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 12. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 13. EMERGENCY CLAUSE. It is hereby found and determined that the information and documentation required by this act is essential for the proper functioning of state agencies, boards, commissions, institutions of higher education, counties, municipalities, school districts, educational cooperatives, improvement districts, and other public officials and public offices; that a delay in the effective date of this act could work irreparable harm upon the proper administration and provision of essential governmental programs and operations. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

APPROVED: 3/16/1999