

SENATE BILL REPORT

SB 5482

As Reported By Senate Committee On:
Judiciary, February 28, 2007

Title: An act relating to reasonable attorneys' fees for dishonored checks.

Brief Description: Providing for reasonable attorneys' fees for dishonored checks.

Sponsors: Senators Brown and McCaslin.

Brief History:

Committee Activity: Judiciary: 2/20/07, 2/28/07 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5482 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Murray, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: The statutory procedures applicable to dishonored checks are set out in statute. If a dishonored check is not paid within 15 days and after the person entitled to payment has sent a notice of dishonor to the drawer of the check, the drawer of the check, in addition to being responsible for payment of the face amount of the check, is liable for payment of interest at the rate of 12 percent from the date of dishonor and the cost of collection, not to exceed \$40 or the face amount of the check, whichever is less. If there is court action on the check, and 15 days has elapsed and the notice of dishonor has been sent, the court is required to award reasonable attorneys' fees and three times the face amount of the check, or \$300, whichever is less, as part of the damages payable to the person enforcing the check. This does not apply if the check is dishonored due to a justifiable stop payment order.

If a court action has been commenced but no hearing has taken place, the defendant may, as satisfaction of the claim, offer to pay an amount equal to the face amount of the check, a reasonable handling fee, accrued interest, collection costs equal to the face amount of the check not to exceed \$40, and the incurred court and service costs, and statutory attorneys' fees. In district court, if the plaintiff obtains judgment, exclusive of costs, of at least \$50 but less than \$200, the judge is directed to include attorney fees of \$125 as part of the costs.

Summary of Bill: Subsequent to the start of court action on a dishonored check but prior to the occurrence of a hearing, the defendant may offer money to the plaintiff that includes the

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face amount of the check, a reasonable handling fee, accrued interest, collection costs equal to the face amount of the check, not to exceed \$40, incurred court and service costs, and statutory or reasonable attorneys' fees, whichever is less.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Judiciary): If a plaintiff does not accept the amount of money the defendant offers as satisfaction of the claim and the plaintiff does not recover more than that amount at the court hearing, the plaintiff will not be awarded the lesser of three times the face amount of the check or \$300, and attorneys' fees. In an action on a dishonored check, there will be one statutory attorneys' fee awarded, regardless of the number of dishonored checks included in the action.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: CON: Attorneys' fees will exceed \$125 if the attorney keeps track of the time spent. The real effect of this bill is to give discretion back to the court, but the whole point of this part of the code is to encourage avoidance of court. The statutory attorneys' fees should be per action, not per check.

Persons Testifying: CON: Kevin Underwood, Washington Collectors Association.