

2 **HB 2609** - H AMD 503 ADOPTED 2-14-00

3 By Representative

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 62A.3-515 and 1995 c 187 s 1 are each amended to read
8 as follows:

9 (a) If a check as defined in RCW 62A.3-104 is dishonored by
10 nonacceptance or nonpayment, the payee or ~~((holder of the check is~~
11 ~~entitled to))~~ person entitled to enforce the check under RCW 62A.3-301
12 may collect a reasonable handling fee for each instrument. If the
13 check is not paid within fifteen days and after the ~~((holder of the~~
14 ~~check))~~ person entitled to enforce the check or the person's agent
15 sends a notice of dishonor as provided by RCW 62A.3-520 to the drawer
16 at the drawer's last known address, and if the instrument does not
17 provide for the payment of interest or collection costs and attorneys'
18 fees, the drawer of the instrument is liable for payment of interest at
19 the rate of twelve percent per annum from the date of dishonor, and
20 cost of collection not to exceed forty dollars or the face amount of
21 the check, whichever is less, payable to the person entitled to enforce
22 the check. In addition, in the event of court action on the check, the
23 court, after notice and the expiration of the fifteen days, shall award
24 reasonable attorneys' fees, and three times the face amount of the
25 check or three hundred dollars, whichever is less, as part of the
26 damages payable to the ~~((holder of))~~ person enforcing the check. This
27 section does not apply to an instrument that is dishonored by reason of
28 a justifiable stop payment order.

29 (b)(1) Subsequent to the commencement of an action on the check
30 (subsection (a)) but prior to the hearing, the defendant may tender to
31 the plaintiff as satisfaction of the claim, an amount of money equal to
32 the face amount of the check, a reasonable handling fee, accrued
33 interest, collection costs equal to the face amount of the check not to
34 exceed forty dollars, and the incurred court costs, service costs, and
35 statutory attorneys' fees.

1 (2) Nothing in this section precludes the right to commence action
2 in a court under chapter 12.40 RCW for small claims.

3 **Sec. 2.** RCW 62A.3-522 and 1993 c 229 s 69 are each amended to read
4 as follows:

5 In addition to sending a notice of dishonor to the drawer of the
6 check under RCW 62A.3-520, the (~~holder of the check~~) person sending
7 notice shall execute an affidavit certifying service of the notice by
8 mail. The affidavit of service by mail must be attached to a copy of
9 the notice of dishonor and must be substantially in the following form:

10 AFFIDAVIT OF SERVICE BY MAIL

11 I,, hereby certify that on the day of
12, (~~19~~) 20., a copy of the foregoing Notice was served
13 on by mailing via the United States Postal Service, postage
14 prepaid, at, Washington.

15 Dated:
16 (Signature)

17 The (~~holder~~) person enforcing the check shall retain the
18 affidavit with the check but shall file a copy of the affidavit with
19 the clerk of the court in which an action on the check is commenced.

20 **Sec. 3.** RCW 62A.3-525 and 1993 c 229 s 70 are each amended to read
21 as follows:

22 No interest, collection costs, and attorneys' fees, except handling
23 fees, are recoverable on any dishonored check under the provisions of
24 RCW 62A.3-515 where (~~the holder of the check or~~) a person entitled to
25 such recovery or any agent, employee, or assign (~~of the holder~~) has
26 demanded:

27 (1) Interest or collection costs in excess of that provided by RCW
28 62A.3-515; or

29 (2) Interest or collection costs prior to the expiration of fifteen
30 days after the mailing of notice of dishonor, as provided by RCW 62A.3-
31 515 and 62A.3-520; or

32 (3) Attorneys' fees either without having the fees set by the
33 court, or prior to the expiration of fifteen days after the mailing of
34 notice of dishonor, as provided by RCW 62A.3-515 and 62A.3-520."

35 Correct the title.

EFFECT: Clarifies that persons entitled to enforce a check or their agent may send the notice of dishonor and recover collection costs, attorneys' fees, and statutory damages.

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