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ENGROSSED HOUSE BILL 2609

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State of Washington                      56th Legislature                      2000 Regular Session

By Representatives Carrell, Constantine, Mulliken and G. Chandler

Read first time 01/18/2000. Referred to Committee on Judiciary.

1            AN ACT Relating to notices of dishonored checks; and amending RCW  
2 62A.3-515, 62A.3-522, and 62A.3-525.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 62A.3-515 and 1995 c 187 s 1 are each amended to read  
5 as follows:

6            (a) If a check as defined in RCW 62A.3-104 is dishonored by  
7 nonacceptance or nonpayment, the payee or (~~holder of the check is~~  
8 ~~entitled to~~) person entitled to enforce the check under RCW 62A.3-301  
9 may collect a reasonable handling fee for each instrument. If the  
10 check is not paid within fifteen days and after the (~~holder of the~~  
11 ~~check~~) person entitled to enforce the check or the person's agent  
12 sends a notice of dishonor as provided by RCW 62A.3-520 to the drawer  
13 at the drawer's last known address, and if the instrument does not  
14 provide for the payment of interest or collection costs and attorneys'  
15 fees, the drawer of the instrument is liable for payment of interest at  
16 the rate of twelve percent per annum from the date of dishonor, and  
17 cost of collection not to exceed forty dollars or the face amount of  
18 the check, whichever is less, payable to the person entitled to enforce  
19 the check. In addition, in the event of court action on the check, the

1 court, after notice and the expiration of the fifteen days, shall award  
2 reasonable attorneys' fees, and three times the face amount of the  
3 check or three hundred dollars, whichever is less, as part of the  
4 damages payable to the ~~((holder of))~~ person enforcing the check. This  
5 section does not apply to an instrument that is dishonored by reason of  
6 a justifiable stop payment order.

7 (b)(1) Subsequent to the commencement of an action on the check  
8 (subsection (a)) but prior to the hearing, the defendant may tender to  
9 the plaintiff as satisfaction of the claim, an amount of money equal to  
10 the face amount of the check, a reasonable handling fee, accrued  
11 interest, collection costs equal to the face amount of the check not to  
12 exceed forty dollars, and the incurred court costs, service costs, and  
13 statutory attorneys' fees.

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

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

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

23 AFFIDAVIT OF SERVICE BY MAIL

24 I, . . . . ., hereby certify that on the . . . . . day of  
25 . . . . ., ~~((19))~~ 20. . . . ., a copy of the foregoing Notice was served  
26 on . . . . . by mailing via the United States Postal Service, postage  
27 prepaid, at . . . . ., Washington.

28 Dated: . . . . .

29 (Signature)

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

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

35 No interest, collection costs, and attorneys' fees, except handling  
36 fees, are recoverable on any dishonored check under the provisions of

1 RCW 62A.3-515 where (~~the holder of the check or~~) a person entitled to  
2 such recovery or any agent, employee, or assign (~~of the holder~~) has  
3 demanded:

4 (1) Interest or collection costs in excess of that provided by RCW  
5 62A.3-515; or

6 (2) Interest or collection costs prior to the expiration of fifteen  
7 days after the mailing of notice of dishonor, as provided by RCW 62A.3-  
8 515 and 62A.3-520; or

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

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