

HOUSE BILL REPORT

HB 1771

As Reported By House Committee On:

Law & Justice

Title: An act relating to dishonored checks.

Brief Description: Requiring a handling fee to be paid when a check is dishonored.

Sponsors: Representatives Hickel, Basich, Padden, Kremen, Chappell and Carrell.

Brief History:

Committee Activity:

Law & Justice: 2/21/95, 2/28/95 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 16 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Minority Report: Do not pass. Signed by 1 member: Representative Costa, Assistant Ranking Minority Member.

Staff: Bill Perry (786-7123).

Background: Damages are statutorily provided for the holder of a bad check. These damages are in addition to recovery of the value of the check itself and a reasonable handling fee.

If the holder has sent a notice to the drawer of the check, and the drawer has not paid within 15 days of the notice, the holder may also recover:

- o Interest at 12 percent per year; and
- o Up to the lesser of \$40 or the value of the check as collection costs.

If the holder prevails in a lawsuit and has given the 15-day notice, the holder may also recover:

- o Prevailing party "costs;"

- o Reasonable attorneys' fees; and
- o Up to the lesser of \$300 or the value of the check.

The court "costs" that a prevailing party may recover include:

- o Filing fees;
- o Service of process fees;
- o Service by publication;
- o Notary fees;
- o Reasonable expenses for reports and records that are introduced at trial; and
- o Statutory attorneys' fees.

"Statutory" attorneys' fees are \$125. "Reasonable" attorneys' fees are set by the court based on a variety of factors including the amount of time spent on a case and the customary hourly rate charged by attorneys in the area.

If the holder of a bad check has filed a lawsuit, but it has not yet gone to trial, the drawer can satisfy the claim by paying:

- o The face value of the check;
- o A reasonable handling fee;
- o Accrued Interest;
- o Up to the lesser of \$40 or the value of the check as collection costs; and
- o Incurred court and service "costs."

There has been some uncertainty about whether statutory attorneys' fees are recoverable as "incurred" costs when a lawsuit has not gone to trial.

Summary of Bill: The amount that the drawer of a bad check must pay before trial in order to satisfy the claim of a holder who has filed suit is explicitly expanded to include statutory attorneys' fees of \$125.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill will clarify a situation where some courts now allow these fees, and some do not.

Testimony Against: None.

Testified: John Grimm, Washington Collectors Association (pro).