

SENATE BILL REPORT

SHB 1347

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, March 24, 2005

Title: An act relating to dishonored checks.

Brief Description: Changing provisions relating to dishonored checks.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Lantz, Williams and Newhouse).

Brief History: Passed House: 3/08/05, 94-0.

Committee Activity: Financial Institutions, Housing & Consumer Protection: 3/17/05, 3/24/05 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: Do pass as amended.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benson, Brandland, Keiser, Prentice and Schmidt.

Staff: Joyce Ahlering (360-786-7486)

Background: When a person writes a check from an account with insufficient funds (a dishonored check), the debt may be assigned to a collection agency. The agency may charge the debtor a handling fee in addition to the amount of the check, and the debtor has 15 days to pay a dishonored check. After this grace period, the debtor becomes liable for 12 percent interest on the debt and collection costs. Collection costs cannot exceed forty dollars or the amount of the check, whichever is less.

In contrast to Washington collection law, federal collection law allows debtors a 30-day grace period to dispute a dishonored check, and prohibits the false implication that legal or criminal action will be taken against a debtor due to a dishonored check.

Summary of Amended Bill: To bring collection agencies into compliance with federal standards, changes are made to debtor grace periods, statutory notice provisions, and collection agency affidavit requirements as they relate to dishonored checks.

The grace period for payment of a dishonored check is expanded to 33 days. A collection agency may charge the debtor attorney's fees and damages only if court action is taken. Damages are limited to either 300 dollars or the face amount of the check, whichever is less.

A model notice of dishonor form is provided and is to be mailed to the debtor's last known address. The form clearly states all fees associated with the collection agency's handling of the dishonored check, along with the possibility of criminal charges. The criminal charges

provision, however, may be excluded from the notice. Finally, the collection agency is to obtain an affidavit certifying the mailed notice.

Amended Bill Compared to Original Bill: The conclusive presumption that the debtor received notice of a dishonored check three days after the notice is mailed is removed, allowing a debtor to demonstrate that he or she did not receive notice. Furthermore, instead of allowing a collection agency to either retain the affidavit certifying notice or file the affidavit with the court, an agency is required to file the affidavit with the court.

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.

Testimony For: This bill will help collection agencies avoid lawsuits by bringing their rules into compliance with federal law.

Testimony Against: None.

Who Testified: PRO: Representative Lantz, prime sponsor; Judy Warnick, Washington Collectors Association.