

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1347

Chapter 277, Laws of 2005

59th Legislature
2005 Regular Session

DISHONORED CHECKS

EFFECTIVE DATE: 7/24/05

Passed by the House April 20, 2005
Yeas 95 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 15, 2005
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved May 4, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1347** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 4, 2005 - 3:34 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1347

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Judiciary (originally sponsored by
Representatives Lantz, Williams and Newhouse)

READ FIRST TIME 02/09/05.

1 AN ACT Relating to dishonored checks; amending RCW 28A.300.455;
2 adding new sections to chapter 62A.3 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature has directed the financial
5 literacy public-private partnership to complete certain tasks to
6 support efforts to increase the level of financial literacy in the
7 common schools. In order to promote a greater understanding by
8 students of the consequences of a dishonored check, the legislature
9 intends to extend by one year the date by which the financial literacy
10 public-private partnership must identify strategies to increase the
11 financial literacy of public school students in Washington.

12 **Sec. 2.** RCW 28A.300.455 and 2004 c 247 s 3 are each amended to
13 read as follows:

14 (1) By September 30, 2004, the financial literacy public-private
15 partnership shall adopt a definition of financial literacy to be used
16 in educational efforts.

17 (2) By June 30, (~~2005~~) 2006, the financial literacy public-
18 private partnership shall identify strategies to increase the financial

1 literacy of public school students in our state. To the extent funds
2 are available, strategies to be considered by the partnership shall
3 include, but not be limited to:

4 (a) Identifying and making available to school districts:

5 (i) Important financial literacy skills and knowledge;

6 (ii) Ways in which teachers at different grade levels may integrate
7 financial literacy in mathematics, social studies, and other course
8 content areas;

9 (iii) Instructional materials and programs, including schoolwide
10 programs, that include the important financial literacy skills and
11 knowledge;

12 (iv) Assessments and other outcome measures that schools and
13 communities may use to determine whether students are financially
14 literate; and

15 (v) Other strategies for expanding and increasing the quality of
16 financial literacy instruction in public schools, including
17 professional development for teachers;

18 (b) Developing a structure and set of operating principles for the
19 financial literacy public-private partnership to assist interested
20 school districts in improving the financial literacy of their students
21 by providing such things as financial literacy instructional materials
22 and professional development; and

23 (c) Providing a report to the governor, the house and senate
24 financial institutions and education committees of the legislature, the
25 superintendent of public instruction, the state board of education, and
26 education stakeholder groups, on the results of work of the financial
27 literacy public-private partnership. A final report shall be submitted
28 to the same parties by June 30, 2007.

29 NEW SECTION. **Sec. 3.** (1) If a check as defined in RCW 62A.3-104
30 is dishonored by nonacceptance or nonpayment and the check is assigned
31 or written to a collection agency as defined in RCW 19.16.100, the
32 collection agency may collect a reasonable handling fee for each
33 instrument. If the collection agency or its agent provides a notice of
34 dishonor in the form provided in section 4 of this act to the drawer
35 and the check amount plus the reasonable handling fee are not paid
36 within thirty-three days after providing the notice of dishonor, then,
37 unless the instrument otherwise provides, the drawer of the instrument

1 is liable for payment of interest at the rate of twelve percent per
2 annum from the date of dishonor, and a cost of collection of forty
3 dollars or the face amount of the check, whichever is less, payable to
4 the collection agency. In addition, in the event of court action on
5 the check and after notice and the expiration of the thirty-three days,
6 the court shall award reasonable attorneys' fees, and three times the
7 face amount of the check or three hundred dollars, whichever is less,
8 as part of the damages payable to the collection agency. This section
9 does not apply to an instrument that is dishonored by reason of a
10 justifiable stop payment order.

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

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

20 NEW SECTION. **Sec. 4.** (1) If a check is assigned or written to a
21 collection agency as defined in RCW 19.16.100 and the collection agency
22 or its agent provides a notice of dishonor, the notice of dishonor may
23 be sent by mail to the drawer at the drawer's last known address. The
24 collection agency may, as an alternative to providing a notice in the
25 form described in RCW 62A.3-520, provide a notice in substantially the
26 following form:

27 NOTICE OF DISHONOR OF CHECK

28 A check drawn by you and made payable by you to in the
29 amount of has not been accepted for payment by,
30 which is the drawee bank designated on your check. This check is dated
31, and it is numbered, No.

32 You are CAUTIONED that unless you pay the amount of this check and
33 a handling fee of within thirty-three days after the date
34 this letter is postmarked or personally delivered, you may very well
35 have to pay the following additional amounts:

36 (a) Costs of collecting the amount of the check in the lesser of

1 the check amount or forty dollars, plus, in the event of legal action,
2 court costs and attorneys' fees, which will be set by the court;

3 (b) Interest on the amount of the check which shall accrue at the
4 rate of twelve percent per annum from the date of dishonor; and

5 (c) Three hundred dollars or three times the face amount of the
6 check, whichever is less, by award of the court.

7 You are also CAUTIONED that law enforcement agencies may be
8 provided with a copy of this notice of dishonor and the check drawn by
9 you for the possibility of proceeding with criminal charges if you do
10 not pay the amount of this check within thirty-three days after the
11 date this letter is postmarked.

12 You are advised to make your payment of \$. to
13 at the following address:

14 (2) The cautionary statement regarding law enforcement in
15 subsection (1) of this section need not be included in a notice of
16 dishonor sent by a collection agency. However, if included and whether
17 or not the collection agency regularly refers dishonored checks to law
18 enforcement, the cautionary statement in subsection (1) of this section
19 shall not be construed as a threat to take any action not intended to
20 be taken or that cannot legally be taken; nor shall it be construed to
21 be harassing, oppressive, or abusive conduct; nor shall it be construed
22 to be a false, deceptive, or misleading representation; nor shall it be
23 construed to be unfair or unconscionable; nor shall it otherwise be
24 construed to violate any law.

25 (3) In addition to sending a notice of dishonor to the drawer of
26 the check under this section, the person sending notice shall execute
27 an affidavit certifying service of the notice by mail. The affidavit
28 of service by mail must be substantially in the following form:

29 AFFIDAVIT OF SERVICE BY MAIL

30 I,, hereby certify that on the day of
31, 20. . . ., a copy of the foregoing Notice was served on
32 by mailing via the United States Postal Service, postage
33 prepaid, at, Washington.

34 Dated:
35 (Signature)

36 (4) The person enforcing a check under this section shall file the

1 affidavit and check, or a true copy thereof, with the clerk of the
2 court in which an action on the check is commenced as permitted by
3 court rule or practice.

4 NEW SECTION. **Sec. 5.** No interest, collection costs, and
5 attorneys' fees, except handling fees, are recoverable on any
6 dishonored check under the provisions of section 3 of this act where a
7 collection agency or its agent, employee, or assign has demanded:

8 (1) Interest or collection costs in excess of that provided by
9 section 3 of this act; or

10 (2) Interest or collection costs prior to the expiration of thirty-
11 three days after the serving or mailing of the notice of dishonor, as
12 provided by section 3 or 4 of this act; or

13 (3) Attorneys' fees other than statutory attorneys' fees without
14 having the fees set by the court, or any attorneys' fees prior to
15 thirty-three days after the serving or mailing of the notice of
16 dishonor, as provided by section 3 or 4 of this act.

17 NEW SECTION. **Sec. 6.** Sections 3 through 5 of this act are each
18 added to chapter 62A.3 RCW under the subchapter heading "DISHONOR."

Passed by the House April 20, 2005.

Passed by the Senate April 15, 2005.

Approved by the Governor May 4, 2005.

Filed in Office of Secretary of State May 4, 2005.