
By: **Senator Baker**

Introduced and read first time: January 17, 2001

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 8, 2001

CHAPTER 579

1 AN ACT concerning

2 ~~Commercial Law~~ - **Dishonored and Bad Checks - Collection Fee**

3 FOR the purpose of increasing the maximum amount of the collection fee for which
4 the maker or drawer of a dishonored check or other instrument ~~may~~ shall be
5 liable to the holder of the check or other instrument under certain
6 circumstances; increasing the maximum amount of the collection fee for certain
7 bad checks that a court may order a defendant to pay under certain
8 circumstances; making a technical correction; and generally relating to
9 collection fees for dishonored or bad checks.

10 BY repealing and reenacting, with amendments,
11 Article 27 - Crimes and Punishments
12 Section 143(d)
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 2000 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Commercial Law
17 Section 15-802(b) and (e) and 15-803(a)
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2000 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

1

Article 27 - Crimes and Punishments

2 143.

3 (d) In addition to the penalties provided in this section for conviction of the
4 offense of obtaining property or services by a bad check the court may:

5 (1) Order restoration of any property which has been the object of the
6 offense and has been recovered from the defendant or another, or which is in the
7 defendant's possession or control, to any person or persons having a property interest
8 therein;

9 (2) Order restitution of the value of any property or services which has
10 been the object of the offense. The restitution may be ordered to be paid to any person
11 having a property interest in the property or the person who provided the services.
12 Restitution may be ordered to the extent that the property is not restored or
13 compensation has not been provided for the services; and

14 (3) Order the defendant to pay a collection fee of up to [\$25] \$35 for each
15 bad check to the person having a property interest in the property or the person who
16 provided the services.

17

Article - Commercial Law

18 15-802.

19 (b) If a check or other instrument has not been paid within 30 days after the
20 holder has sent a notice of dishonor to the maker or drawer, the maker or drawer of a
21 check or other instrument that has been dishonored ~~may~~ SHALL be liable for:

22 (1) The amount of the check or instrument;

23 (2) A collection fee of up to [\$25] \$35; and

24 (3) An amount up to 2 times the amount of the check, but not more than
25 \$1,000.

26 (e) (1) It shall be a complete defense to any action brought under this
27 section by any holder of a dishonored check or other instrument that, within 30 days
28 from the mailing of the notice of dishonor, the maker or drawer has paid to the holder
29 the full amount of the check or other instrument and collection costs of not more than
30 [\$25] \$35.

31 (2) It shall be a complete defense to any action brought under this
32 section by a holder to whom a dishonored check or other instrument was issued that
33 the dishonor of the check or other instrument was due to a justifiable stop payment
34 order or to the attachment of the account.

35 (3) In any action brought under this section by a holder or holder in due
36 course to whom a dishonored check or other instrument was negotiated, the action is

1 subject to all valid defenses that may be raised by the maker or drawer against the
2 holder or holder in due course under Title 3 of this article.

3 15-803.

4 (a) A notice of dishonor sent by a holder to a maker or drawer under § 15-802
5 of this subtitle shall substantially comply with the following form:

6 "NOTICE OF DISHONORED CHECK

7 Date _____

8 Name of Issuer _____

9 Street Address _____

10 City and State _____

11 You are according to law hereby notified that a check or instrument numbered
12 _____ and dated _____, drawn on the _____ bank of _____ in the
13 amount of _____ has been returned unpaid with the notation the payment has been
14 refused because of _____

15 Within 30 days from the mailing of this notice, you must pay or tender to _____

16 _____

17 (Holder)

18 sufficient money to pay such check or instrument in full and a collection fee of \$ _____
19 (not more than [\$25] \$35). If payment of the above amounts is not made within 30
20 days of the mailing of this notice of dishonor, you ~~may~~ **SHALL** be liable under § 15-802
21 of the Commercial Law Article, in addition to the amount of the check or instrument
22 and a collection fee of up to [\$25] \$35, for an amount up to 2 times the amount of the
23 check or instrument, but not more than \$1,000. In addition, you may be prosecuted
24 under the Maryland Criminal Code (Article 27, §§ 140 through 144) and subject to the
25 following penalties:

26 (1) If the property or services has a value of ~~\$300~~ \$500 or more, a fine not
27 exceeding \$1,000 or imprisonment not exceeding 15 years, or both;

28 (2) If the property or services has a value of less than ~~\$300~~ \$500, a fine
29 not exceeding \$100 or imprisonment not exceeding 18 months, or both.

30 It shall be a complete defense to any action brought by any holder under § 15-802 of
31 the Commercial Law Article that, within 30 days from the mailing of "the Notice of
32 Dishonored Check", the maker or drawer has paid the holder the full amount of the
33 check or instrument and collection costs of not more than [\$25] \$35. A holder may not
34 recover any damages if the holder has demanded of, and received from, the maker or
35 drawer collection costs exceeding [\$25] \$35.

36 It shall be a complete defense to any action brought under § 15-802 of the
37 Commercial Law Article by a holder to whom a dishonored check or other instrument
38 was issued that the dishonor of the check or other instrument was due to a justifiable

1 stop payment order or to the attachment of the account.

2 In any action brought under § 15-802 of the Commercial Law Article by a holder or
3 holder in due course to whom a dishonored check or other instrument was negotiated,
4 the action is subject to all valid defenses that may be raised by the maker or drawer
5 against the holder or holder in due course under Title 3 of the Commercial Law
6 Article."

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2001.