
By: **Senator Baker**

Introduced and read first time: January 17, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Dishonored 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 be liable to
5 the holder of the check or other instrument under certain circumstances;
6 increasing the maximum amount of the collection fee for certain bad checks that
7 a court may order a defendant to pay under certain circumstances; and
8 generally relating to collection fees for dishonored or bad checks.

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

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

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

21 **Article 27 - Crimes and Punishments**

22 143.

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

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

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

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

9 **Article - Commercial Law**

10 15-802.

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

- 14 (1) The amount of the check or instrument;
- 15 (2) A collection fee of up to [\$25] \$35; and
- 16 (3) An amount up to 2 times the amount of the check, but not more than
 17 \$1,000.

18 (e) (1) It shall be a complete defense to any action brought under this
 19 section by any holder of a dishonored check or other instrument that, within 30 days
 20 from the mailing of the notice of dishonor, the maker or drawer has paid to the holder
 21 the full amount of the check or other instrument and collection costs of not more than
 22 [\$25] \$35.

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

27 (3) In any action brought under this section by a holder or holder in due
 28 course to whom a dishonored check or other instrument was negotiated, the action is
 29 subject to all valid defenses that may be raised by the maker or drawer against the
 30 holder or holder in due course under Title 3 of this article.

31 15-803.

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

34 "NOTICE OF DISHONORED CHECK

35 Date _____

36 Name of Issuer _____

1 Street Address _____

2 City and State _____

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

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

8 _____

9 (Holder)

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

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

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

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

28 It shall be a complete defense to any action brought under § 15-802 of the
29 Commercial Law Article by a holder to whom a dishonored check or other instrument
30 was issued that the dishonor of the check or other instrument was due to a justifiable
31 stop payment order or to the attachment of the account.

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

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