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By: **Senator Baker**  
Introduced and read first time: January 17, 2001  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: February 8, 2001

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CHAPTER \_\_\_\_\_

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.