
By: **Delegates Mitchell and Crouse**
Introduced and read first time: January 17, 2002
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Dishonored Instruments - Notice of Dishonor**

3 FOR the purpose of requiring a holder of a dishonored instrument to certify mailing of
4 a notice of dishonor to the maker or drawer by executing an affidavit of service;
5 and generally relating to notice of dishonored instruments.

6 BY repealing and reenacting, with amendments,
7 Article - Commercial Law
8 Section 15-802
9 Annotated Code of Maryland
10 (2000 Replacement Volume and 2001 Supplement)

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

13 **Article - Commercial Law**

14 15-802.

15 (a) When a check or other instrument has been dishonored by nonacceptance
16 or nonpayment and has not been paid within 10 days, the holder to whom the check
17 or other instrument was issued or negotiated may send a notice of dishonor to the
18 maker or drawer as provided under this section.

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 shall be liable for:

- 22 (1) The amount of the check or instrument;
- 23 (2) A collection fee of up to \$35; and
- 24 (3) An amount up to 2 times the amount of the check, but not more than
25 \$1,000.

1 (c) (1) (i) The holder of a check or other instrument that has been
2 dishonored may seek the damages provided under this section in any District Court of
3 the State 30 days after a notice of dishonor has been sent by mail to the last known
4 address of the maker or drawer.

5 (ii) [The holder shall obtain a certificate of mailing from the U.S.
6 Postal Service for each notice sent by the holder under subparagraph (i) of this
7 paragraph.] FOR EACH NOTICE SENT BY THE HOLDER UNDER SUBPARAGRAPH (I) OF
8 THIS PARAGRAPH, THE HOLDER SHALL:

9 1. OBTAIN A CERTIFICATE OF MAILING FROM THE U. S.
10 POSTAL SERVICE; OR

11 2. EXECUTE AN AFFIDAVIT THAT ATTESTS TO THE MAILING
12 OF THE NOTICE IN COMPLIANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH.

13 (2) A notice of dishonor sent by a holder under this section to a maker or
14 drawer of a dishonored check or other instrument shall substantially comply with the
15 form prescribed in § 15-803 of this subtitle.

16 (d) A holder may not recover any damages under subsection (b)(3) of this
17 section if:

18 (1) The holder has demanded of, and received from, the maker or
19 drawer:

20 (i) Collection costs in excess of the collection fee provided under
21 subsection (b)(2) of this section; or

22 (ii) Collection costs within 30 days after the mailing of the notice of
23 dishonor, under subsection (c) of this section; or

24 (2) The dishonored check or other instrument provides for the payment
25 of collection costs in the event of dishonor.

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2002.