

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **First Extraordinary Session, 1992**  
4 **By: Senator Beebe**

**Call Item**  
**A Bill ACT 44 OF 1992**

SENATE BILL 45

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6  
7 **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE 5-37-303 AND 304 TO PERMIT  
9 NOTICE LETTERS FOR WORTHLESS CHECKS TO CONTAIN MORE THAN  
10 ONE CHECK; AND FOR OTHER PURPOSES."

11  
12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. Arkansas Code 5-37-303(b) is hereby amended to read as  
15 follows:

16 "(b) You are hereby notified that the check(s) or instrument(s) listed  
17 below (has) (have) been dishonored. Pursuant to Arkansas law, you have ten  
18 (10) days from receipt of this notice to tender payment of the total amount of  
19 the check(s) or instrument(s), plus the applicable service charge(s) of  
20 \$\_\_\_\_\_ (not to exceed \$15.00 per check), the total amount due being  
21 \$\_\_\_\_\_. Unless this amount is paid in full within the time specified  
22 above, the dishonored check(s) or instrument(s) and all other available  
23 information relating to this incident may be turned over to the Prosecuting  
24 Attorney for criminal prosecution.

25 CHECK NO. CHECK DATE CHECK AMOUNT NAME OF BANK

26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_ "

29  
30 SECTION 2. Arkansas Code 5-37-304 is hereby amended to read as follows:

31 "§5-37-304. Evidence against maker or drawer. (a) For purposes of this  
32 section, it is prima facie evidence that the maker or drawer intended to  
33 defraud and knew at the time of the making, drawing, uttering, or delivering  
34 that the check, draft, or order would not be honored if:

35 (1) The maker or drawer had no account with the drawee at the  
36 time the check, draft, or order was made, drawn, uttered, or delivered; or

1           (2) The check, draft, or order bears the endorsement or stamp of  
2 a collecting bank indicating that the instrument was returned because of  
3 insufficient funds to cover the value; or

4           (A) Payment was refused by the drawee for lack of funds,  
5 upon presentation within thirty (30) days after delivery, and the maker or  
6 drawer shall not have paid the holder the amount due, together with a service  
7 charge not to exceed fifteen dollars (\$15.00) within ten (10) days after  
8 receiving written notice that payment was refused upon the check, draft, or  
9 order;

10           (B) Nothing ~~in this section or § 5-37-303~~ shall impair the  
11 prosecuting attorney's power to immediately file charges after the check has  
12 been returned ~~prior to the sending of the notice as described in this section~~  
13 ~~and § 5-37-303~~. The prosecuting attorney may collect restitution including a  
14 service charge (not exceeding fifteen dollars (\$15.00) per check) for the  
15 payees of the check.

16           (b) The check, draft, or order bearing an insufficient stamp or no  
17 account stamp from the collecting bank shall be received as evidence that  
18 there were insufficient funds or no account at trial in any court in this  
19 state.

20           (c) Nothing herein shall be deemed to abrogate a defendant's right of  
21 cross-examination of banking officials provided notice of intention to  
22 cross-examine is given ten (10) days prior to the date of hearing or trial."  
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24           SECTION 3. All provisions of this act of a general and permanent nature  
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
26 Revision Commission shall incorporate the same in the Code.

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28           SECTION 4. If any provision of this act or the application thereof to  
29 any person or circumstance is held invalid, such invalidity shall not affect  
30 other provisions or applications of the act which can be given effect without  
31 the invalid provision or application, and to this end the provisions of this  
32 act are declared to be severable.

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34           SECTION 5. All laws and parts of laws in conflict with this act are  
35 hereby repealed.

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SECTION 6. Emergency. it has been found and it is hereby declared by the General Assembly of the State of Arkansas that some people have misinterpreted the law to the effect that merchants could not aggregate worthless-check notices in one letter and prosecutors could not collect service charges. This has created a burden, especially during recession times. This act is immediately necessary to avoid further misinterpretations. An emergency, therefore, is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: 3-17-92

