

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

SENATE BILL 834

4
5 By: Senator J. Hutchinson
6

For An Act To Be Entitled

8 AN ACT TO INCREASE THE SERVICE CHARGE FOR COLLECTING
9 A HOT CHECK; AND FOR OTHER PURPOSES.

Subtitle

12 TO INCREASE THE SERVICE CHARGE FOR
13 COLLECTING A HOT CHECK.
14

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 4-60-103 is amended to read as follows:
20 4-60-103. Liability for restitution.

21 (a) ~~Any~~ A person who issues a check ~~which~~ that is not paid because the
22 check was written on an account with insufficient funds has fifteen (15) days
23 following the date of a written demand mailed or delivered to the drawer of
24 the check at the address shown on the check or his or her last known address
25 to pay to the holder of the check or his or her agent the amount of the check
26 and a collection fee not to exceed ~~twenty-five dollars (\$25.00)~~ thirty
27 dollars (\$30.00), plus the amount of any fees charged to the holder of the
28 check by ~~any~~ a financial institution as a result of the check's not being
29 honored.

30 (b)(1) ~~Any~~ A person who fails to make restitution as set forth in
31 subsection (a) of this section and who fails to pay the amount of the check
32 and a collection fee not to exceed ~~twenty-five dollars (\$25.00)~~ thirty
33 dollars (\$30.00), plus the amount of any fees charged to the holder of the
34 check by ~~any~~ a financial institution as a result of the check's not being
35 honored, within thirty (30) days following the date of a written demand
36 mailed to the drawer by certified mail, return receipt requested, to the



1 address shown on the check or his or her last known address is liable to the
2 holder of the check or his or her agent for:

3 (A) Twice the amount of the check, but in no case less
4 than fifty dollars (\$50.00); and

5 (B) A collection fee not to exceed ~~twenty five dollars~~
6 ~~(\$25.00)~~ thirty dollars (\$30.00), plus the amount of any fees charged to the
7 holder of the check by any financial institution as a result of the check's
8 not being honored; ~~and~~

9 ~~(C) Any taxes which may be due pursuant to § 26-52-~~
10 ~~301(3)(E).~~

11 (2) The prevailing party may recover court costs and reasonable
12 attorney's fees after suit has been filed.

13 (c)(1) ~~Nothing in this~~ This section ~~shall~~ does not prevent the
14 criminal prosecution of the person who issues the check.

15 (2) However, any payment made by the defendant to a victim
16 ~~pursuant to~~ under an order for restitution entered in a criminal prosecution
17 shall be set off against any judgment in favor of the victim in a civil
18 action brought under this section arising out of the same facts or event.
19

20 SECTION 2. Arkansas Code § 5-37-303(b)(1), concerning notice of a hot
21 check violation, is amended to read as follows:

22 (b)(1) The form of the notice under subsection (a) of this section
23 shall be substantially as follows:

24 "You are hereby notified that the check(s) or instrument(s) listed below
25 (has)(have) been dishonored. Pursuant to Arkansas law, you have ten (10) days
26 from receipt of this notice to tender payment of the total amount of the
27 check(s) or instrument(s), plus the applicable service charge(s) of \$
28 _____ (not to exceed ~~\$25.00~~ \$30.00 per
29 check), plus the amount of any fees charged by any financial institution as a
30 result of the check's not being honored, the total amount due being \$
31 _____. Unless this amount is paid in full
32 within the time specified above, the dishonored check(s) or instrument(s) and
33 all other available information relating to this incident may be turned over
34 to the prosecuting attorney for criminal prosecution.

35 CHECK NO. CHECK DATE CHECK AMOUNT NAME OF BANK
36 _____

1 _____
2 _____".
3

4 SECTION 3. Arkansas Code § 5-37-304(a)(3), concerning evidence of a
5 hot check violation, is amended to read as follows:

6 (3) Payment was refused by the drawee for lack of funds, upon
7 presentation within thirty (30) days after delivery, and the maker or drawer
8 has not paid the holder the amount due, together with a service charge not to
9 exceed ~~twenty five dollars (\$25.00)~~ thirty dollars (\$30.00), plus the amount
10 of any fees charged to the holder of the check, draft, order, or other form
11 of presentment involving transmission of account information by ~~any~~ a
12 financial institution as a result of the ~~check's~~ check, draft, order, or
13 other form of presentment involving transmission of account information not
14 being honored, within ten (10) days after receiving written notice that
15 payment was refused upon the check, draft, order, or other form of
16 presentment involving transmission of account information.

17
18 SECTION 4. Arkansas Code § 5-37-304(b)(2), concerning the service
19 charge of a prosecuting attorney collecting a hot check, is amended to read
20 as follows:

21 (2) The prosecuting attorney may collect restitution, including
22 a service charge, not exceeding ~~twenty five dollars (\$25.00)~~ thirty dollars
23 (\$30.00) per check, plus the amount of any fees charged to the holder of the
24 check by ~~any~~ a financial institution as a result of the check's not being
25 honored, for the payees of the check.

26
27 SECTION 5. Arkansas Code § 5-37-307(c)(2)(B), concerning the
28 presumption that a person knowingly issued a hot check, is amended to read as
29 follows:

30 (B) Payment was refused by the bank or other drawee for
31 lack of funds or insufficient funds on presentation within thirty (30) days
32 after issue and the issuer failed to pay the holder in full, plus a service
33 charge not to exceed ~~twenty five dollars (\$25.00)~~ thirty dollars (\$30.00),
34 plus the amount of any fees charged to the holder of the check by ~~any~~ a
35 financial institution as a result of the check's not being honored, within
36 ten (10) days after receiving notice of that refusal. **APPROVED: 04/01/2011**