

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

A Bill

Call Item

SENATE BILL

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 _____	_____	_____	_____ "

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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

1 time the check, draft, or order was made, drawn, uttered, or delivered; or

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

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

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

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

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

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

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

1 hereby repealed.

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3 SECTION 6. Emergency. it has been found and it is hereby declared by
4 the General Assembly of the State of Arkansas that some people have
5 misinterpreted the law to the effect that merchants could not aggregate
6 worthless-check notices in one letter and prosecutors could not collect
7 service charges. This has created a burden, especially during recession
8 times. This act is immediately necessary to avoid further misinterpretations.

9 An emergency, therefore, is hereby declared to exist, and this act being
10 necessary for the immediate preservation of the public peace, health and
11 safety shall be in full force and effect from and after its passage and
12 approval.

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