

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

*As Engrossed: H2/20/01*

# A Bill

HOUSE BILL 1794

5 By: Representatives Creekmore, M. Steele, G. Jeffress, Jacobs, Hathorn  
6 By: Senator Faris  
7

## For An Act To Be Entitled

10 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
11 TO INCREASE THE COLLECTION FEE ON WORTHLESS CHECKS;  
12 AND FOR OTHER PURPOSES.  
13

### Subtitle

14 AN ACT TO AMEND VARIOUS SECTIONS OF THE  
15 ARKANSAS CODE TO INCREASE THE COLLECTION  
16 FEE ON WORTHLESS CHECKS.  
17

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19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code 4-60-103 is amended to read as follows:

23 4-60-103. Liability for restitution.

24 (a) Any person who issues a check which is not paid because the check  
25 was written on an account with insufficient funds has fifteen (15) days  
26 following the date of a written demand mailed or delivered to the drawer of  
27 the check at the address shown on the check or his last known address to pay  
28 to the holder of the check or his agent the amount of the check and a  
29 collection fee not to exceed ~~twenty dollars (\$20.00)~~ twenty-five dollars  
30 (\$25.00), plus the amount of any fees charged to the holder of the check by  
31 any financial institution as a result of the check not being honored.

32 (b)(1) Any person who fails to make restitution as set forth in  
33 subsection (a) of this section and who fails to pay the amount of the check  
34 and a collection fee not to exceed ~~twenty dollars (\$20.00)~~ twenty-five dollars  
35 (\$25.00), plus the amount of any fees charged to the holder of the check by  
36 any financial institution as a result of the check not being honored, within

1 thirty (30) days following the date of a written demand mailed to the drawer  
2 by certified mail, return receipt requested, to the address shown on the check  
3 or his last known address is liable to the holder of the check or his agent  
4 for:

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

7 (B) A collection fee not to exceed ~~twenty dollars (\$20.00)~~  
8 twenty-five dollars (\$25.00), plus the amount of any fees charged to the  
9 holder of the check by any financial institution as a result of the check not  
10 being honored; and

11 (C) Any taxes which may be due pursuant to § 26-52-  
12 301(3)(E).

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

15 (c)(1) Nothing in this section shall prevent the criminal prosecution  
16 of the person who issues the check.

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

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22 SECTION 2. Arkansas Code 5-37-303(b), concerning the notice sent to the  
23 maker of a worthless check, is amended to read as follows:

24 (b) The form of the notice shall be substantially as follows:

25 "You are hereby notified that the check(s) or instrument(s) listed below  
26 (has) (have) been dishonored. Pursuant to Arkansas law, you have ten (10) days  
27 from receipt of this notice to tender payment of the total amount of the  
28 check(s) or instrument(s), plus the applicable service charge(s) of \$\_\_\_\_\_  
29 (not to exceed ~~\$20.00~~ \$25.00 per check), plus the amount of any fees charged  
30 by any financial institution as a result of the check not being honored, the  
31 total amount due being \$\_\_\_\_\_. Unless this amount is paid in full within  
32 the time specified above, the dishonored check(s) or instrument(s) and all  
33 other available information relating to this incident may be turned over to  
34 the Prosecuting Attorney for criminal prosecution.

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

1  
 2 \_\_\_\_\_  
 3  
 4 \_\_\_\_\_  
 5  
 6 \_\_\_\_\_ "

8 SECTION 3. Arkansas Code 5-37-304(a)(2), concerning evidence against  
9 the maker of a worthless check, is amended to read as follows:

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

13 (ii) Payment was refused by the drawee for lack of  
14 funds, upon presentation within thirty (30) days after delivery, and the maker  
15 or drawer shall not have paid the holder the amount due, together with a  
16 service charge not to exceed ~~twenty dollars (\$20.00)~~ twenty-five dollars  
17 (\$25.00), plus the amount of any fees charged to the holder of the check by  
18 any financial institution as a result of the check not being honored, within  
19 ten (10) days after receiving written notice that payment was refused upon the  
20 check, draft, or order.

21 (B) Nothing shall impair the prosecuting attorney's power  
22 to immediately file charges after the check has been returned. The prosecuting  
23 attorney may collect restitution including a service charge, not exceeding  
24 ~~twenty dollars (\$20.00)~~ twenty-five dollars (\$25.00) per check, plus the  
25 amount of any fees charged to the holder of the check by any financial  
26 institution as a result of the check not being honored, for the payees of the  
27 check.

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29 SECTION 4. Arkansas Code 5-37-307(b)(2), concerning knowingly issuing a  
30 worthless check, is amended to read as follows:

31 (2) Payment was refused by the bank or other drawee for lack of  
32 funds or insufficient funds on presentation within thirty (30) days after  
33 issue and the issuer failed to pay the holder in full, plus a service charge  
34 not to exceed ~~twenty dollars (\$20.00)~~ twenty-five dollars (\$25.00), plus the  
35 amount of any fees charged to the holder of the check by any financial  
36 institution as a result of the check not being honored, within ten (10) days

1 after receiving notice of that refusal.

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3 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General  
4 Assembly of the State of Arkansas that the incidents of people writing "hot  
5 checks" continue to increase; that the costs associated with the processing of  
6 and collecting on "hot checks" have continued to increase; that the holders of  
7 those "hot checks" are entitled to recover those increasing costs; that  
8 current law does not allow adequate recovery of the costs associated with "hot  
9 checks" by their holders. Therefore, an emergency is declared to exist and  
10 this act being immediately necessary for the preservation of the public peace,  
11 health and safety shall become effective on the date of its approval by the  
12 Governor. If the bill is neither approved nor vetoed by the Governor, it  
13 shall become effective on the expiration of the period of time during which  
14 the Governor may veto the bill. If the bill is vetoed by the Governor and the  
15 veto is overridden, it shall become effective on the date the last house  
16 overrides the veto.

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18 /s/ Creekmore, et al.  
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