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LAW/RWH

P.L.2014, CHAPTER 46, *approved September 10, 2014*

Assembly, No. 1162

1 AN ACT concerning electronic funds transfers and amending  
2 P.L.1993, c.379.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1993, c.379 (C.2A:32A-1) is amended to  
8 read as follows:

9 1. a. Notwithstanding N.J.S.2C:21-5, or any other criminal  
10 sanction which may apply, any person who makes any check, draft,  
11 or order of withdrawal for the payment of money , or authorizes an  
12 electronic funds transfer, which is subsequently dishonored for lack  
13 of funds or credit to pay, or because the maker does not have an  
14 account with the drawee, and who then fails to pay the face amount  
15 in cash or by cashier's or certified check within 35 days after the  
16 date a demand for payment of dishonored check notice was mailed  
17 by or on behalf of a payee by certified mail to the maker's last  
18 known address, shall be liable to the payee, in addition to the  
19 amount owing upon the check, draft **[or]** , order, or electronic  
20 funds transfer for attorneys' fees, court costs and the costs of  
21 mailing the written demand for payment and for damages in an  
22 amount equal to \$100 or triple the amount for which the check,  
23 draft **[or]** , order , or electronic funds transfer is drawn or made,  
24 whichever is greater. However, damages recovered under this  
25 section shall not exceed by more than \$500 the amount of the  
26 check, draft **[or]** , order , or electronic funds transfer.

27 For purposes of this section, "date" means the date indicated on  
28 the form registering the demand notice as certified mail.

29 b. A cause of action under this section may be brought in any  
30 court of competent jurisdiction. Prior to the hearing of any action  
31 under this section, the defendant may tender to the plaintiff and the  
32 plaintiff shall accept as satisfaction of the claim, an amount of  
33 money equal to the sum of the face amount of the check, draft,  
34 **[or]**, order , or electronic funds transfer and the incurred attorneys'  
35 fees, court costs and costs of mailing the written demand for  
36 payment.

37 c. The written demand for payment required by this section  
38 shall be in the following form and shall be printed in both the  
39 English and Spanish languages:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 DEMAND FOR PAYMENT OF DISHONORED CHECK

2

3 DATE:.....

4

5 TO:.....

6

7

8 NAME OF MAKER WARNING: YOU MAY BE SUED IF

9

10 YOU DO NOT MAKE PAYMENT OF

11

12 THE AMOUNT SHOWN ON THIS

13

14 NOTICE WITHIN 35 DAYS AFTER

15

16 THE DATE THIS NOTICE WAS

17

18 MAILED.

19

20 .....

21

22 .....

23

24 .....

25

26 LAST KNOWN RESIDENCE ADDRESS OR

27

28 PLACE OF BUSINESS

29

30 YOUR CHECK/DRAFT/ORDER /ELECTRONIC FUNDS

31 TRANSFER IN THE AMOUNT OF \$.....

32

33 DATED....., PAYABLE TO THE ORDER OF

34

35 ..... HAS BEEN DISHONORED BY THE BANK

36 OR

37

38 OTHER DEPOSITORY UPON WHICH IT HAS BEEN DRAWN

39 BECAUSE:

40

41 THE MAKER HAD NO ACCOUNT WITH SUCH BANK OR

42 DEPOSITORY

43

44 THE MAKER HAD INSUFFICIENT FUNDS ON DEPOSIT WITH

45 SUCH BANK OR DEPOSITORY

46 IF YOU DO NOT MAKE PAYMENT WITHIN 35 DAYS AFTER

47 THE DATE THIS NOTICE WAS MAILED, YOU MAY BE SUED

1 TO RECOVER PAYMENT. IF A JUDGMENT IS RENDERED  
 2 AGAINST YOU IN COURT, IT WILL INCLUDE NOT ONLY  
 3 THE ORIGINAL FACE AMOUNT OF THE  
 4 CHECK/DRAFT/ORDER /ELECTRONIC FUNDS TRANSFER,  
 5 BUT ALSO ADDITIONAL LIQUIDATED DAMAGES OF NOT  
 6 LESS THAN ONE HUNDRED DOLLARS (\$100) NOR MORE  
 7 THAN THE FACE AMOUNT OF THE CHECK/DRAFT/ORDER  
 8 /ELECTRONIC FUNDS TRANSFER PLUS FIVE HUNDRED  
 9 DOLLARS (\$500).

10  
 11 PLEASE MAKE PAYMENT IN THE AMOUNT OF \$.....TO:

12  
 13 .....  
 14  
 15 NAME OF PAYEE  
 16  
 17 .....  
 18  
 19 .....  
 20  
 21 .....

22  
 23 ADDRESS TO WHICH PAYMENT  
 24  
 25 SHOULD BE DELIVERED

26  
 27 d. If the court or jury determines that the failure of the  
 28 defendant to satisfy the dishonored check , draft, order, or  
 29 electronic funds transfer was due to economic hardship, the court or  
 30 jury may waive all or part of the statutory damages. However, if  
 31 the court or jury waives all or part of the statutory damages, the  
 32 court shall render judgment against the defendant in the amount of  
 33 the dishonored check , draft, order, or electronic funds transfer plus  
 34 incurred attorneys' fees, court costs and costs of mailing the written  
 35 demand for payment.

36 (cf: P.L.1993, c.379, s.1)

37  
 38 2. This act shall take effect immediately.

39  
 40  
 41 \_\_\_\_\_  
 42  
 43 Clarifies that electronic funds transfers are included within the  
 44 scope of the civil statute concerning issuing bad checks.

**ASSEMBLY, No. 1162**

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**STATE OF NEW JERSEY**

**216th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman JACK M. CIATTARELLI**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen and Passaic)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Assemblyman JAY WEBBER**

**District 26 (Essex, Morris and Passaic)**

**Assemblyman TIMOTHY J. EUSTACE**

**District 38 (Bergen and Passaic)**

**Co-Sponsored by:**

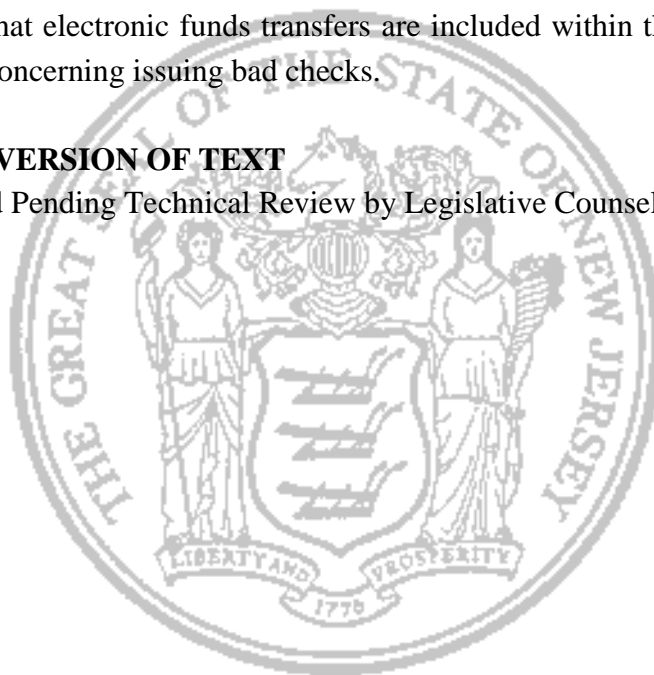
**Assemblyman Coughlin**

**SYNOPSIS**

Clarifies that electronic funds transfers are included within the scope of the civil statute concerning issuing bad checks.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 2/7/2014)**

A1162 CIATTARELLI, SCHAER

2

1 AN ACT concerning electronic funds transfers and amending  
2 P.L.1993, c.379.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1993, c.379 (C.2A:32A-1) is amended to  
8 read as follows:

9 1. a. Notwithstanding N.J.S.2C:21-5, or any other criminal  
10 sanction which may apply, any person who makes any check, draft,  
11 or order of withdrawal for the payment of money , or authorizes an  
12 electronic funds transfer, which is subsequently dishonored for lack  
13 of funds or credit to pay, or because the maker does not have an  
14 account with the drawee, and who then fails to pay the face amount  
15 in cash or by cashier's or certified check within 35 days after the  
16 date a demand for payment of dishonored check notice was mailed  
17 by or on behalf of a payee by certified mail to the maker's last  
18 known address, shall be liable to the payee, in addition to the  
19 amount owing upon the check, draft **[or]** , order, or electronic  
20 funds transfer for attorneys' fees, court costs and the costs of  
21 mailing the written demand for payment and for damages in an  
22 amount equal to \$100 or triple the amount for which the check,  
23 draft **[or]** , order , or electronic funds transfer is drawn or made,  
24 whichever is greater. However, damages recovered under this  
25 section shall not exceed by more than \$500 the amount of the  
26 check, draft **[or]** , order , or electronic funds transfer.

27 For purposes of this section, "date" means the date indicated on  
28 the form registering the demand notice as certified mail.

29 b. A cause of action under this section may be brought in any  
30 court of competent jurisdiction. Prior to the hearing of any action  
31 under this section, the defendant may tender to the plaintiff and the  
32 plaintiff shall accept as satisfaction of the claim, an amount of  
33 money equal to the sum of the face amount of the check, draft,  
34 **[or]**, order , or electronic funds transfer and the incurred attorneys'  
35 fees, court costs and costs of mailing the written demand for  
36 payment.

37 c. The written demand for payment required by this section  
38 shall be in the following form and shall be printed in both the  
39 English and Spanish languages:

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 DEMAND FOR PAYMENT OF DISHONORED CHECK  
2  
3 DATE:.....  
4  
5 TO:.....  
6  
7  
8 NAME OF MAKER WARNING: YOU MAY BE SUED IF  
9  
10 YOU DO NOT MAKE PAYMENT OF  
11  
12 THE AMOUNT SHOWN ON THIS  
13  
14 NOTICE WITHIN 35 DAYS AFTER  
15  
16 THE DATE THIS NOTICE WAS  
17  
18 MAILED.  
19  
20 .....  
21  
22 .....  
23  
24 .....  
25  
26 LAST KNOWN RESIDENCE ADDRESS OR  
27  
28 PLACE OF BUSINESS  
29  
30 YOUR CHECK/DRAFT/ORDER /ELECTRONIC FUNDS  
31 TRANSFER IN THE AMOUNT OF \$.....  
32  
33 DATED....., PAYABLE TO THE ORDER OF  
34  
35 ..... HAS BEEN DISHONORED BY THE BANK  
36 OR  
37  
38 OTHER DEPOSITORY UPON WHICH IT HAS BEEN DRAWN  
39 BECAUSE:  
40  
41 THE MAKER HAD NO ACCOUNT WITH SUCH BANK OR  
42 DEPOSITORY  
43  
44 THE MAKER HAD INSUFFICIENT FUNDS ON DEPOSIT WITH  
45 SUCH BANK OR DEPOSITORY  
46 IF YOU DO NOT MAKE PAYMENT WITHIN 35 DAYS AFTER  
47 THE DATE THIS NOTICE WAS MAILED, YOU MAY BE SUED



1 TO RECOVER PAYMENT. IF A JUDGMENT IS RENDERED  
2 AGAINST YOU IN COURT, IT WILL INCLUDE NOT ONLY  
3 THE ORIGINAL FACE AMOUNT OF THE  
4 CHECK/DRAFT/ORDER /ELECTRONIC FUNDS TRANSFER,  
5 BUT ALSO ADDITIONAL LIQUIDATED DAMAGES OF NOT  
6 LESS THAN ONE HUNDRED DOLLARS (\$100) NOR MORE  
7 THAN THE FACE AMOUNT OF THE CHECK/DRAFT/ORDER  
8 /ELECTRONIC FUNDS TRANSFER PLUS FIVE HUNDRED  
9 DOLLARS (\$500).

10  
11 PLEASE MAKE PAYMENT IN THE AMOUNT OF \$.....TO:

12  
13 .....  
14  
15 NAME OF PAYEE  
16  
17 .....  
18  
19 .....  
20  
21 .....

22  
23 ADDRESS TO WHICH PAYMENT  
24  
25 SHOULD BE DELIVERED

26  
27 d. If the court or jury determines that the failure of the  
28 defendant to satisfy the dishonored check , draft, order, or  
29 electronic funds transfer was due to economic hardship, the court or  
30 jury may waive all or part of the statutory damages. However, if  
31 the court or jury waives all or part of the statutory damages, the  
32 court shall render judgment against the defendant in the amount of  
33 the dishonored check , draft, order, or electronic funds transfer plus  
34 incurred attorneys' fees, court costs and costs of mailing the written  
35 demand for payment.  
36 (cf: P.L.1993, c.379, s.1)

37  
38 2. This act shall take effect immediately.

39  
40  
41 STATEMENT

42  
43 This bill amends a civil statute, which concerns the issuing or  
44 passing of bad checks, to clarify that electronic funds transfers are  
45 included within the scope of the statute.

46 The statute currently applies to checks, drafts, and orders of  
47 withdrawals which are dishonored for lack of funds or because the

1 maker does not have an account with the drawee. In these  
2 situations, the statute provides a process for the payee to send the  
3 maker a demand for payment form indicating the amount owed. The  
4 maker must pay the amount within 35 days of the date of the  
5 mailing of the demand for payment. If payment is not made, the  
6 maker is subject to certain monetary damages, which the payee can  
7 enforce in a civil action in a court of competent jurisdiction.

8 The bill clarifies that electronic funds transfers are to be treated  
9 the same as a check, draft, or order under the provisions of the  
10 statute, and includes appropriate references to electronic funds  
11 transfers throughout the demand for payment form.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1162**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 6, 2014

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 1162.

This bill amends a civil statute, which concerns the issuing or passing of bad checks, to clarify that electronic funds transfers are included within the scope of the statute.

The statute currently applies to checks, drafts, and orders of withdrawals which are dishonored for lack of funds or because the maker does not have an account with the drawee. In these situations, the statute provides a process for the payee to send the maker a demand for payment form indicating the amount owed. The maker must pay the amount within 35 days of the date of the mailing of the demand for payment. If payment is not made, the maker is subject to certain monetary damages, which the payee can enforce in a civil action in a court of competent jurisdiction.

The bill clarifies that electronic funds transfers are to be treated the same as a check, draft, or order under the provisions of the statute, and includes appropriate references to electronic funds transfers throughout the demand for payment form.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE COMMERCE COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1162**

**STATE OF NEW JERSEY**

DATED: JUNE 5, 2014

The Senate Commerce Committee reports favorably Assembly Bill No. 1162.

This bill amends a civil statute, which concerns the issuing or passing of bad checks, to clarify that electronic funds transfers are included within the scope of the statute.

The statute currently applies to checks, drafts, and orders of withdrawals which are dishonored for lack of funds or because the maker does not have an account with the drawee. In these situations, the statute provides a process for the payee to send the maker a demand for payment form indicating the amount owed. The maker must pay the amount within 35 days of the date of the mailing of the demand for payment. If payment is not made, the maker is subject to certain monetary damages, which the payee can enforce in a civil action in a court of competent jurisdiction.

The bill clarifies that electronic funds transfers are to be treated the same as a check, draft, or order under the provisions of the statute, and includes appropriate references to electronic funds transfers throughout the demand for payment form.

# SENATE, No. 2038

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 5, 2014

**Sponsored by:**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**SYNOPSIS**

Clarifies that electronic funds transfers are included within the scope of the civil statute concerning issuing bad checks.

**CURRENT VERSION OF TEXT**

As introduced.



S2038 BATEMAN

1 AN ACT concerning electronic funds transfers and amending  
2 P.L.1993, c.379.

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8 read as follows:

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14 account with the drawee, and who then fails to pay the face amount  
15 in cash or by cashier's or certified check within 35 days after the  
16 date a demand for payment of dishonored check notice was mailed  
17 by or on behalf of a payee by certified mail to the maker's last  
18 known address, shall be liable to the payee, in addition to the  
19 amount owing upon the check, draft **[or]**, order, or electronic funds  
20 transfer for attorneys' fees, court costs and the costs of mailing the  
21 written demand for payment and for damages in an amount equal to  
22 \$100 or triple the amount for which the check, draft **[or]**, order, or  
23 electronic funds transfer is drawn or made, whichever is greater.  
24 However, damages recovered under this section shall not exceed by  
25 more than \$500 the amount of the check, draft **[or]**, order, or  
26 electronic funds transfer.

27 For purposes of this section, "date" means the date indicated on  
28 the form registering the demand notice as certified mail.

29 b. A cause of action under this section may be brought in any  
30 court of competent jurisdiction. Prior to the hearing of any action  
31 under this section, the defendant may tender to the plaintiff and the  
32 plaintiff shall accept as satisfaction of the claim, an amount of  
33 money equal to the sum of the face amount of the check, draft,  
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36 payment.

37 c. The written demand for payment required by this section  
38 shall be in the following form and shall be printed in both the  
39 English and Spanish languages:

40

41 DEMAND FOR PAYMENT OF DISHONORED CHECK

42

43 DATE:.....

**EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 TO:.....

2

3

4 NAME OF MAKER WARNING: YOU MAY BE SUED IF

5

6 YOU DO NOT MAKE PAYMENT OF

7

8 THE AMOUNT SHOWN ON THIS

9

10 NOTICE WITHIN 35 DAYS AFTER

11

12 THE DATE THIS NOTICE WAS

13

14 MAILED.

15

16 .....

17

18 .....

19

20 .....

21

22 LAST KNOWN RESIDENCE ADDRESS OR

23

24 PLACE OF BUSINESS

25

26 YOUR CHECK/DRAFT/ORDER /ELECTRONIC FUNDS

27 TRANSFER IN THE AMOUNT OF \$.....

28

29 DATED....., PAYABLE TO THE ORDER OF

30

31 ..... HAS BEEN DISHONORED BY THE BANK

32 OR

33

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35 BECAUSE:

36

37 THE MAKER HAD NO ACCOUNT WITH SUCH BANK OR

38 DEPOSITORY

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45 AGAINST YOU IN COURT, IT WILL INCLUDE NOT ONLY

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48 BUT ALSO ADDITIONAL LIQUIDATED DAMAGES OF NOT

S2038 BATEMAN

1 LESS THAN ONE HUNDRED DOLLARS (\$100) NOR MORE  
2 THAN THE FACE AMOUNT OF THE CHECK/DRAFT/ORDER  
3 /ELECTRONIC FUNDS TRANSFER PLUS FIVE HUNDRED  
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5  
6 PLEASE MAKE PAYMENT IN THE AMOUNT OF \$.....TO:

7  
8 .....

9  
10 NAME OF PAYEE

11  
12 .....

13  
14 .....

15  
16 .....

17  
18 ADDRESS TO WHICH PAYMENT

19  
20 SHOULD BE DELIVERED

21  
22 d. If the court or jury determines that the failure of the  
23 defendant to satisfy the dishonored check, draft, order, or electronic  
24 funds transfer was due to economic hardship, the court or jury may  
25 waive all or part of the statutory damages. However, if the court or  
26 jury waives all or part of the statutory damages, the court shall  
27 render judgment against the defendant in the amount of the  
28 dishonored check, draft, order, or electronic funds transfer plus  
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30 demand for payment.

31 (cf: P.L.1993, c.379, s.1)

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36 STATEMENT

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38 This bill amends a civil statute, which concerns the issuing or  
39 passing of bad checks, to clarify that electronic funds transfers are  
40 included within the scope of the statute.

41 The statute currently applies to checks, drafts, and orders of  
42 withdrawals which are dishonored for lack of funds or because the  
43 maker does not have an account with the drawee. In these  
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**S2038 BATEMAN**

5

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3 The bill clarifies that electronic funds transfers are to be treated  
4 the same as a check, draft, or order under the provisions of the  
5 statute, and includes appropriate references to electronic funds  
6 transfers throughout the demand for payment form.

SENATE COMMERCE COMMITTEE

STATEMENT TO

**SENATE, No. 2038**

**STATE OF NEW JERSEY**

DATED: JUNE 5, 2014

The Senate Commerce Committee reports favorably Senate Bill No. 2038.

This bill amends a civil statute, which concerns the issuing or passing of bad checks, to clarify that electronic funds transfers are included within the scope of the statute.

The statute currently applies to checks, drafts, and orders of withdrawals which are dishonored for lack of funds or because the maker does not have an account with the drawee. In these situations, the statute provides a process for the payee to send the maker a demand for payment form indicating the amount owed. The maker must pay the amount within 35 days of the date of the mailing of the demand for payment. If payment is not made, the maker is subject to certain monetary damages, which the payee can enforce in a civil action in a court of competent jurisdiction.

The bill clarifies that electronic funds transfers are to be treated the same as a check, draft, or order under the provisions of the statute, and includes appropriate references to electronic funds transfers throughout the demand for payment form.