

2A:32A-1

LEGISLATIVE HISTORY CHECKLIST  
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(Bad Checks)

NJSA: 2A:32A-1

LAWS OF: 1993 CHAPTER: 379

BILL NO: S1143

SPONSOR(S): Brown

DATE INTRODUCED: September 10, 1992

COMMITTEE: ASSEMBLY: Financial Institutions  
SENATE: Commerce

AMENDED DURING PASSAGE: Yes Amendments according to  
Second reprint enacted Governor's recommendations

DATE OF PASSAGE: ASSEMBLY: December 13, 1993 Re-enacted 1-10-94  
SENATE: June 28, 1993 Re-enacted 1-10-94

DATE OF APPROVAL: January 11, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes  
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[SECOND REPRINT]

SENATE, No. 1143

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 10, 1992

By Senators BROWN, Adler, Assemblymen Gibson, Lance,  
Mikulak and Hartmann

1 AN ACT concerning bad checks and supplementing Title 2A of  
2 the New Jersey Statutes.

3

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

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

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

24 b. A cause of action under this section may be brought in any  
25 court of competent jurisdiction. Prior to the hearing of any  
26 action under this section, the defendant may tender to the  
27 plaintiff and the plaintiff shall accept as satisfaction of the  
28 claim, an amount of money equal to the sum of the face amount  
29 of the check, draft, or order and the incurred attorneys' fees,  
30 court costs and costs of mailing the written demand for payment.

31 c. The written demand for payment required by this section  
32 shall be in the following form and shall be printed in both the  
33 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.

Matter enclosed in superscript numerals has been adopted as follows

<sup>1</sup> Senate SCM comm.tee amendments adopted May 6, 1993.

<sup>2</sup> Senate amendments adopted in accordance with Governor's  
recommendations January 10, 1994.

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DEMAND FOR PAYMENT OF DISHONORED CHECK

DATE: \_\_\_\_\_

TO: \_\_\_\_\_

NAME OF MAKER

WARNING: YOU MAY BE  
SUED IF YOU DO NOT MAKE  
PAYMENT OF THE AMOUNT  
SHOWN ON THIS NOTICE  
WITHIN <sup>2</sup>[20] <sup>35</sup><sup>2</sup> DAYS  
AFTER THE DATE THIS  
NOTICE WAS MAILED.

LAST KNOWN RESIDENCE ADDRESS OR  
PLACE OF BUSINESS

YOUR CHECK/DRAFT/ORDER IN THE AMOUNT OF \$ \_\_\_\_\_

DATED \_\_\_\_\_, PAYABLE TO THE ORDER OF

\_\_\_\_\_ HAS BEEN DISHONORED BY  
THE BANK OR OTHER DEPOSITORY UPON WHICH IT HAS BEEN DRAWN  
BECAUSE:

\_\_\_ THE MAKER HAD NO ACCOUNT WITH SUCH BANK OR DEPOSITORY

\_\_\_ THE MAKER HAD INSUFFICIENT FUNDS ON DEPOSIT WITH SUCH  
BANK OR DEPOSITORY

IF YOU DO NOT MAKE PAYMENT WITHIN <sup>2</sup>[20] <sup>35</sup><sup>2</sup> DAYS AFTER  
THE DATE THIS NOTICE WAS MAILED, YOU MAY BE SUED TO  
RECOVER PAYMENT. IF A JUDGMENT IS RENDERED AGAINST YOU  
IN COURT, IT WILL INCLUDE NOT ONLY THE ORIGINAL FACE  
AMOUNT OF THE CHECK/DRAFT/ORDER, BUT ALSO ADDITIONAL  
LIQUIDATED DAMAGES OF NOT LESS THAN ONE HUNDRED DOLLARS  
(\$100) NOR MORE THAN <sup>1</sup>THE FACE AMOUNT OF THE  
CHECK/DRAFT/ORDER PLUS<sup>1</sup> FIVE HUNDRED DOLLARS (\$500).

PLEASE MAKE PAYMENT IN THE AMOUNT OF \$ \_\_\_\_\_ TO:

\_\_\_\_\_  
NAME OF PAYEE

\_\_\_\_\_  
ADDRESS TO WHICH PAYMENT SHOULD  
BE DELIVERED

d. If the court or jury determines that the failure of the  
defendant to satisfy the dishonored check was due to economic  
hardship, the court or jury may waive all or part of the statutory  
damages. However, if the court or jury waives all or part of the  
statutory damages, the court shall render judgment against <sup>1</sup>the<sup>1</sup>  
defendant in the amount of the dishonored check plus incurred  
<sup>1</sup>[attorney] attorneys' <sup>1</sup>fees, court costs and costs of mailing the  
written demand for payment.

2. This act shall take effect on the 60th day after enactment.

\_\_\_\_\_  
Permits civil action for treble damages with respect to certain  
checks.

1 YOUR CHECK/DRAFT/ORDER IN THE AMOUNT OF \$ \_\_\_\_\_  
 2 DATED \_\_\_\_\_, PAYABLE TO THE ORDER OF  
 3 \_\_\_\_\_ HAS BEEN DISHONORED BY  
 4 THE BANK OR OTHER DEPOSITORY UPON WHICH IT HAS BEEN DRAWN  
 5 BECAUSE:

6 \_\_\_\_\_ THE MAKER HAD NO ACCOUNT WITH SUCH BANK OR DEPOSITORY  
 7 \_\_\_\_\_ THE MAKER HAD INSUFFICIENT FUNDS ON DEPOSIT WITH SUCH  
 8 BANK OR DEPOSITORY

9  
 10 IF YOU DO NOT MAKE PAYMENT WITHIN 20 DAYS AFTER THE DATE  
 11 THIS NOTICE WAS MAILED, YOU MAY BE SUED TO RECOVER  
 12 PAYMENT. IF A JUDGMENT IS RENDERED AGAINST YOU IN COURT,  
 13 IT WILL INCLUDE NOT ONLY THE ORIGINAL FACE AMOUNT OF THE  
 14 CHECK/DRAFT/ORDER, BUT ALSO ADDITIONAL LIQUIDATED DAMAGES  
 15 OF NOT LESS THAN ONE HUNDRED DOLLARS (\$100) NOR MORE THAN  
 16 FIVE HUNDRED DOLLARS (\$500).

17  
 18 PLEASE MAKE PAYMENT IN THE AMOUNT OF \$ \_\_\_\_\_ TO:

19  
 20  
 21 \_\_\_\_\_  
 22 NAME OF PAYEE

23 \_\_\_\_\_  
 24 \_\_\_\_\_  
 25 ADDRESS TO WHICH PAYMENT SHOULD  
 26 BE DELIVERED

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

36 2. This act shall take effect on the 60th day after enactment.

37  
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 39 STATEMENT

40  
 41 This bill provides for a civil cause of action for treble damages  
 42 in cases where a bad check has not been made good within 20  
 43 days of the date a written demand for payment notice is mailed  
 44 by certified mail. The damages are to be for not less than  
 45 \$100.00, but may not exceed an amount which is \$500.00 greater  
 46 than the face amount of the check.

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 49 \_\_\_\_\_  
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 51 Permits civil action for treble damages with respect to certain  
 52 checks.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1143

STATE OF NEW JERSEY

DATED: NOVEMBER 22, 1993

The Assembly Financial Institutions Committee reports favorably Senate Bill No. 1143(1R).

Senate, No. 1143(1R) provides that if the drawer of a bad check does not make it good within 20 days of the date that a written demand for payment is mailed by certified mail by the payee (the person to whom the check was made), the drawer would be liable to the payee, in addition to the amount owing upon the check, for attorneys' fees, court costs, and costs of mailing the demand for payment and for liquidated damages of \$100 or three times the amount of the check, whichever is greater, except that the damages may not exceed an amount which is \$500 greater than the amount of the check.

These provisions would be enforced in court and the drawer of the bad check may settle the case by paying the payee the amount of the check and the incurred attorneys' fees, court costs and costs of mailing the demand for payment anytime prior to the hearing in court.

In addition, the court or jury may waive the liquidated damages if the drawer of the bad check is suffering from economic hardship.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1143

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 6, 1993

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1143.

This bill provides that if the drawer of a bad check does not make it good within 20 days of the date that a written demand for payment is mailed by certified mail by the payee (the person to whom the check was made), the drawer would be liable to the payee, in addition to the amount owing upon the check, for attorneys' fees, court costs, and costs of mailing the demand for payment and for liquidated damages of \$100 or three times the amount of the check, whichever is greater, except that the damages may not exceed an amount which is \$500 greater than the amount of the check.

These provisions would be enforced in court and the drawer of the bad check may settle the case by paying the payee the amount of the check and the incurred attorneys' fees, court costs and costs of mailing the demand for payment anytime prior to the hearing in court.

In addition, the court or jury may waive the liquidated damages if the drawer of the bad check is suffering from economic hardship.

The committee made a technical amendment to the bill.

974,701  
661

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

January 10, 1994

SENATE BILL NO. 1143  
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14, of the New Jersey Constitution, I herewith return Senate Bill No. 1143 (First Reprint) with my objections for reconsideration.

This bill would provide that if the maker of a bad check does not make it good within 20 days of the date that a written demand for payment is mailed by certified mail by the payee, the maker of the check would be liable to the payee, in addition to the amount owing upon the check, for attorneys fees, court costs, and costs of mailing the demand for payment and for liquidated damages of \$100 or three times the amount of the check, whichever is greater, except that the damages may not exceed an amount which is \$500 greater than the amount of the check.

These provisions could be enforced in a civil action brought in any court and the defendant would have the opportunity to settle the case by paying the payee the amount of the check and the incurred attorneys fees, court costs and costs of mailing and demand for payment any time prior to the hearing in court. In addition, the court or jury could waive the liquidated damages if the maker of the bad check is suffering from economic hardship.

I support this bill, which will provide for a civil action for the recovery of bad checks by New Jersey banks and businesses. I am, however, concerned that the 20-day time period by which the bad check must be made good is too short especially in cases where an honest mistake has been made. The bill may unnecessarily lead to the filing of lawsuits in cases where an additional period of time would have enabled the maker of the check to make good on it. I am therefore, recommending that the legislation be amended to increase the time period for making good on the check from 20 to 35 days.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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Therefore, I herewith return Senate Bill No. 1143 (First Reprint) and recommend that it be amended as follows:

|                                    |  |
|------------------------------------|--|
| <u>Page 1, Section 1, Line 12:</u> | After "within" delete "20" and insert "35" |
| <u>Page 2, Section 1, Line 9:</u>  | After "within" delete "20" and insert "35" |
| <u>Page 2, Section 1, Line 24:</u> | After "within" delete "20" and insert "35" |

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ Scott A. Weiner

Chief Counsel to the Governor

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