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An Act Regarding the Writing of Bad Checks

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §708, sub-§2, as amended by PL 2001, c. 383, §78 and affected by §156, is further amended to read:

2. Proof of the following gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person issuing or negotiating the instrument knew that it would not be honored:

A. The drawer had no account with the drawee at the time the instrument was negotiated; or

B. Payment was refused by the drawee for lack of funds upon presentment made within the time frame specified in Title 11, section 3-1304, and the drawer failed to honor the drawer's contract within 5 days after actual receipt of a notice of dishonor, as defined in Title 11, section 3-1503, provided except that this time limit is tolled during one subsequent presentment of the negotiable instrument; or

C. The drawer refuses to tender payment in the amount of the instrument within 24 hours of receipt of a notice under this paragraph mailed by certified or registered mail evidenced by return receipt at the address printed on the instrument or given at the time of issuance. The notice must be substantially as follows:

"You are hereby notified that the following instrument(s):

Number: Date: Amount: Name of Bank: drawn upon and payable to, (has)(have) been dishonored. Pursuant to Maine law, the Maine Revised Statutes, Title 17A, section 708, you have 24 hours from receipt of this notice to tender payment of the total amount of the instrument(s) plus the applicable service charge(s) of \$.....(.....dollars andcents) and any fee charged to the holder of the instrument(s) by a bank or financial institution as a result of the instrument(s) not being honored, the total amount due being \$.....(.....dollars and.....cents). Unless this amount is paid in full to within the specified time above, a presumption in law arises that you delivered the instrument(s) with the intent to defraud, and the dishonored instrument(s) and all other available information relating to this instrument may be submitted to the court for the issuance of a criminal warrant or citation or to the district attorney or Attorney General for criminal prosecution."

SUMMARY

This bill creates a rebuttable presumption of prima facie evidence that a drawer of a dishonored check knew it would be dishonored if the drawer does not pay the amount of the dishonored check and associated fees in full within 24 hours of receiving notice.