
HOUSE BILL 1042

State of Washington 61st Legislature 2009 Regular Session

By Representatives O'Brien, Warnick, Goodman, Rodne, Kelley, and Williams

Prefiled 12/18/08. Read first time 01/12/09. Referred to Committee on Judiciary.

1 AN ACT Relating to notices of dishonor; and amending RCW 62A.3-540.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

3 **Sec. 1.** RCW 62A.3-540 and 2005 c 277 s 4 are each amended to read
4 as follows:

5 (1) If a check is assigned or written to a collection agency as
6 defined in RCW 19.16.100 and the collection agency or its agent
7 provides a notice of dishonor, the notice of dishonor may be sent by
8 mail to the drawer at the drawer's last known address. The drawer is
9 presumed to have received the notice of dishonor three days from the
10 date it is mailed. The collection agency may, as an alternative to
11 providing a notice in the form described in RCW 62A.3-520, provide a
12 notice in substantially the following form:

13 NOTICE OF DISHONOR OF CHECK

14 A check drawn by you and made payable by you to in the
15 amount of has not been accepted for payment by,
16 which is the drawee bank designated on your check. This check is dated
17, and it is numbered, No.

1 You are CAUTIONED that unless you pay the amount of this check and
2 a handling fee of within thirty-three days after the date
3 this letter is postmarked or personally delivered, you may very well
4 have to pay the following additional amounts:

5 (a) Costs of collecting the amount of the check in the lesser of
6 the check amount or forty dollars(~~(, plus, in the event of legal~~
7 ~~action, court costs and attorneys' fees, which will be set by the~~
8 ~~court));~~

9 (b) Interest on the amount of the check which shall accrue at the
10 rate of twelve percent per annum from the date of dishonor; and

11 (c) Three hundred dollars or three times the face amount of the
12 check, whichever is less, plus court costs and attorneys' fees, by
13 award of the court in the event of legal action. Note that this
14 caution regarding increased amounts in any possible legal action is
15 advisory only and should not be construed as a representation or
16 implication that legal action is contemplated or intended.

17 You are also CAUTIONED that law enforcement agencies may be
18 provided with a copy of this notice of dishonor and the check drawn by
19 you for the possibility of proceeding with criminal charges if you do
20 not pay the amount of this check within thirty-three days after the
21 date this letter is postmarked.

22 You are advised to make your payment of \$. to
23 at the following address:

24 (2) The cautionary statement regarding law enforcement in
25 subsection (1) of this section need not be included in a notice of
26 dishonor sent by a collection agency. However, if included and whether
27 or not the collection agency regularly refers dishonored checks to law
28 enforcement, the cautionary statement in subsection (1) of this section
29 shall not be construed as a threat to take any action not intended to
30 be taken or that cannot legally be taken; nor shall it be construed to
31 be harassing, oppressive, or abusive conduct; nor shall it be construed
32 to be a false, deceptive, or misleading representation; nor shall it be
33 construed to be unfair or unconscionable; nor shall it otherwise be
34 construed to violate any law.

35 (3) In addition to sending a notice of dishonor to the drawer of
36 the check under this section, the person sending notice shall execute
37 an affidavit certifying service of the notice by mail. The affidavit
38 of service by mail must be substantially in the following form:

AFFIDAVIT OF SERVICE BY MAIL

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I,, hereby certify that on the day of
., 20. . . ., a copy of the foregoing Notice was served on
. by mailing via the United States Postal Service, postage
prepaid, at, Washington.

Dated:

(Signature)

(4) The person enforcing a check under this section shall file the
affidavit and check, or a true copy thereof, with the clerk of the
court in which an action on the check is commenced as permitted by
court rule or practice.

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