

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 535

Short Title: Clarify Returned Check Damages.

(Public)

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Sponsors: Senators Hartsell; and Simpson.

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Referred to: Judiciary I.

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March 24, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY REMEDIES FOR RETURNED CHECKS AS  
RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 6-21.3(a) reads as rewritten:

"(a) Notwithstanding any criminal sanctions that may apply, a person, firm, or corporation who knowingly draws, makes, utters, or issues and delivers to another any check or draft drawn on any bank or depository that refuses to honor the same because the maker or drawer does not have sufficient funds on deposit in or credit with the bank or depository with which to pay the check or draft upon presentation, and who fails to pay the same amount in cash to the payee within 30 days following written demand therefor, shall be liable to the payee for the amount owing on the check and, ~~in addition,~~ for additional damages of the lesser of five hundred dollars (\$500.00) or three times the amount owing on the check, but in no case less than one hundred dollars (\$100.00) in addition to the amount owing on the check. In an action under this section the court or jury may, however, waive all or part of the ~~treble~~-additional damages upon a finding that the defendant's failure to satisfy the dishonored check or draft was due to economic hardship.

The written demand shall: (i) describe the check or draft and the circumstances of its dishonor, (ii) contain a demand for payment and a notice of intent to file suit for ~~treble~~-the amount owing on the check and additional damages under this section if payment is not received within 30 days, and (iii) be mailed by certified mail to the defendant at his last known address."

Sec. 2. This act becomes effective October 1, 1993.