

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 577

H.P. 401

House of Representatives, February 26, 2015

An Act To Amend the Laws Governing Penalties for Writing Bad Checks

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PICCHIOTTI of Fairfield.
Cosponsored by Representatives: ESPLING of New Gloucester, FOLEY of Wells, GUERIN of Glenburn, HANINGTON of Lincoln, LOCKMAN of Amherst, PARRY of Arundel, WARD of Dedham, WINSOR of Norway.

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

2 **Sec. 1. 14 MRSA §6071, sub-§1**, as amended by PL 1995, c. 288, §1, is further
3 amended to read:

4 **1. Recovery of costs.** In any action against a person liable for a dishonored check,
5 the holder may recover the amount of the check, the court costs and the processing
6 charges incurred by the holder, plus ~~interest at the rate of 12% per annum from the date of~~
7 ~~dishonor~~ a service charge of 5% of the face amount of the check or \$30, whichever is
8 greater, if:

- 9 A. The holder gives notice pursuant to section 6073 for payment of the check; and
10 B. The person liable fails to tender the amount of the check, plus bank fees and
11 mailing costs, within 10 days of receiving the notice set forth in section 6073.

12 **Sec. 2. 14 MRSA §6071, sub-§2**, as amended by PL 2009, c. 495, §1, is further
13 amended to read:

14 **2. Attorney's fees; civil penalty.** If the person liable does not pay the amount of the
15 check, plus costs and interest, before the hearing, then the court may award reasonable
16 attorney's fees to the prevailing party. In addition, the court may award to the holder of
17 the check a civil penalty, not to exceed ~~\$150~~ twice the face amount of the check or \$500,
18 whichever is less, to be paid by the person liable for the check.

19 **Sec. 3. 14 MRSA §6071, sub-§5, ¶¶A and B**, as enacted by PL 2005, c. 365,
20 §1, are amended to read:

21 A. If a check is not honored by the drawee bank because the drawer has no account
22 with the bank, the additional liquidated damages are in an amount ~~twice~~ 3 times the
23 face amount of the check or ~~\$750~~ \$1,000, whichever is less.

24 B. If a check is not honored by the drawee bank because the drawer has insufficient
25 funds on deposit with the bank, the additional liquidated damages are in an amount
26 ~~twice~~ 3 times the face amount of the check or ~~\$400~~ \$750, whichever is less.

27 **Sec. 4. 14 MRSA §6073, sub-§3**, as amended by PL 1995, c. 288, §3, is further
28 amended to read:

29 **3. Processing and service charges; and**

30 **Sec. 5. 14 MRSA §6073, sub-§4**, as amended by PL 1995, c. 288, §3, is repealed.

31 **Sec. 6. 14 MRSA §6073, sub-§5**, as amended by PL 2009, c. 495, §2, is further
32 amended to read:

33 **5.** A penalty not to exceed ~~\$150~~ \$500.

1 **SUMMARY**

2 This bill amends the civil penalties for issuing a check that is subsequently
3 dishonored. Current law allows a person to recover the amount of the check, the court
4 costs and the processing charges incurred by the holder, plus interest at the rate of 12%
5 per annum from the date of dishonor. If the person liable does not pay the amount of the
6 check, plus costs and interest, before the hearing, the court may award reasonable
7 attorney's fees to the prevailing party plus a civil penalty, not to exceed \$150. A person
8 who issues a 2nd dishonored check to the same payee is liable for damages of the lesser
9 of 2 times the amount of the check and \$750 if the person does not have an account at the
10 bank from which the check is issued or \$400 if there are insufficient funds to pay the
11 check.

12 This bill increases the civil penalty for issuing a check that is dishonored to twice the
13 face amount of the check or \$500, whichever is less. This bill also imposes a service
14 charge of \$30 or 5% of the face amount of the check, whichever is greater, and removes
15 the interest penalty. The penalty for issuing a 2nd dishonored check to the same payee is
16 increased to the lesser of 3 times the face value of the check and \$1,000 if the person does
17 not have an account at the bank from which the check is issued or \$750 if there are
18 insufficient funds to pay the check.