

SENATE BILL REPORT

SB 6520

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, February 1, 2006

Title: An act relating to cashing checks.

Brief Description: Regulating the cashing of checks by the payor institution.

Sponsors: Senators Benton, Fairley, Oke, Stevens, Prentice and Spanel.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection: 1/25/06, 2/1/06[DPS, w/oRec].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 6520 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benton, Ranking Minority Member; Finkbeiner, Franklin, Keiser, Prentice and Schmidt.

Minority Report: That it be referred without recommendation.

Signed by Senator Brandland.

Staff: Joanne Conrad (786-7472)

Background: "Noncustomer check fees" are charged by some financial institutions. The fees vary in amount, terms and conditions, and apply to payees who are not customers, when they attempt to cash checks at the payor's financial institution. A rationale for these fees has been that they cover the expense and risk-exposure of providing service to noncustomers, and that they encourage the "unbanked" to open accounts, in order to avoid repetitive fees.

Noncustomer fees, like ATM fees, teller fees, per-check charges and other small service charges are a relatively recent occurrence, and provide additional revenue to financial institutions. However, many consumers have the long-standing expectation that, if they present a check for payment at the payor's bank, and there is sufficient money in the account, the check should simply be cashed.

Summary of Substitute Bill: Payor financial institutions, with both state and federal charters, must honor checks drawn against an account with sufficient balance "at par," without regard to whether the payee holds an account at the financial institution. Under the Uniform Commercial Code (UCC), certain penalties apply for failure to do so.

Financial institutions may require reasonable authentication of the identity of the payee before settlement of the check.

Substitute Bill Compared to Original Bill: The requirement to pay checks at par is placed in the UCC, and made applicable to a greater variety of financial institutions, including federally-chartered ones. UCC penalties apply to violations.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: If there are sufficient funds in the account and no "stop payment" order and the payee can be authenticated, a check presented for payment should be honored, without the payee being charged a fee.

Testimony Against: It is an independent business decision of a bank as to whether to charge this type of fee. It is needed to prevent fraud, improve service, and recoup costs. Consumers have the alternative of depositing the check in their own account. State chartered banks would suffer (under the original version of this bill). A similar law in Texas was preempted by the federal government.

Who Testified: PRO: Senator D. Benton, prime sponsor.

CON: Jim Pishue, WA Bankers Assn; Brad Tower, WA Indep. Community Bankers.