
ENGROSSED SUBSTITUTE SENATE BILL 5494

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators von Reichbauer, Pelz, Johnson, Owen, Thorsness, Vognild, Sellar and Moore).

Read first time March 6, 1991.

1 AN ACT Relating to collection of debts; amending RCW 12.40.105,
2 62A.3-515, and 62A.3-520; and adding a new chapter to Title 19 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) "Financial institution" means a
5 bank, trust company, mutual savings bank, savings and loan association,
6 savings bank, loan company, or credit union authorized to do business
7 and accept deposits in this state under state or federal law.

8 (2) "Account information" means:

9 (a) The date the account was opened, the amount of the opening
10 deposit to the account and, if closed, the closing date of the account
11 and the reason for closure;

12 (b) The last known address and phone number, if any, of the drawer
13 according to the account records of the financial institution;

14 (c) A copy of the statement of account as described in section 2 of
15 this act.

1 NEW SECTION. **Sec. 2.**

(1) In order to assist a law enforcement

2 agency in the assessment or preparation of an action against the drawer
3 of a dishonored check as defined in RCW 62A.3-104 and 62A.3-507, a
4 financial institution may provide a holder of a dishonored check drawn
5 on an account with the financial institution a copy of the statement of
6 account for thirty days preceding and including the dates the
7 dishonored item was drawn and presented for payment through thirty days
8 after the last date of presentment. No financial institution may
9 release any information pursuant to this authorization unless a letter
10 of agency referred to in this section is provided such institution in
11 advance of the release. This information may be provided to the holder
12 of a dishonored check only after the statutory notice of dishonor has
13 been given pursuant to RCW 62A.3-520, fifteen days has elapsed, and the
14 check remains unpaid.

15 The financial institution shall not be liable for the release of
16 this information nor for its use by the law enforcement agency if the
17 holder of the dishonored check has provided the financial institution
18 with (a) a letter of agency from the law enforcement agency on whose
19 behalf they are acting, which states that the information is not being
20 procured for debt collection purposes, but will be provided directly to
21 the law enforcement agency for its sole use and with (b) a copy of the
22 affidavit of service required by RCW 62A.3-522. No agent of a law
23 enforcement agency may release or disclose the information except to
24 its principal, nor retain a copy in whole or in part of the information
25 received from the financial institution.

26 (2) Financial institutions providing account information pursuant
27 to this section may request reimbursement from law enforcement agencies
28 for reasonable costs associated with providing this information.

1 NEW SECTION. **Sec. 3.** Records obtained pursuant to section 2
2 of this act shall be deemed records kept in the ordinary and regular
3 course of business of the financial institution from which they were
4 requested when the records are submitted to a court of law with a
5 notarized statement signed by the records custodian of the financial
6 institution stating the records were provided pursuant to section 2 of
7 this act.

8 **Sec. 4.** RCW 12.40.105 and 1983 c 254 s 2 are each amended to read
9 as follows:

10 If the losing party fails to pay the judgment within twenty days or
11 within the period otherwise ordered by the court, the judgment shall be
12 increased by: (1) An amount sufficient to cover costs of certification
13 of the judgment under RCW 12.40.110; (2) collection costs incurred
14 pursuant to section 2(2) of this act; and ~~((2))~~ (3) the amount
15 specified in RCW 36.18.020(3), without regard to the jurisdictional
16 limits on the small claims department.

17 **Sec. 5.** RCW 62A.3-515 and 1986 c 128 s 1 are each amended to read
18 as follows:

19 (1) Whenever a check as defined in RCW 62A.3-104 has been
20 dishonored by nonacceptance or nonpayment the payee or holder of the
21 check is entitled to collect a reasonable handling fee for each such
22 instrument. When such check has not been paid within fifteen days and
23 after the holder of such check sends such notice of dishonor as
24 provided by RCW 62A.3-520 to the drawer at his or her last known
25 address, then if the instrument does not provide for the payment of
26 interest, or collection costs and attorneys fees, the drawer of such
27 instrument shall also be liable for payment of interest at the rate of
28 twelve percent per annum from the date of dishonor and cost of

1 collection not to exceed forty dollars or the face amount of the check,
2 whichever is the lesser, and reasonable administrative costs under
3 section 2(2) of this act. In addition, in the event of court action on
4 the check the court, after such notice and the expiration of said
5 fifteen days, shall award a reasonable attorneys fee, and three times
6 the face amount of the check or ((one)) five hundred dollars, whichever
7 is less, as part of the damages payable to the holder of the check.
8 This section shall not apply to any instrument which has been
9 dishonored by reason of any justifiable stop payment order.

10 (2)(a) Subsequent to the commencement of the action but prior to
11 the hearing, the defendant may tender to the plaintiff as satisfaction
12 of the claim, an amount of money equal to the sum of the amount of the
13 check, a reasonable handling fee, accrued interest, collection costs
14 equal to the face amount of the check not to exceed forty dollars, and
15 the incurred court and service costs, and reasonable administrative
16 costs under section 2(2) of this act.

17 (b) Nothing in this section precludes the right to commence action
18 in any court under chapter 12.40 RCW for small claims.

19 **Sec. 6.** RCW 62A.3-520 and 1986 c 128 s 2 are each amended to read
20 as follows:

21 The notice of dishonor shall be sent by mail to the drawer at his
22 or her last known address, and said notice shall be substantially in
23 the following form:

24

25

NOTICE OF DISHONOR OF CHECK

26 A check drawn by you and made payable by you to in the
27 amount of has not been accepted for payment by,

1 which is the drawee bank designated on your check. This check is dated
2, and it is numbered, No.

3 You are CAUTIONED that unless you pay the amount of this check
4 within fifteen days after the date this letter is postmarked, you may
5 very well have to pay the following additional amounts:

6 (1) Costs of collecting the amount of the check, including an
7 attorney's fee which will be set by the court and reasonable
8 administrative costs of collecting the amount of the check;

9 (2) 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 (3) (~~One~~) Five hundred dollars or three times the face amount of
12 the check, whichever is less, by award of the court.

13 You are also CAUTIONED that law enforcement agencies may request
14 and be provided with copies of your statement of the bank account on
15 which the check was drawn for the time period of thirty days preceding
16 and including the dates the check was both drawn and presented for
17 payment through thirty days after the last date of presentment if you
18 do not pay the amount of this check within fifteen days after the date
19 this letter is postmarked.

20 You are advised to make your payment to at the following
21 address:

22 NEW SECTION. Sec. 7. Sections 1 through 3 of this act shall
23 constitute a new chapter in Title 19 RCW.