

# HOUSE BILL REPORT

## HB 1042

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### As Passed Legislature

**Title:** An act relating to notices of dishonor.

**Brief Description:** Concerning notices of dishonor.

**Sponsors:** Representatives O'Brien, Warnick, Goodman, Rodne, Kelley and Williams.

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 1/14/09, 1/15/09 [DP].

##### **Floor Activity:**

Passed House: 2/13/09, 95-0.

Passed Senate: 4/9/09, 46-0.

Passed Legislature.

#### **Brief Summary of Bill**

- Provides that a person is presumed to have received a notice of dishonored check from a collection agency three days after the notice is mailed.
- Modifies the statutory form for the notice of dishonor.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts and Warnick.

**Staff:** Kyle Gotchy (786-7119) and Trudes Tango (786-7384)

#### **Background:**

Federal and state laws govern collection agencies. Under the Federal Fair Debt Collection Practices Act, a debtor has 30 days to dispute a debt from the date he or she receives the notice of collection. The collection agency may not take certain action within that 30-day period. Under state law, a collection agency sends a debtor a notice of dishonor. A debtor has 33 days from the date the notice is postmarked or personally delivered before the debtor

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becomes liable for certain costs and fees and before the collection agency may take court action to collect the debt. If court action is taken, the debtor is also liable for reasonable attorneys' fees plus three times the face amount of the check or \$300, whichever is less. The notice of dishonor must be in a form prescribed in the statutes. The notice specifies for the debtor the fees and costs that may be added and a cautionary statement about other consequences that might occur if the amount is not paid.

**Summary of Bill:**

The debtor is presumed to have received the notice of dishonor three days from the date the notice is mailed.

A statement is added to the notice of dishonor form informing the debtor that the amount he or she may be liable for if court action is taken is advisory only and should not be construed to mean that legal action is contemplated or intended.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Federal law provides more protection to debtors than state law. Current state law includes certain requirements that may violate federal law. Federal law prohibits collectors from making false threats, but current state law notice requirements create situations where such a false threat might be discerned. This bill harmonizes state and federal law.

(Opposed) None.

**Persons Testifying:** Kevin Underwood and Greg Luhn, Washington Collectors Association.

**Persons Signed In To Testify But Not Testifying:** None.