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BILL



ANALYSIS

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House Bill 4199 (Substitute S-2 as reported)
Sponsor: Representative Eric Bush
House Committee: Judiciary and Civil Rights
Senate Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act (RJA) to require the payment of specific fees and damages for checks written on insufficient funds or no account. The bill also would revise a provision concerning the recovery of damages and costs by a merchant who is a retail fraud victim. The bill would take effect on April 1, 1996, and is tie-barred to House Bills 4197 and 4198.

Under the RJA, if the maker of a bad check fails to make payment within 30 days after receiving a written demand for payment, he or she is liable for damages of double the amount owed. Damages cannot be less than \$50 or more than \$500, but if the amount of the check is over \$500, the maker is liable for the amount of the check. Under the bill, the maker would have to pay either, within 14 days, the amount plus actual bank charges incurred by the payee, the cost of mailing the demand for payment, and a \$5 processing fee, or, within 30 days, the amount owed, plus bank charges, mailing costs, a \$5 processing fee, and civil damages of \$25 or 4% of the dishonored check, whichever was greater. If a person failed to make either of those payments, he or she would be liable for all those charges, plus additional damages of 50% of the bad check or \$200, whichever was greater, and reasonable costs, including attorney fees, approved by the court. The additional damages would not apply if, before an action for payment the maker paid the amount of the bad check plus bank charges, mailing costs, a \$5 processing fee, and civil damages of \$25 or 4% of the bad check, plus reasonable costs agreed to by the parties that did not exceed \$250.

Currently, a person who commits retail fraud is liable to the victim merchant for the full retail price of unrecovered property or recovered property not in salable condition, and a civil penalty of 10 times the retail price of the property, but not less than \$40 or more than \$100. The bill would change those limits to not less than \$50 or more than \$200. In addition, a person who commits retail fraud and fails to comply with a written demand for payment of the full retail price plus the penalty is liable for the full retail price, unless the property is recovered in salable condition, plus a civil penalty of \$200 and reasonable costs up to \$50. Under the bill, the offender would be liable for 10 times the retail price, but not less than \$50 or more than \$200, and costs, including reasonable attorney fees. The RJA also allows a merchant to recover damages from a parent of an unemancipated minor who lives with his or her parent and who commits retail fraud. The bill specifies that damages recovered from a parent could not exceed \$5,000.

MCL 600.2952 & 600.2953

Legislative Analyst: P. Affholter

FISCAL IMPACT

Please see FISCAL IMPACT on House Bill 4197.

Date Completed: 11-17-95

Fiscal Analyst: M. Hansen

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