

SENATE BILL No. 604

October 3, 2017, Introduced by Senator ZORN and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2952 (MCL 600.2952), as amended by 1998 PA 313.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2952. (1) In addition to applicable penal sanctions, a
2 person who makes, draws, utters, or delivers a check, draft, or
3 order for payment of money ~~upon~~ **ON** a bank or other depository ~~, OR~~
4 person ~~, firm, or corporation~~ that refuses to honor the check,
5 draft, or order for lack of funds or credit to pay or because the
6 maker has no account with the drawee is liable for the amount of
7 the dishonored check, draft, or order, ~~plus~~ **ANY AMOUNT CHARGED TO**
8 **THE PAYEE BY THE PAYEE'S FINANCIAL INSTITUTION BECAUSE OF THE**
9 **DISHONORED CHECK, DRAFT, OR ORDER,** a processing fee, ~~civil~~ damages,
10 and costs, as provided in this section.

(2) A payee or an agent of a payee may make a written demand for payment of a check, draft, or order ~~of the type specified DESCRIBED~~ in subsection (1). ~~which THE~~ demand may be delivered to the maker by first-class mail. The text of the ~~written demand shall~~ **MUST** be as follows:

"A check, draft, or order for payment of money drawn by you for \$_____ was returned to me/us/our client (client's name) dishonored for:

[] Insufficient funds

[] No account

This notice is a formal demand for payment of the full amount of the dishonored check, draft, or order, ~~plus \$_____~~, **WHICH WAS CHARGED TO ME/US/OUR CLIENT BY MY/OUR/OUR CLIENT'S FINANCIAL INSTITUTION, AND** a processing fee of \$25.00 for a total amount of \$_____. If you pay this total amount within 7 days, excluding weekends and holidays, after the date this notice was mailed, no further civil action will be taken against you.

If you do not pay the \$_____ as requested above, but within 30 days after the date this notice was mailed you pay the amount of the dishonored check, draft, or order, ~~plus \$_____~~, **WHICH WAS CHARGED TO ME/US/OUR CLIENT BY MY/OUR/OUR CLIENT'S FINANCIAL INSTITUTION, AND** a \$35.00 processing fee, for a total amount of \$_____, no further civil action will be taken against you.

If you fail to pay either amount indicated above, I/we/our client will be authorized by state law to bring a civil action against you to determine your legal responsibility for payment of

1 the check, draft, or order and ~~civil~~ damages and costs allowed by
2 law.

3 If you dispute the dishonoring of this check, draft, or order,
4 you should also contact your ~~bank or~~ financial institution
5 immediately.".

6 (3) The maker of a dishonored check, draft, or order for
7 payment of money is liable to the payee as provided in subsection
8 (4) if the maker fails to pay 1 of the following in cash to the
9 payee or a designated agent of the payee after the mailing of a
10 written demand for payment ~~pursuant to~~ **UNDER** subsection (2):

11 (a) Within 7 days, excluding weekends and holidays, after the
12 date the written demand provided in subsection (2) is mailed, the
13 full amount of the dishonored check, draft, or order, ~~plus ANY~~
14 **AMOUNT THAT WAS CHARGED TO THE PAYEE BY THE PAYEE'S FINANCIAL**
15 **INSTITUTION, AND** a processing fee of \$25.00.

16 (b) Within 30 days after the date of the mailing of the notice
17 provided in subsection (2), the full amount of the dishonored
18 check, draft, or order, ~~plus ANY AMOUNT THAT WAS CHARGED TO THE~~
19 **PAYEE BY THE PAYEE'S FINANCIAL INSTITUTION, AND** a processing fee of
20 \$35.00.

21 (4) Except as otherwise provided in subsection (5), a maker
22 who fails to make payment ~~pursuant to~~ **AS DESCRIBED IN** subsection
23 (3) and who is found responsible for payment in a civil action is
24 liable to the payee for payment of all of the following:

25 (a) The full amount of the check, draft, or order.

26 **(B) ANY AMOUNT THAT WAS CHARGED TO THE PAYEE BY THE PAYEE'S**
27 **FINANCIAL INSTITUTION BECAUSE OF THE CHECK, DRAFT, OR ORDER.**

1 (C) ~~(b) Civil damages~~ **DAMAGES** of 2 times the amount of the
2 ~~dishonored check, draft, or order~~ **TOTAL OF THE AMOUNTS UNDER**
3 **SUBDIVISIONS (A) AND (B)** or \$100.00, whichever is greater.

4 (D) ~~(c)~~ Costs of \$250.00.

5 (5) Subsection (4) does not apply if, before the trial of ~~an~~
6 **THE** action, ~~brought pursuant to this section,~~ the maker pays to the
7 payee or a designated agent of the payee, in cash, the total of the
8 amounts described in subsection (3)(b) ~~, plus~~ **AND** reasonable costs,
9 not exceeding \$250.00, as agreed to by the parties.

10 (6) An action under this section may be brought in the small
11 claims division of the district court, if it does not exceed the
12 jurisdiction of the small claims division, or in any other
13 appropriate court. If the amount of the check exceeds the
14 jurisdiction of the small claims division, the action may ~~still be~~
15 brought in the small claims division, but the amount of damages
16 awarded ~~shall~~ **MUST** not exceed the jurisdiction of the small claims
17 division.

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.