

Senate Bill 105

By: Senators Tanksley of the 32nd, Thompson of the 33rd, Balfour of the 9th and Kemp of the 3rd

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 13-6-15 of the Official Code of Georgia Annotated, relating to
2 damages for writing bad checks, so as to increase the maximum service charge; to change
3 provisions relating to mailing; to provide for related matters; to repeal conflicting laws; and
4 for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Code Section 13-6-15 of the Official Code of Georgia Annotated, relating to damages for
8 writing bad checks, is amended by striking subsections (a), (b), and (c) and inserting in their
9 respective places the following:

10 "(a) Notwithstanding any criminal sanctions which may apply, any person who makes,
11 utters, draws, or delivers any check, draft, or order upon any bank, depository, person, firm,
12 or corporation for the payment of money, which drawee refuses to honor the instrument for
13 lack of funds or credit in the account from which to pay the instrument or because the
14 maker has no account with the drawee, and who fails to pay the same amount in cash to the
15 payee named in the instrument within ten days after a written demand therefor, as provided
16 in subsection (c) of this Code section, has been delivered to the maker by certified mail, ~~or~~
17 statutory overnight delivery, or first-class mail supported by an affidavit of service at the
18 address printed or written on the check given by the maker at the time of issuance or, in the
19 case of a draft or order, to the last known address, the notice to be deemed conclusive three
20 days following the date the affidavit is executed, shall be liable to the payee, in addition to
21 the amount owing upon such check, draft, or order, for damages of double the amount so
22 owing, but in no case more than \$500.00, and any court costs incurred by the payee in
23 taking the action.

24 (b) The payee may charge the maker of the check, draft, or order a service charge not to
25 exceed ~~\$25.00~~ \$30.00 or 5 percent of the face amount of the instrument, whichever is
26 greater, plus the amount of any fees charged to the holder of the instrument by a bank or

1 financial institution as a result of the instrument not being honored, when making written
2 demand for payment.

3 (c) Before any recovery under subsection (a) of this Code section may be claimed, a
4 written demand in substantially the form which follows shall be sent by certified mail, ~~or~~
5 statutory overnight delivery, or first-class mail supported by an affidavit of service to the
6 address printed or written on the check given by the maker at the time of issuance of the
7 check or, in the case of a draft or order, to the last known address, the notice to be deemed
8 conclusive three days following the date the affidavit is executed, to the maker of the
9 instrument at the address shown on the instrument:

10 'You are hereby notified that a check or instrument numbered _____, issued by
11 you on _____(date), drawn upon _____(name of bank), and payable
12 to _____, has been dishonored. Pursuant to Georgia law, you have
13 ten days from receipt of this notice to tender payment of the full amount of the check or
14 instrument plus a service charge of ~~\$25.00~~ \$30.00 or 5 percent of the face amount of the
15 check or instrument, whichever is greater, plus the amount of any fees charged to the
16 holder of the instrument by a bank or financial institution as a result of the instrument not
17 being honored, the total amount due being \$_____. Unless this amount is paid in
18 full within the ten-day period, the holder of the check or instrument may file a civil suit
19 against you for two times the amount of the check or instrument, but in no case more than
20 \$500.00, in addition to the payment of the check or instrument plus any court costs
21 incurred by the payee in taking the action.'

22 **SECTION 2.**

23 All laws and parts of laws in conflict with this Act are repealed.