

The House Committee on Banks and Banking offered the following substitute to SB 105:

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 ten  
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 ten 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.