

Senate Bill 105

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

AS PASSED

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 style="text-align:center">**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 maker
14 has no account with the drawee, and who fails to pay the same amount in cash to the payee
15 named in the instrument within ten days after a written demand therefor, as provided in
16 subsection (c) of this Code section, has been delivered to the maker by certified mail, or
17 statutory overnight delivery shall be liable to the payee, in addition to the amount owing
18 upon such check, draft, or order, for damages of double the amount so owing, but in no case
19 more than \$500.00, and any court costs incurred by the payee in taking the action. In
20 addition to delivery of notice as provided for herein, notice may be given by first-class mail
21 to the address printed on the check given by the maker at the time of issuance or, in the case
22 of a draft or order, to the last known address. If the question of sufficiency of notice
23 becomes an issue, when notice is by first-class mail, the sender of the purported notice shall
24 give an affidavit, under oath, that notice was made as provided for herein and there shall be
25 a rebuttable presumption that proper notice was given.

1 (b) The payee may charge the maker of the check, draft, or order a service charge not to
 2 exceed ~~\$25.00~~ \$30.00 or 5 percent of the face amount of the instrument, whichever is
 3 greater, plus the amount of any fees charged to the holder of the instrument by a bank or
 4 financial institution as a result of the instrument not being honored, when making written
 5 demand for payment.

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

13 'You are hereby notified that a check or instrument numbered _____, issued by
 14 you on _____(date), drawn upon _____(name of bank), and payable
 15 to _____, has been dishonored. Pursuant to Georgia law, you have
 16 ten days from receipt of this notice to tender payment of the full amount of the check or
 17 instrument plus a service charge of ~~\$25.00~~ \$30.00 or 5 percent of the face amount of the
 18 check or instrument, whichever is greater, plus the amount of any fees charged to the
 19 holder of the instrument by a bank or financial institution as a result of the instrument not
 20 being honored, the total amount due being \$_____. Unless this amount is paid in
 21 full within the ten-day period, the holder of the check or instrument may file a civil suit
 22 against you for two times the amount of the check or instrument, but in no case more than
 23 \$500.00, in addition to the payment of the check or instrument plus any court costs
 24 incurred by the payee in taking the action.'

25 SECTION 2.

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