

Bill No. CS for SB 222

Amendment No. \_\_\_\_ Barcode 192560

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following amendment:

**Senate Amendment (with title amendment)**

On page 5, between lines 2 and 3, delete

insert:

Section 6. Subsection (1) of section 832.07, Florida Statutes, is amended to read:

832.07 Prima facie evidence of intent; identity.--

(1) INTENT.--

(a) In any prosecution or action under this chapter, the making, drawing, uttering, or delivery of a check, draft, or order, payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence of intent to defraud or knowledge of insufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, unless such maker or drawer, or someone for him or her, shall have paid the holder thereof the amount due thereon, together with a service charge not to exceed the service fees authorized under s. 832.08(5) or an amount of up to 5 percent of the face amount of the check, whichever is

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1 greater, within 7 days after receiving written notice that  
2 such check, draft, or order has not been paid to the holder  
3 thereof, and bank fees incurred by the holder. In the event  
4 of legal action for recovery, the maker or drawer may be  
5 additionally liable for court costs and reasonable attorney's  
6 fees. Notice mailed by certified or registered mail,  
7 evidenced by return receipt, or by first-class mail, evidenced  
8 by an affidavit of service of mail, to the address printed on  
9 the check or given at the time of issuance, or to the maker or  
10 drawer's last known address, shall be deemed sufficient and  
11 equivalent to notice having been received by the maker or  
12 drawer, whether such notice shall be returned undelivered or  
13 not. The form of such notice shall be substantially as  
14 follows:

15  
16 "You are hereby notified that a check, numbered .....,  
17 in the face amount of \$....., issued by you on ...(date)...,  
18 drawn upon ...(name of bank)..., and payable to ....., has been  
19 dishonored. Pursuant to Florida law, you have 7 days from  
20 receipt of this notice to tender payment of the full amount of  
21 such check plus a service charge of \$25, if the face value  
22 does not exceed \$50, \$30, if the face value exceeds \$50 but  
23 does not exceed \$300, \$40, if the face value exceeds \$300, or  
24 an amount of up to 5 percent of the face amount of the check,  
25 whichever is greater, the total amount due being \$.... and  
26 .... cents. Unless this amount is paid in full within the  
27 time specified above, the holder of such check may turn over  
28 the dishonored check and all other available information  
29 relating to this incident to the state attorney for criminal  
30 prosecution. You may be additionally liable in a civil action  
31 for triple the amount of the check, but in no case less than

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1 \$50, together with the amount of the check, a service charge,  
2 court costs, reasonable attorney fees, and incurred bank fees,  
3 as provided in s. 68.065."

4

5 Subsequent persons receiving a check, draft, or order from the  
6 original payee or a successor endorsee have the same rights  
7 that the original payee has against the maker of the  
8 instrument, provided such subsequent persons give notice in a  
9 substantially similar form to that provided above. Subsequent  
10 persons providing such notice shall be immune from civil  
11 liability for the giving of such notice and for proceeding  
12 under the forms of such notice, so long as the maker of the  
13 instrument has the same defenses against these subsequent  
14 persons as against the original payee. However, the remedies  
15 available under this section may be exercised only by one  
16 party in interest.

17 (b) When a check is drawn on a bank in which the maker  
18 or drawer has no account or a closed account, it shall be  
19 presumed that such check was issued with intent to defraud,  
20 and the notice requirement set forth in this section shall be  
21 waived.

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23 (Redesignate subsequent sections.)

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26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 1, line 23, after the semicolon,

29

30 insert:

31 amending s. 832.07, F.S.; revising provisions

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1 relating to notice requirements in worthless  
2 check prosecutions;  
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