

CHAPTER 712

CIVIL LIABILITY FOR BAD CHECKS

§6071. Civil penalties for bad checks

1. Recovery of costs. In any action against a person liable for a dishonored check, the holder may recover the amount of the check, the court costs and the processing charges incurred by the holder, plus interest at the rate of 12% per annum from the date of dishonor if:

A. The holder gives notice pursuant to section 6073 for payment of the check; and [PL 1995, c. 288, §1 (AMD).]

B. The person liable fails to tender the amount of the check, plus bank fees and mailing costs, within 10 days of receiving the notice set forth in section 6073. [PL 1995, c. 288, §1 (AMD).]
[PL 1995, c. 288, §1 (AMD).]

2. Attorney's fees. If the person liable does not pay the amount of the check, plus costs and interest, before the hearing, then the court may award reasonable attorney's fees to the prevailing party. In addition, the court may award to the holder of the check a civil penalty, not to exceed \$150, to be paid by the person liable for the check.
[PL 2009, c. 495, §1 (AMD).]

3. Written agreement. Nothing in this chapter supersedes the terms of a written agreement between the parties.
[PL 1995, c. 288, §1 (AMD).]

4. Check defined. As used in this chapter, "check" means a check, draft or order for the payment of money.
[PL 1995, c. 288, §1 (NEW).]

5. Second dishonored check. A person who intentionally issues or negotiates a 2nd check that is dishonored to the same payee within one year of issuing or negotiating the first dishonored check knowing that the check will not be honored by the maker or drawee is liable to the payee not only for the face amount of the check, the costs and attorney's fees pursuant to subsections 1 and 2, but also for additional liquidated damages if the check is dishonored and the drawer fails to pay the face amount of the check within 30 days of a written demand for payment by the payee.

A. If a check is not honored by the drawee bank because the drawer has no account with the bank, the additional liquidated damages are in an amount twice the face amount of the check or \$750, whichever is less. [PL 2005, c. 365, §1 (NEW).]

B. If a check is not honored by the drawee bank because the drawer has insufficient funds on deposit with the bank, the additional liquidated damages are in an amount twice the face amount of the check or \$400, whichever is less. [PL 2005, c. 365, §1 (NEW).]

For the purposes of this subsection, a check may be considered the 2nd dishonored check to the same payee if the first check to the same payee was not paid within 45 days of the issuance or negotiation of the first check.

[PL 2005, c. 365, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 357 (NEW). PL 1989, c. 502, §D8 (AMD). PL 1995, c. 288, §1 (AMD). PL 2005, c. 365, §1 (AMD). PL 2009, c. 495, §1 (AMD).

§6072. Satisfaction of claim

(REPEALED)

SECTION HISTORY

PL 1989, c. 357 (NEW). PL 1995, c. 288, §2 (RP).

§6073. Notice for nonpayment

The notice must be in substantially the following form. [PL 1995, c. 288, §3 (AMD).]

"Your check, draft or order made payable to in the amount of has not been accepted for payment by, which is the drawee bank designated on your check. The check is dated and it is numbered [PL 1995, c. 288, §3 (AMD).]

You are CAUTIONED that unless you pay the amount of this check within 10 days after the date this letter is postmarked, you may have to pay the following additional costs: [PL 1989, c. 357 (NEW).]

1. Attorney's fees;
[PL 1995, c. 288, §3 (AMD).]
2. Service costs;
[PL 1995, c. 288, §3 (AMD).]
3. Processing charges;
[PL 1995, c. 288, §3 (AMD).]
4. Interest; and
[PL 1995, c. 288, §3 (AMD).]
5. A penalty not to exceed \$150.
[PL 2009, c. 495, §2 (AMD).]

You are advised to make payment to at the following address
." [PL 1989, c. 357 (NEW).]

SECTION HISTORY

PL 1989, c. 357 (NEW). PL 1995, c. 288, §3 (AMD). PL 2009, c. 495, §2 (AMD).

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