

026387748

HOUSE BILL NO. 455

House Amendments in [] — January 24, 2002

A BILL to amend and reenact § 8.01-27.2 [~~and 18.2-183~~] of the Code of Virginia, relating to issuance of bad checks; evidence of intent; notice; penalties.

Patron Prior to Engrossment—Delegate Griffith

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-27.2 [~~and 18.2-183~~ of the Code of Virginia are of the Code of Virginia is] amended and reenacted as follows:

§ 8.01-27.2. Civil recovery for giving bad check.

In the event a check, draft or order, the payment of which has been refused by the drawee because of lack of funds in or credit with such drawee, is not paid in full within thirty days after receipt by the drawer of written notice by registered, certified, or regular mail with the sender retaining *an affidavit of service of mailing or other* sufficient proof of mailing, which may be a U.S. Postal Certificate of Mailing, from the payee that the check, draft or order has been returned unpaid, the payee may recover from the drawer in a civil action brought by the filing of a warrant in debt, the lesser of \$250 or three times the amount of the check, draft or order. The amount recovered as authorized by this section shall be in addition to the amounts authorized for recovery under § 8.01-27.1. No action may be initiated under this section if any action has been initiated under § 18.2-181. The drawer shall be obligated to pay the cost of service and the cost of mailing, as applicable.

[~~§ 18.2-183. Issuance of bad check prima facie evidence of intent and knowledge; notice by certified, registered or regular mail.~~

In any prosecution or action under the preceding sections, the making or drawing or 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 of 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, shall have paid the holder thereof the amount due thereon, together with interest, and protest fees (if any), within five days after receiving written notice that such check, draft, or order has not been paid to the holder thereof. Notice mailed by certified or registered mail, evidenced by return receipt, *or by regular mail, supported by an affidavit of service of mailing*, to the last known address of the maker or drawer shall be deemed sufficient and equivalent to notice having been received by the maker or drawer.

If such check, draft or order shows on its face a printed or written address, home, office, or otherwise, of the maker or drawer, then the foregoing notice, when sent *to such address* by certified or registered mail to such address, with or without return receipt requested, *or by regular mail, supported by an affidavit of service of mailing*, shall be deemed sufficient and equivalent to notice having been received by the maker or drawer, whether such notice shall be returned undelivered or not.

When a check is drawn on a bank in which the maker or drawer has no account, it shall be presumed that such check was issued with intent to defraud, and the five-day notice set forth above shall not be required in such case.]

ENGROSSED

HB455E