

CHAPTER 46

AN ACT concerning electronic funds transfers and amending P.L.1993, c.379.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1993, c.379 (C.2A:32A-1) is amended to read as follows:

C.2A:32A-1 Civil action for bad checks, electronic funds transfers.

1. a. Notwithstanding N.J.S.2C:21-5, or any other criminal sanction which may apply, any person who makes any check, draft, or order of withdrawal for the payment of money, or authorizes an electronic funds transfer, which is subsequently dishonored for lack of funds or credit to pay, or because the maker does not have an account with the drawee, and who then fails to pay the face amount in cash or by cashier's or certified check within 35 days after the date a demand for payment of dishonored check notice was mailed by or on behalf of a payee by certified mail to the maker's last known address, shall be liable to the payee, in addition to the amount owing upon the check, draft, order, or electronic funds transfer for attorneys' fees, court costs and the costs of mailing the written demand for payment and for damages in an amount equal to \$100 or triple the amount for which the check, draft, order, or electronic funds transfer is drawn or made, whichever is greater. However, damages recovered under this section shall not exceed by more than \$500 the amount of the check, draft, order, or electronic funds transfer.

For purposes of this section, "date" means the date indicated on the form registering the demand notice as certified mail.

b. A cause of action under this section may be brought in any court of competent jurisdiction. Prior to the hearing of any action under this section, the defendant may tender to the plaintiff and the plaintiff shall accept as satisfaction of the claim, an amount of money equal to the sum of the face amount of the check, draft, order, or electronic funds transfer and the incurred attorneys' fees, court costs and costs of mailing the written demand for payment.

c. The written demand for payment required by this section shall be in the following form and shall be printed in both the English and Spanish languages:

DEMAND FOR PAYMENT OF DISHONORED CHECK

DATE:.....

TO:.....

NAME OF MAKER WARNING: YOU MAY BE SUED IF

YOU DO NOT MAKE PAYMENT OF

THE AMOUNT SHOWN ON THIS

NOTICE WITHIN 35 DAYS AFTER

THE DATE THIS NOTICE WAS

MAILED.

.....

.....

.....

LAST KNOWN RESIDENCE ADDRESS OR

PLACE OF BUSINESS

YOUR CHECK/DRAFT/ORDER /ELECTRONIC FUNDS TRANSFERIN THE AMOUNT OF \$.....

DATED....., PAYABLE TO THE ORDER OF

..... HAS BEEN DISHONORED BY THE BANK OR

OTHER DEPOSITORY UPON WHICH IT HAS BEEN DRAWN BECAUSE:

THE MAKER HAD NO ACCOUNT WITH SUCH BANK OR DEPOSITORY

THE MAKER HAD INSUFFICIENT FUNDS ON DEPOSIT WITH SUCH BANK OR DEPOSITORY

IF YOU DO NOT MAKE PAYMENT WITHIN 35 DAYS AFTER THE DATE THIS NOTICE WAS MAILED, YOU MAY BE SUED TO RECOVER PAYMENT. IF A JUDGMENT IS RENDERED AGAINST YOU IN COURT, IT WILL INCLUDE NOT ONLY THE ORIGINAL FACE AMOUNT OF THE CHECK/DRAFT/ORDER /ELECTRONIC FUNDS TRANSFER, BUT ALSO ADDITIONAL LIQUIDATED DAMAGES OF NOT LESS THAN ONE HUNDRED DOLLARS (\$100) NOR MORE THAN THE FACE AMOUNT OF THE CHECK/DRAFT/ORDER /ELECTRONIC FUNDS TRANSFER PLUS FIVE HUNDRED DOLLARS (\$500).

PLEASE MAKE PAYMENT IN THE AMOUNT OF \$.....TO:

.....

NAME OF PAYEE

.....

.....

.....

ADDRESS TO WHICH PAYMENT

SHOULD BE DELIVERED

d. If the court or jury determines that the failure of the defendant to satisfy the dishonored check, draft, order, or electronic funds transfer was due to economic hardship, the court or jury may waive all or part of the statutory damages. However, if the court or jury waives all or part of the statutory damages, the court shall render judgment against the defendant in the amount of the dishonored check, draft, order, or electronic funds transfer plus incurred attorneys' fees, court costs and costs of mailing the written demand for payment.

2. This act shall take effect immediately.

Approved September 10, 2014.