

RECEIVED

1992 MAR 17 PM 5:10

OFFICE OF THE CLERK  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992

— ● —

# ENROLLED

Com. Sub. For  
HOUSE BILL No. H.162

(By Delegates Campbell and Hendricks)

— ● —

Passed March 5, 1992

In Effect Ninety Days From Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 4162**

(By DELEGATES CAMPBELL AND HENDRICKS)

[Passed March 5, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact section thirty-nine-e, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to worthless checks; and increasing the allowable service charge for a dishonored check.

*Be it enacted by the Legislature of West Virginia:*

That section thirty-nine-e, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. CRIMES AGAINST PROPERTY.**

**§61-3-39e. Notice of dishonor by payee; service charge.**

1     The payee or holder of a check, draft or order which  
2     has been dishonored because of insufficient funds or  
3     credit may send notice thereof to the drawer of the  
4     check, draft or order. The payee or holder of any such  
5     dishonored check may impose a service charge not to  
6     exceed fifteen dollars. No service charge shall be  
7     imposed or collected after a complaint for warrant has  
8     been delivered to magistrate court. No payee or holder  
9     of a check, draft or order which has been dishonored  
10    because of insufficient funds or credit shall incur any

11 civil or criminal liability for the sending of a notice  
12 substantially in the form provided herein, other provi-  
13 sions of law notwithstanding. The form of such notice  
14 shall be substantially as follows:

15 "You are hereby notified that a check, number  
16 \_\_\_\_\_, issued by you on (date of check),  
17 drawn upon (name of bank), and payable to  
18 \_\_\_\_\_, has been dishonored. Pursuant to  
19 West Virginia law, you have ten days from the date of  
20 this notice to tender payment of the full amount of such  
21 check plus a fifteen dollar service charge to the  
22 undersigned at \_\_\_\_\_. You are further  
23 notified that in the event the above amount is timely  
24 paid in full you will not be subject to legal proceedings,  
25 civil or criminal.

26 Dated \_\_\_\_\_, 19\_\_\_\_

27

28

(Signed)."

29 The provisions of this section shall not authorize the  
30 making of any other written or oral threats of prosecu-  
31 tion to enforce or enhance the collection or honoring of  
32 said dishonored check, draft or order.

33 The holder or payee of any such check, draft or note  
34 shall relinquish the check, draft or order to the maker  
35 upon tender of the full amount due at any time before  
36 a complaint for warrant has been presented to magis-  
37 trate court. In the event complaint for warrant has been  
38 presented to magistrate court, payment may be made  
39 only through such court and any holder or payee  
40 unlawfully accepting payment after such time shall be  
41 liable for all costs which may be imposed by magistrate  
42 court in the matter, including all costs which may have  
43 accrued by the time the magistrate court is notified of  
44 such payment.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Norman Heck*  
Chairman Senate Committee

*Ernest C. Moore*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harold E. Adams*  
Clerk of the Senate

*Donald G. Kopp*  
Clerk of the House of Delegates

*Willard W. Miller*  
President of the Senate

*Byrd*  
Speaker of the House of Delegates

The within *is approved* this the *12<sup>th</sup>*  
day of *March*, 1992.

*Yaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/13/92

Time 4:16 pm