WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1993

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ENROLLED

HOUSE BILL No. 2761

(By Delegates: Peter, Brown, Brown, Heat, Manuel, Pinto, Tubbs)

Passed April 9, 1993

In Effect Ninety Days From Passage
ENROLLED

H. B. 2761

(By Delegates Pethel, Brum, Brown, L. White, Manuel, Pino and Tribett)

[Passed April 9, 1993: in effect ninety days from passage.]

AN ACT to amend article six, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one hundred eight, relating to the solicitation of or early presentment of postdated checks and providing civil penalties for violation of this section.

Be it enacted by the Legislature of West Virginia:

That article six, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section one hundred eight, to read as follows:

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-108. Solicitation or cashing of postdated checks; penalties.

1 (a) No person may:
2 (1) Solicit or accept a postdated check with the intent
3 of presenting it for payment prior to the date listed on
4 the check; or
5 (2) Represent in any manner that postdating a check
6 will prevent its payment from the account of the maker
7 of the check prior to the date listed on the check; and
8 either (A) present the check or cause the check to be
9 presented for payment before the date on the check
10 either intentionally, or (B) in the case of a payee that
11 is an organization, present the check or cause the check
12 to be presented without reasonable procedures to
13 prevent such presentment.

14 (b) When a check is presented for payment from the
15 account of the maker before the date of the check, no
16 payee who knowingly accepted a postdated check may
17 refuse, upon request of the maker of the postdated
18 check, to immediately return the funds to the maker of
19 the postdated check, to pay the fees and other costs
20 incurred by the maker as a result of the early present-
21 ment of the check.

22 (c) If a person has violated the provisions of subsection
23 (a) or (b) of this section the maker has a cause of action
24 to recover from that person, the amount of the check,
25 any fees or costs incurred and, in addition, a civil
26 penalty, in an amount determined by the court, of not
27 less than one hundred nor more than one thousand
28 dollars.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Harrell E. Stith
Clerk of the Senate

[Signature]
Martydin[illegible]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Robert C. Cole
Speaker of the House of Delegates

The within is approved this the 3rd day of -------, 1993.

[Signature]
Governor

[Signature]