

CHAPTER 98-297

Committee Substitute for House Bill No. 767

An act relating to violations involving checks; amending s. 68.065, F.S.; providing for triple damages, court costs, and attorney's fees with respect to certain civil actions to recover fines due on stop payments on checks, drafts, or orders of payment; amending s. 166.251, F.S.; revising language with respect to service fee for dishonored checks; amending s. 832.07, F.S., relating to prima facie evidence of identity with regard to prosecution of bad check charges; removing "race" as a required element of establishing the identity of the person presenting the check; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 68.065, Florida Statutes, is amended to read:

68.065 Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs.—

(1) In any civil action brought for the purpose of collecting a check, draft, or order of payment, the payment of which was refused by the drawee because of the lack of funds, credit, or an account, or where the maker or drawer stops payment on the check, draft, or order of payment with intent to defraud, and where the maker or drawer fails to pay the amount owing, in cash, to the payee within 30 days following a written demand therefor, as provided in subsection (3), the maker or drawer shall be liable to the payee, in addition to the amount owing upon such check, draft, or order, for damages of triple the amount so owing. However, in no case shall the liability for damages be less than \$50. The maker or drawer shall also be liable for any court costs and reasonable attorney fees incurred by the payee in taking the action. Criminal sanctions, as provided in s. 832.07, may be applicable.

Section 2. Section 166.251, Florida Statutes, is amended to read:

166.251 Service fee for dishonored check.—The governing body of a municipality may adopt a service fee not to exceed the service fees authorized under s. 832.08(5) \$20 or 5 percent of the face amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft, or other order for the payment of money to a municipal official or agency. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by the collector of the fee.

Section 3. Paragraph (b) of subsection (2) of section 832.07, Florida Statutes, is amended to read:

832.07 Prima facie evidence of intent; identity.—

(2) IDENTITY.—

(a) In any prosecution or action under the provisions of this chapter, a check, draft, or order for which the information required in paragraph (b), paragraph (d), paragraph (e), or paragraph (f) is available at the time of issuance constitutes prima facie evidence of the identity of the person issuing the check, draft, or order and that such person is authorized to draw upon the named account.

(b) To establish this prima facie evidence:

1. The driver's license number or state identification number, specifying the state of issuance of the person presenting the check must be written on the check; or

2. The following information regarding the identity of the person presenting the check must be obtained by the person accepting such check: The presenter's full name, residence address, home phone number, business phone number, place of employment, sex, date of birth, and height, ~~and race.~~

Section 4. This act shall take effect October 1 of the year in which enacted.

Became a law without the Governor's approval May 29, 1998.

Filed in Office Secretary of State May 28, 1998.