

## **IC 26-2-7**

### **Chapter 7. Penalties for Stopping Payments or Permitting Dishonor of Checks and Drafts**

## **IC 26-2-7-1**

### **Check**

Sec. 1. As used in this chapter, "check" includes a draft.  
*As added by P.L.42-1993, SEC.18.*

## **IC 26-2-7-2**

### **Financial institution**

Sec. 2. (a) As used in this chapter, "financial institution" refers to a financial institution (as defined in IC 28-1-1-3).

(b) The term does not include a person licensed under IC 24-4.5.  
*As added by P.L.42-1993, SEC.18. Amended by P.L.10-2006, SEC.24 and P.L.57-2006, SEC.24; P.L.213-2007, SEC.33; P.L.217-2007, SEC.31.*

## **IC 26-2-7-3**

### **Notice of nonpayment**

Sec. 3. For purposes of this chapter, notice that a check has not been paid by a financial institution is considered as having been given at the time that the notice was deposited in the regular United States mail, if the notice was addressed to either of the following:

- (1) The address printed on the check.
- (2) The address given by the person in writing to the payee or holder at the time the check was issued or delivered.

*As added by P.L.42-1993, SEC.18.*

## **IC 26-2-7-4**

### **Liability for stopping payment or permitting dishonor of checks**

Sec. 4. Subject to section 8 of this chapter, a person found liable under other applicable law is liable under this chapter to the holder of a check if the person executed and delivered the check to another person drawn on or payable at a financial institution and the person does either of the following:

- (1) Without valid legal cause stops payment on the check.
- (2) Allows the check to be dishonored by a financial institution because of any of the following:
  - (A) Lack of funds.
  - (B) Failure to have an account.
  - (C) Lack of an authorized signature of the drawer or a necessary endorser.

*As added by P.L.42-1993, SEC.18.*

## **IC 26-2-7-5**

### **Extent of liability for stopping payment or permitting dishonor of checks**

Sec. 5. A person liable under section 4 of this chapter is also liable for all of the following:

- (1) Interest at the rate of eighteen percent (18%) per annum on the face amount of the check from the date of the check's execution until payment is made in full.
- (2) Court costs incurred in prosecuting an action that may be brought by the holder to collect on the check.
- (3) Reasonable attorney's fees incurred by the holder if the responsibility for collection is referred to an attorney who is not a salaried employee of the holder. If legal action is filed to effect collection and the collection on the check is referred to an attorney who is not a salaried employee of the holder, the holder of the check is entitled to minimum attorney's fees of not less than one hundred dollars (\$100).
- (4) Actual travel expenses not otherwise reimbursed under subdivisions (1) through (3) and incurred by the holder to do either of the following:
  - (A) Have the holder or an employee or agent of the holder file papers and attend court proceedings related to the recovery of a judgment under this chapter.
  - (B) Provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter.
- (5) A reasonable amount to compensate the holder for time used to do either of the following:
  - (A) File papers and attend court proceedings related to the recovery of a judgment under this chapter.
  - (B) Travel to and from activities described in clause (A).
- (6) Actual direct and indirect expenses incurred by the holder to compensate employees and agents for time used to do either of the following:
  - (A) File papers and attend court proceedings related to the recovery of a judgment under this section.
  - (B) Travel to and from activities described in clause (A).
- (7) All other reasonable costs of collection.

*As added by P.L.42-1993, SEC.18.*

#### **IC 26-2-7-6**

##### **Liability for continued nonpayment of checks**

Sec. 6. (a) This section does not apply to a person who has allowed a check to be dishonored because of lack of funds if both of the following apply:

- (1) The person reasonably believed that there were sufficient funds in the account to cover the check.
- (2) The insufficiency of funds is caused by the dishonoring of a third party check that had been deposited into the person's account.

(b) If a person liable under this chapter does not pay to the holder the full amount of the check not more than thirty (30) days after the certified mailing of written notice that the check has not been paid, the person is liable for, and the court shall award judgment for, the following, whichever applies:

- (1) If the face amount of the check is not greater than two

hundred fifty dollars (\$250), three (3) times the face amount of the check.

(2) If the face amount of the check is greater than two hundred fifty dollars (\$250), the face amount of the check plus five hundred dollars (\$500).

*As added by P.L.42-1993, SEC.18.*

#### **IC 26-2-7-7**

##### **Election of remedies**

Sec. 7. A person must elect whether to pursue a claim either under this chapter or under IC 34-24-3-1 (or IC 34-4-30-1 before its repeal).

*As added by P.L.42-1993, SEC.18. Amended by P.L.1-1998, SEC.138.*

#### **IC 26-2-7-8**

##### **Exemption from liability for permitting dishonor of checks**

Sec. 8. (a) A person who has allowed a check to be dishonored is not liable under this chapter if, not more than ten (10) days after the holder has given notice that the check has not been paid by the financial institution, the person pays to the holder the full amount of the check.

(b) A payment made under subsection (a) is effective for all purposes as of the date the payment is made.

*As added by P.L.42-1993, SEC.18.*