

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 876

Short Title: Bad Check Fees to Schools.

(Public)

Sponsors: Senator Ballance.

Referred to: Judiciary II/Election Laws

May 1, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE MAXIMUM FEES THAT MAY BE CHARGED BY
2 FINANCIAL INSTITUTIONS AND MERCHANTS FOR RETURNED CHECKS
3 AND TO PROVIDE THAT A PORTION OF THE FEES COLLECTED BY
4 FINANCIAL INSTITUTIONS FOR RETURNED CHECKS SHALL BE USED FOR
5 PUBLIC SCHOOL BUILDING CAPITAL COSTS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 53-65 reads as rewritten:

9 "**§ 53-65. Deposits payable on ~~demand.~~ demand; collection of processing fee for**
10 **returned checks.**

11 (a) Any bank may receive deposits of funds subject to withdrawals or to be paid
12 upon the checks of the depositor. All deposits in such banks shall be payable on demand,
13 without notice, except when the contract of deposit shall otherwise provide.

14 (b) A bank may charge and collect a processing fee not to exceed ten dollars
15 (\$10.00) for each check or negotiable order of withdrawal draft drawn on that bank with
16 respect to an account with insufficient funds. Any amount charged by the bank in excess
17 of five dollars (\$5.00) shall be paid to the Commissioner on or before the fifteenth day of
18 the month following the month in which the fee is paid to the bank. In remitting the fee,
19 the bank shall provide any information required by the Commissioner. Information

1 provided to the Commissioner pursuant to this subsection is not a public record as
2 defined by G.S. 132-1 and may not be disclosed except as required by law.

3 (c) The Commissioner shall remit all fees paid pursuant to this section to the State
4 Treasurer. The Treasurer shall, on a quarterly basis, distribute the net proceeds of the fee
5 to the counties on a per capita basis according to the most recent annual population
6 estimates certified to the Treasurer by the State Planning Officer. The Treasurer shall
7 determine the amount of the net proceeds by deducting from gross proceeds collected
8 fees refunded and the cost to the State of collecting the fees. Counties may use the
9 proceeds distributed only for public school capital outlay purposes or to retire any
10 indebtedness incurred by the county for these purposes.

11 (d) The Commissioner may issue an administrative order against any bank that
12 fails to comply with this section pursuant to G.S. 53-107.1 and Article 3A of Chapter
13 150B of the General Statutes. Civil money penalties collected as a result shall be
14 remitted to the State Treasurer and distributed pursuant to subsection (c) of this section."

15 Sec. 2. G.S. 54-109.55 reads as rewritten:

16 "**§ 54-109.55. Deposits. Deposits; collection of processing fee for returned checks.**

17 (a) A credit union may receive on deposit the savings of its members and also
18 nonmembers in such amounts and upon such terms as the board of directors may
19 determine and the bylaws shall provide.

20 (b) A credit union may charge and collect a processing fee not to exceed ten
21 dollars (\$10.00) for each check or negotiable order of withdrawal draft drawn on that
22 credit union with respect to an account with insufficient funds. Any amount charged by
23 the credit union in excess of five dollars (\$5.00) shall be paid to the Administrator on or
24 before the fifteenth day of the month following the month in which the fee is paid to the
25 credit union. In remitting the fee, the credit union shall provide any information required
26 by the Administrator. Information provided to the Administrator pursuant to this
27 subsection is not a public record as defined by G.S. 132-1 and may not be disclosed
28 except as required by law.

29 (c) The Administrator shall remit all fees paid pursuant to this section to the State
30 Treasurer. The Treasurer shall, on a quarterly basis, distribute the net proceeds of the fee
31 to the counties on a per capita basis according to the most recent annual population
32 estimates certified to the Treasurer by the State Planning Officer. The Treasurer shall
33 determine the amount of the net proceeds by deducting from gross proceeds collected
34 fees refunded and the cost to the State of collecting the fees. Counties may use the
35 proceeds distributed only for public school capital outlay purposes or to retire any
36 indebtedness incurred by the county for these purposes.

37 (d) Any credit union that fails to comply with this section shall pay a late penalty
38 to the Administrator of seventy-five dollars (\$75.00) for each day of noncompliance.
39 Penalties collected under this subsection shall be remitted to the State Treasurer and
40 distributed pursuant to subsection (c) of this section."

41 Sec. 3. G.S. 54B-147 reads as rewritten:

42 "**§ 54B-147. Collection of processing fee for returned checks.**

1 (a) Notwithstanding any other provision of law, a processing fee may be charged
2 and collected by any association for checks (including negotiable order of withdrawal
3 drafts) on which payment has been refused by the payor depository institution.

4 (b) An association may also collect ~~said~~ a processing fee not to exceed ten dollars
5 (\$10.00) for ~~checks~~ each check or negotiable order of withdrawal draft drawn on that
6 association with respect to an account with insufficient funds. Any amount charged by
7 the association in excess of five dollars (\$5.00) shall be paid to the Administrator on or
8 before the fifteenth day of the month following the month in which the fee is paid to the
9 association. In remitting the fee, the association shall provide any information required
10 by the Administrator. Information provided to the Administrator pursuant to this
11 subsection is not a public record as defined by G.S. 132-1 and may not be disclosed
12 except as required by law.

13 (c) The Administrator shall remit all fees paid pursuant to this section to the State
14 Treasurer. The Treasurer shall, on a quarterly basis, distribute the net proceeds of the fee
15 to the counties on a per capita basis according to the most recent annual population
16 estimates certified to the Treasurer by the State Planning Officer. The Treasurer shall
17 determine the amount of the net proceeds by deducting from gross proceeds collected
18 fees refunded and the cost to the State of collecting the fees. Counties may use the
19 proceeds distributed only for public school capital outlay purposes or to retire any
20 indebtedness incurred by the county for these purposes.

21 (d) The Administrator may issue an administrative order against any association
22 that fails to comply with this section pursuant to G.S. 54B-64 and Article 3A of Chapter
23 150B of the General Statutes. Civil money penalties collected as a result shall be
24 remitted to the State Treasurer and distributed pursuant to subsection (c) of this section."

25 Sec. 4. Article 8 of Chapter 54C of the General Statutes is amended by adding
26 a new section to read:

27 "**§ 54C-180. Collection of processing fee for returned checks.**

28 (a) A savings bank may charge and collect a processing fee not to exceed ten
29 dollars (\$10.00) for each check or negotiable order of withdrawal draft drawn on that
30 bank with respect to an account with insufficient funds. Any amount charged by the
31 savings bank in excess of five dollars (\$5.00) shall be paid to the Administrator on or
32 before the fifteenth day of the month following the month in which the fee is paid to the
33 bank. In remitting the fee, the savings bank shall provide any information required by the
34 Administrator. Information provided to the Administrator pursuant to this subsection is
35 not a public record as defined by G.S. 132-1 and may not be disclosed except as required
36 by law.

37 (b) The Administrator shall remit all fees paid pursuant to this section to the State
38 Treasurer. The Treasurer shall, on a quarterly basis, distribute the net proceeds of the fee
39 to the counties on a per capita basis according to the most recent annual population
40 estimates certified to the Treasurer by the State Planning Officer. The Treasurer shall
41 determine the amount of the net proceeds by deducting from gross proceeds collected
42 fees refunded and the cost to the State of collecting the fees. Counties may use the

1 proceeds distributed only for public school capital outlay purposes or to retire any
2 indebtedness incurred by the county for these purposes.

3 (c) The Administrator may issue an administrative order against any savings bank
4 that fails to comply with this section pursuant to G.S. 54C-77 and Article 3A of Chapter
5 150B of the General Statutes. Civil money penalties collected as a result shall be
6 remitted to the State Treasurer and distributed pursuant to subsection (b) of this section."

7 Sec. 5. G.S. 25-3-512 reads as rewritten:

8 **"§ 25-3-512. Collection of processing fee for returned checks.**

9 A processing fee, not to exceed ~~twenty dollars (\$20.00)~~, ten dollars (\$10.00), may be
10 charged and collected for checks on which payment has been refused by the payor bank
11 because of insufficient funds or because the drawer did not have an account at that bank
12 if at the time the consumer presented the check to the person, a sign:

13 (1) was conspicuously posted on or in the immediate vicinity of the cash
14 register;

15 (2) was in plain view of anyone paying for goods or services by check;

16 (3) was no smaller than 8 by 11 inches; and

17 (4) stated the amount of the fee that would be charged for returned checks.

18 When the drawer sends a check by mail for payment of a debt and the check is
19 dishonored and returned, the processing fee may be collected if the drawer was given
20 prior written notice that a fee would be charged for returned checks. Any document that
21 clearly and conspicuously states the amount of the fee that will be charged for returned
22 checks and is delivered to the drawer or his agent, or is mailed first-class mail to the
23 drawer at his last known address as part of any document requesting payment of a debt
24 satisfies this notice requirement for that payment only.

25 If a collection agency collects or seeks to collect on behalf of its principal a
26 processing fee as specified in this section in addition to the sum payable of a check, the
27 amount of such processing fee must be separately stated on the collection notice. The
28 collection agency shall not collect or seek to collect from the drawer any sum other than
29 the actual amount of the returned check and the specified processing fee."

30 Sec. 6. This act becomes effective October 1, 1995, and applies to fees
31 collected on or after that date.