



H.B. 202

126th General Assembly
(As Introduced)

**Reps. Webster, J. Stewart, Martin, Fessler, Combs, Allen, C. Evans,
DeGeeter, Reidelbach, Ujvagi, Setzer, Perry, Miller, Hagan, Brown**

BILL SUMMARY

- Authorizes a payee of a check or draft that previously was dishonored by a financial institution for insufficient funds to present the check or draft for immediate payment when sufficient funds exist.
- Prohibits a financial institution maintaining the account upon which a check or draft is drawn charging the payee of a check or draft any other fee when the previously dishonored check or draft is again presented for payment.

CONTENT AND OPERATION

Overview--deposit account agreements

Deposit account agreements, such as checking accounts, are contractual agreements between financial institutions and depositors maintaining the account. A deposit account agreement includes specifications for what and when fees will be assessed the depositor (account holder), such as insufficient funds fees. Under current business practices, a financial institution maintaining a depositor's account also may charge a payee subsequently presenting a check or draft, a fee for honoring (paying) the check or draft, if that check or draft previously was dishonored for insufficient funds.

The bill

(sec. 1349.19)

Under the bill, unless otherwise prohibited by state or federal law, a payee of a check or draft, that previously has been dishonored because of insufficient funds by the financial institution maintaining the account upon which the check or draft is drawn, is authorized to present the check or draft to the check or draft

writer's financial institution for immediate payment as soon as the account upon which the check or draft is drawn possesses sufficient funds. Financial institutions are defined for purposes of the bill as a bank, savings and loan association, savings bank, or credit union with its principal office in Ohio.

In addition, the bill prohibits a financial institution maintaining the account upon which a check or draft is drawn from charging a fee to the payee of a check or draft (that previously was dishonored because of insufficient funds) for again presenting the check or draft for immediate payment pursuant to the bill, including a fee for issuing a replacement check (see **COMMENT** below).

The bill specifies, however, that it does not prohibit a financial institution charging the accountholder of the account upon which a check or draft is drawn (*i.e.*, check or draft writer) a fee for (originally) honoring or dishonoring the check or draft.

COMMENT

Pursuant to federal law, (1) non-interest service charges, including deposit account service charges, charged by federal-chartered financial institutions (ex. national banks) generally may not be limited by state laws (see 12 C.F.R. 7.4002), and (2) state-chartered financial institutions doing business in Ohio but chartered in another state and insured by the Federal Deposit Insurance Corporation (FDIC) also probably are not subject to limits on service fees imposed by Ohio law (see 12 U.S.C. 1831u).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-19-05	p. 673

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