

Introduced: 3/19/87  
Referred: Labor & Commerce  
& Judiciary

5-0761A

1 IN THE SENATE

BY DUNCAN

2

SENATE BILL NO. 198

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to dishonored checks; amending  
7 Alaska Rules of Civil Procedure 79 and 82; and pro-  
8 viding for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 09.65.115(a) is repealed and reenacted to read:

11 (a) In an action against a person who issues a check that is  
12 dishonored, the plaintiff may recover the amount of the check; a  
13 returned check charge; expenses, up to a maximum of \$150 for each  
14 dishonored check, for attorney's fees, process service, and court  
15 costs; and damages in an amount equal to the greater of \$100 or three  
16 times the amount of the check. For the purposes of this section, a  
17 returned check charge may not be more than \$25 and does not require a  
18 specific cost justification. The damages recovered under this sub-  
19 section for each dishonored check may not exceed the amount of the  
20 check by more than \$1,000 and may not be awarded unless

21 (1) the plaintiff makes a written demand for payment of the  
22 check at least 15 days before filing the action; and

23 (2) the defendant fails to tender,

24 (A) before the action is filed, an amount equal to at  
25 least the amount of the check, plus a returned check charge; or

26 (B) after the filing of the action but before the case  
27 is tried, an amount equal to the amount computed under (c) of  
28 this section.

29 \* Sec. 2. AS 09.65.115(c) is repealed and reenacted to read:

1 (c) After the filing of an action under this section but before  
2 the case is tried, the defendant may satisfy the claim by tendering  
3 (1) the amount of the check;  
4 (2) a returned check charge; and  
5 (3) payment of plaintiff's attorney's fees, process service  
6 expense, and court costs accrued before the tender; the maximum pay-  
7 ment required by this paragraph is \$150 for each dishonored check.

8 \* Sec. 3. AS 09.65.115(d) is amended to read:

9 (d) In this section  
10 (1) "check" has the meaning given in AS 11.46.280;  
11 (2) "dishonored" means the nonpayment of a check because of  
12 (A) lack of funds;  
13 (B) closure or nonexistence of an account; or  
14 (C) a stop payment order issued without cause;  
15 (3) "written demand" means a written notice to the issuer  
16 of a dishonored check personally delivered or sent by first class mail  
17 to the address shown on the dishonored check, or to a better address  
18 that is known by the person giving notice, advising the issuer that  
19 the check has been dishonored, and explaining the civil penalties set  
20 out in this section.

21 \* Sec. 4. AS 09.65.115(a), as amended by sec. 1 of this Act, and  
22 AS 09.65.115(c), as amended by sec. 2 of this Act, amend Alaska Rule of  
23 Civil Procedure 79 by setting a limit on the costs that may be recovered in  
24 an action under AS 09.65.115.

25 \* Sec. 5. AS 09.65.115(a), as amended by sec. 1 of this Act, and  
26 AS 09.65.115(c), as amended by sec. 2 of this Act, amend Alaska Rule of  
27 Civil Procedure 82 by setting different criteria for establishing the  
28 amount of attorney fees to be awarded in an action under AS 09.65.115.

29 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).