

Committee on Banking and Insurance

CS/CS/HB 457 — Collection of Worthless Payment Instruments

by Business and Professional Regulation Subcommittee; Civil Justice Subcommittee; and Rep. Magar (CS/SB 550 by Banking and Insurance Committee and Senator Simpson)

The bill amends s. 68.065, F.S., to define the term “payment instruments” to include debit card transactions and electronic funds transfers. The bill also provides an alternative collection process that allows a payee to collect on payment instruments without having to file a civil action. Specifically, if the payment is refused or the maker has stopped payment on the payment instrument with intent to defraud, the payee may collect:

- Bank fees actually incurred by the payee in the course of tendering payment; and
- A service charge which is the greater of 5 percent of the amount of the payment instrument or \$25 if the payment amount is \$50 or less, \$30 if the payment instrument amount is greater than \$50 but less than or equal to \$300, or \$40 if the payment instrument amount is greater than \$300.

The alternative collection process does not prevent the payee from bringing a civil action to collect three times the face value of the payment instrument, plus costs, attorney fees, and bank fees. To do so, however, the payee will need to provide written notice to the maker of the payment instrument and allow the maker 30 days to cure by paying the face value of the payment instrument and the statutorily defined service fee.

If approved by the Governor, these provisions take effect July 1, 2013.

Vote: Senate 40-0; House 96-18