

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Simmons offered the following:

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3 **Amendment (with title amendment)**

4 On page 5, line 19,
5 remove: all of said line

6

7 and insert:

8 Section 7. Subsection (1) of section 832.07, Florida
9 Statutes, is amended to read:

10 832.07 Prima facie evidence of intent; identity.--

11 (1) INTENT.--

12 (a) In any prosecution or action under this chapter, the
13 making, drawing, uttering, or delivery of a check, draft, or
14 order, payment of which is refused by the drawee because of lack
15 of funds or credit, shall be prima facie evidence of intent to
16 defraud or knowledge of insufficient funds in, or credit with,

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17 such bank, banking institution, trust company, or other
18 depository, unless such maker or drawer, or someone for him or
19 her, shall have paid the holder thereof the amount due thereon,
20 together with a service charge not to exceed the service fees
21 authorized under s. 832.08(5) or an amount of up to 5 percent of
22 the face amount of the check, whichever is greater, within 15 7
23 days after ~~receiving~~ written notice has been sent to the address
24 printed on the check or given at the time of issuance that such
25 check, draft, or order has not been paid to the holder thereof,
26 and bank fees incurred by the holder. In the event of legal
27 action for recovery, the maker or drawer may be additionally
28 liable for court costs and reasonable attorney's fees. Notice
29 mailed by certified or registered mail, evidenced by return
30 receipt, or by first-class mail, evidenced by an affidavit of
31 service of mail, to the address printed on the check or given at
32 the time of issuance shall be deemed sufficient and equivalent
33 to notice having been received by the maker or drawer, whether
34 such notice shall be returned undelivered or not. The form of
35 such notice shall be substantially as follows:

36
37 "You are hereby notified that a check, numbered _____, in
38 the face amount of \$_____, issued by you on ... (date) ...,
39 drawn upon ... (name of bank) ..., and payable to _____, has
40 been dishonored. Pursuant to Florida law, you have 15 7 days
41 from the date receipt of this notice to tender payment of the
42 full amount of such check plus a service charge of \$25, if the
43 face value does not exceed \$50, \$30, if the face value exceeds
44 \$50 but does not exceed \$300, \$40, if the face value exceeds

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HOUSE AMENDMENT

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45 \$300, or an amount of up to 5 percent of the face amount of the
46 check, whichever is greater, the total amount due being \$____
47 and ____ cents. Unless this amount is paid in full within the
48 time specified above, the holder of such check may turn over the
49 dishonored check and all other available information relating to
50 this incident to the state attorney for criminal prosecution.
51 You may be additionally liable in a civil action for triple the
52 amount of the check, but in no case less than \$50, together with
53 the amount of the check, a service charge, court costs,
54 reasonable attorney fees, and incurred bank fees, as provided in
55 s. 68.065."

56
57 Subsequent persons receiving a check, draft, or order from the
58 original payee or a successor endorsee have the same rights that
59 the original payee has against the maker of the instrument,
60 provided such subsequent persons give notice in a substantially
61 similar form to that provided above. Subsequent persons
62 providing such notice shall be immune from civil liability for
63 the giving of such notice and for proceeding under the forms of
64 such notice, so long as the maker of the instrument has the same
65 defenses against these subsequent persons as against the
66 original payee. However, the remedies available under this
67 section may be exercised only by one party in interest.

68 (b) When a check is drawn on a bank in which the maker or
69 drawer has no account or a closed account, it shall be presumed
70 that such check was issued with intent to defraud, and the
71 notice requirement set forth in this section shall be waived.

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72 Section 8. Section 409.257, Florida Statutes, is amended
73 to read:

74 409.257 Service of process.--The service of initial
75 process and orders in lawsuits filed by the department, under
76 this act, shall be served by the sheriff in the county where the
77 person to be served may be found. The sheriff shall be
78 reimbursed at the prevailing rate of federal financial
79 participation for service of process and orders as allowed by
80 law. The sheriff shall bill the department monthly as provided
81 for in s. 30.51(2). In addition, process and orders may be
82 served or executed by authorized agents of the department at the
83 department's discretion; provided that the agent of the
84 department does not take any action against personal property,
85 real property, or persons. Notices and other intermediate
86 process, except witness subpoenas, shall be served by the
87 department as provided for in the Florida Rules of Civil
88 Procedure. Witness subpoenas shall be served by the department
89 by United States ~~certified~~ mail as provided for in s. 48.031(3).

90 Section 9. This act shall take effect July 1, 2004.

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92 ===== T I T L E A M E N D M E N T =====

93 On page 1, lines 2-29,
94 remove: all of said lines

95
96 and insert:
97 An act relating to delivery of written legal notice;
98 amending s. 48.031, F.S.; deleting the requirement to use
99 certified mail in service of a subpoena on a witness in

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100 specified cases; prohibiting a finding of contempt for
101 failure to appear in response to a subpoena that is not
102 delivered by certified mail; allowing the posting of a
103 criminal witness subpoena under specified conditions;
104 requiring the placement of certain information on the copy
105 of the process served; providing for alternative methods
106 of service under certain circumstances; amending s.
107 48.081, F.S.; providing alternative methods of service on
108 a corporation; amending s. 48.21, F.S.; requiring servers
109 of process to provide certain information on the return of
110 service; amending s. 48.29, F.S.; revising the requirement
111 that certified process servers provide certain information
112 on the face of the process served; amending s. 83.13,
113 F.S.; authorizing the party who had a distress writ issued
114 to deliver the writ to a sheriff in another county;
115 amending s. 624.307, F.S.; allowing the Chief Financial
116 Officer, when serving as the attorney to receive service
117 of all legal process for certain regulated persons, to
118 send the process by any verifiable means to the person
119 last designated by the regulated person to receive the
120 process, instead of requiring the process to be sent by
121 registered or certified mail; amending s. 832.07, F.S.;
122 providing for alternative method of notice sent by the
123 holder to the maker or drawer of a check, draft, or order,
124 payment of which is refused because of lack of funds or
125 credit; amending s. 409.257, F.S.; revising a provision
126 for service of witness subpoenas, to conform; providing an
127 effective date.

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