

RESOLUTION ANALYSIS

H.R. No. 1300
By: Giddings
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Because the processing of checks is largely regulated by the federal government, House Resolution No. 1300 is addressed to the United States Congress as a request on the part of the Texas House of Representatives to seek a change in federal law relative to upon whom the penalty should be assessed when a check is returned due to insufficient funds. Because the processing of checks frequently crosses states lines, it is desirable that regulations be uniform throughout the nation.

RULEMAKING AUTHORITY

(Not applicable)

CLAUSE-BY-CLAUSE ANALYSIS

The paper check, one of the world's oldest and most common forms of payment, is widely accepted in the United States and internationally; it is used by businesses, governments, and consumers as payment for almost every type of commerce; and

In most states, if the issuer of a check has insufficient funds to cover that check, state law authorizes a financial institution to impose a reasonable penalty in order to cover the administrative cost of processing that dishonored check, and many financial institutions elect to do precisely that; and

In addition, the recipient's financial institution may charge the recipient--who typically is unaware of the check's dubious status--a penalty for the dishonored check and possibly could go so far as to charge back to the recipient's account the amount of the insufficient funds check even if the recipient's financial institution had already made the funds available to the recipient, which may consequently create overdrafts of the recipient's account resulting in the recipient incurring additional penalties arising from those overdrafts; and

Imposing a penalty upon the recipient of an insufficient funds check is an unfair business practice because it punishes the wrong party in this very common type of financial transaction; and

Because financial transactions involving checks frequently cross state boundaries, it is desirable that a uniform, nationwide standard be established to address this problem, House Resolution No. 1300 resolves that the Congress of the United States be respectfully urged to enact legislation to prohibit a dishonored check recipient's financial institution from assessing a penalty against the recipient and to instead authorize the recipient's financial institution to assess a penalty against the issuer's financial institution, which may in turn pass that penalty down to the issuer; and, be it further

House Resolution No. 1300 further resolves that the Chief Clerk of the Texas House of Representatives forward official copies of the Resolution to the President of the United States, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress, and to all the members of the Texas delegation to the Congress with the request that this Resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

H.R. 1300 79(R)

EFFECTIVE DATE

(Not applicable)