

BILL ANALYSIS

Senate Research Center
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S.B. 1463
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Despite the fact that most hard-working Texans are fiscally responsible and live within their means, every now and then retailers, merchants, and their banking partners are forced to deal with "dishonored payment devices," more commonly known as bounced checks.

Current statute allows someone who holds a dishonored payment (such as a retailer, grocery store, merchant, bank, or check processing company) to charge the "drawer or endorser" a "reasonable processing fee of not more than \$30." The processing fee serves as both a deterrent to writing bad checks and allows entities an opportunity to recover costs associated with processing bad checks.

Unfortunately, the language in current statute has created some confusion in the business community regarding what constitutes a "reasonable" processing fee. The purpose of S.B. 1463 is to clarify current law and avoid any possible confusion regarding the reasonableness of the \$30 processing fee by changing "a reasonable processing fee of not more than \$30" to "a maximum processing fee of \$30." This bill makes clear that the maximum processing fee will be no more than \$30, and eliminates any sort of confusion or misinterpretation of the word "reasonable."

As proposed, S.B. 1463 amends current law relating to the processing fee charged for a dishonored payment device.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3.506(b), Business & Commerce Code, to authorize the holder's assignee, agent, or representative, or any other person retained by the holder to seek collection of the face value of a dishonored payment device, on return of the payment device to the holder following dishonor of the payment device by a payor, to charge the drawer or indorser a maximum processing fee of \$30, rather than a reasonable processing fee of not more than \$30.

SECTION 2. Effective date: September 1, 2011.