

Senate Study Bill 1058

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON ANGELO)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act permitting written demand via regular mail prior to an
2 action under the uniform commercial code for recovery of civil
3 damages for a dishonored check, draft, or order, when
4 supported by an affidavit of service.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1759SC 80
7 jj/cl/14

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1 1 Section 1. Section 554.3513, subsection 1, paragraph b,
1 2 Code 2003, is amended to read as follows:
1 3 b. The written demand notified the defendant that treble
1 4 damages would be sought if the face value of the dishonored
1 5 check was not paid within thirty days of receipt, and was
1 6 received by the defendant ~~through personal via any of the~~
1 7 following methods:

1 8 (1) Personal service or restricted.

1 9 (2) Restricted certified mail.

1 10 (3) Regular mail to at least one of the following

1 11 addresses, supported by an affidavit of service retained by

1 12 the payee or holder of the dishonored check, which affidavit

1 13 shall be conclusive evidence of the receipt of the demand by

1 14 the maker three days from the date of execution of the

1 15 affidavit:

1 16 (a) The address printed or written on the check.

1 17 (b) The address given by the drawer at the time of

1 18 issuance of the check.

1 19 (c) The last known address of the drawer.

1 20 EXPLANATION

1 21 This bill amends Code section 554.3513, which addresses the
1 22 uniform commercial code procedures for recovery of civil
1 23 damages for a dishonored check, draft, or order. Code section
1 24 554.3513 requires the holder of a dishonored check to take
1 25 certain steps as a prerequisite to seeking civil damages
1 26 pursuant to this Code section, including making a written
1 27 demand for payment of the check not less than 30 days prior to
1 28 filing suit against the defendant. The bill adds a method
1 29 through which that written demand can be made upon the
1 30 defendant, regular mail supported by affidavit. The affidavit
1 31 is retained by the holder of the dishonored check, and is
1 32 conclusive evidence of receipt of the demand by the maker
1 33 three days from the date of execution of the affidavit.

1 34 Current Code language requires the written demand to be
1 35 made by personal service or restricted certified mail. Code
2 1 section 618.15 defines "restricted certified mail" to mean any
2 2 form of certified mail carrying the endorsement, "deliver to
2 3 addressee only", and for which the post office provides the
2 4 mailer with a return receipt showing the date of delivery, the
2 5 place of delivery, and the person to whom delivered.

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