

HOUSE OF REPRESENTATIVES

**Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.**

House Bill No. 4345

EXPLANATORY NOTE

Previously, the practice of banks is to have bank checks for clearing settled by the BSP on the same day but the system permits deferral of settlement in the clearing balances. Funds only become available for use by the depositors-payees on the third banking day if the checks are issued within Metro Manila and seven banking days for out-of-town checks and check issuers are given a chance to fund insufficient accounts.

However, with the effectivity of BSP Circular 681 and 705 last January 24, 2011, banks check clearing will be implemented same-day instead of three, which means check issuers that have insufficient funds will no longer be given a chance to fund their accounts and the banks will decide on the same day whether to return the checks or give an overdraft for valued clients.

According to the circular, "A Check and Other Cash Item (COCI) dishonored for the reason that such is drawn against insufficient funds or credit, or is drawn against a closed account, or payment thereof has been stopped shall be returned by the drawee bank to the negotiating bank not later than 7:30 AM on the clearing day immediately following the original date of presentation of the COCI".

With this, the clients/depositors or the check issuers will be adversely affected by this revision, which in effect will change the culture of issuing checks.

Also, because of this new circular, banks immediately return checks with insufficient funds, which means that they can immediately collect the fees they charge for returned checks. In some instances, banks charge a service fee of P2,000 plus a returned check fee of P200 for every P40,000 or fraction thereof of the check per day. These are onerous fees which should be regulated.

It would be very detrimental to many issuers if this Circular is not changed because there are instances when there is really no intent to defraud and the issuers absent mindedly issued the check or the fund in the account were used without the knowledge of the issuer as in instances of joint accounts. Issuers should be given at least one day to correct the mistake.

It is in this light that the immediate passage of this bill is earnestly sought.



RUFUS B. RODRIGUEZ



MAXIMO B. RODRIGUEZ, JR.

FIFTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

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AN ACT

PROVIDING ISSUERS OF BANK CHECKS AN ADDITIONAL DAY TO FUND
CHECKS ISSUED BEFORE BEING PENALIZED BY THE BANKS AND FIXING
THE AMOUNT OF PENALTY THAT BANKS CAN CHARGE.

*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress Assembled:*

SECTION 1. A Check and Other Cash Item (COCI) dishonored for the reason that such is drawn against insufficient funds or credit, shall be returned by the drawee bank to the negotiating bank not earlier than after 24 hours from the original date of presentation or 24 hours after notifying the issuer of the insufficiency of fund in order to give the issuer a chance to fund the check.

SEC. 2. Banks and other financial institutions are hereby prohibited from charging customers a service fee for returned checks an amount more than Two Thousand Pesos (P2,000) per check.

SEC. 3. Separability Clause. If any clause, provision, paragraph or part hereof shall be declared unconstitutional or invalid, such judgment shall not affect, invalidate or impair any other part hereof, but such judgment shall be merely confined to the clause, provision, paragraph or part directly involved in the controversy in which such judgment has been rendered.

SEC. 4. Repealing Clause. BSP Circular No. 681 and 705 are hereby repealed accordingly. All other laws, executive orders, rules and regulations or parts thereof in conflict with the provisions of this Act are hereby repealed or amended accordingly.

SEC. 5. Effectivity. -This Act shall take effect after fifteen (15) days following its full and complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved.