

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-149
HOUSE BILL 790

AN ACT TO PROVIDE THAT A CHECK TAKER OR ACCEPTOR SHALL NOT WRITE OR PRINT THE RACE OR GENDER ON THE CHECK OR DRAFT OF A CHECK PASSER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-107.1(b) reads as rewritten:

"(b) In prosecutions under G.S. 14-107 the prima facie evidence provisions of subsections (d) and (e) apply if all the conditions of subdivisions (1) through (7) below are met. The prima facie evidence provisions of subsection (e) apply if only conditions (5) through (7) are met. The conditions are:

- (1) The check or draft is delivered to a check taker.
- (2) The name and mailing address of the check passer are written or printed on the check or ~~draft~~ draft, and the check taker or acceptor shall not be required to write or print the race or gender of the check passer on the check or draft.
- (3) The check taker identifies the check passer at the time of accepting the check by means of a North Carolina driver's license, a special identification card issued pursuant to G.S. 20-37.7, or other reliable serially numbered identification card containing a photograph and mailing address of the person in question.
- (4) The license or identification card number of the check passer appears on the check or draft.
- (5) After dishonor of the check or draft by the bank or depository, the acceptor sends the check passer a letter by certified mail, to the address recorded on the check, identifying the check or draft, setting forth the circumstances of dishonor, and requesting rectification of any bank error or other error in connection with the transaction within 10 days.

An acceptor may advise the check passer in a letter that legal action may be taken against him if payment is not made within the prescribed time period. Such letter, however, shall be in a form which does not violate applicable provisions of Article 2 of Chapter 75.

- (6) The acceptor files the affidavit described in subdivision (7) with a judicial official, as defined in G.S. 15A-101(5), before issuance of the first process or pleading in the prosecution under G.S. 14-107. The

affidavit must be kept in the case file (attached to the criminal pleading in the case).

- (7) The affidavit of the acceptor, sworn to before a person authorized to administer oaths, must:
- a. State the facts surrounding acceptance of the check or draft. If the conditions set forth in subdivisions (1) through (5) have been met, the specific facts demonstrating observance of those conditions must be stated.
 - b. Indicate that at least 15 days have elapsed since the mailing of the letter required under subdivision (5) and that the check passer has failed to rectify any error that may have occurred with respect to the dishonored check or draft.
 - c. Have attached a copy of the letter sent to the check passer pursuant to subdivision (5).
 - d. Have attached the receipt, or a copy of it, from the United States Postal Service certifying the mailing of the letter described in subdivision (5).
 - e. Have attached the check or draft or a copy thereof, including any stamp, marking or attachment indicating the reason for dishonor."

Section 2. This act becomes effective October 1, 1997, and applies to checks or drafts made or drawn on or after that date.

In the General Assembly read three times and ratified this the 26th day of May, 1997.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:50 p.m. this 4th day of June, 1997