

SUBJECT: Allowing maximum \$30 charge for a dishonored payment

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 8 ayes — Deshotel, Orr, Bohac, Garza, Giddings, S. Miller, Quintanilla, Workman
0 nays
1 absent — Solomons

WITNESSES: For — Rob Johnson, Consumer Data Information Assoc.; (*Registered, but did not testify*: Kim Hall, First Data Corporation/Telecheck; Ronnie Volkening, Texas Retailers Association)
Against — None

BACKGROUND: Business and Commerce Code, sec. 3.506(b) allows certain entities, such as a retailer, grocery store, merchant, bank, or check processing company, holding a dishonored payment to charge the drawer or endorser a reasonable processing fee of no more than \$30.

DIGEST: HB 2793 would amend Business and Commerce Code, sec. 3506 (b) to allow a maximum processing fee of \$30 for a dishonored payment. It would repeal the current requirement that the fee be “reasonable.”
The bill would take effect September 1, 2011.

SUPPORTERS SAY: HB 2793 would allow a merchant to charge a maximum of \$30 for dishonored payments. It is necessary to amend this statute to avoid the lawsuits that have occurred in other states that challenge the meaning of the word “reasonable” in the current statute. The bill would make the law clear by specifying a maximum amount.
The bill would not harm the consumer by increasing fee amounts because the merchant still would have the same latitude for discretion as under current law.

OPPONENTS
SAY:

This bill likely would cause the current \$25 to \$ 26 fees to increase to the maximum \$30 fee, which may not be reasonable. Without the requirement to make the amount “reasonable,” merchants, when they have the opportunity to choose an amount up to a specified maximum, likely would choose the maximum amount. Consumers benefit from the current statute because it requires merchants to consider the actual cost of handling dishonored payments.

NOTES:

The companion bill, SB 1463 by Hinojosa, was reported favorably, without amendment, by the Senate Business and Commerce Committee on April 19.