



In some circumstances, a payee of a dishonored check in Indiana may be entitled to enhanced damages over and above the face value of the check. Under Indiana Code 28-2-8-1, a person who stops payment on a check or draft or allows the check or draft to be dishonored for nonsufficient funds, closed account, or unauthorized signature or endorsement may be liable for enhanced damages, including the following: 18% interest on the face value of the amount of the check; court costs; attorneys' fee; compensation for the holder's time used in attempting collection; compensation for the time used by the holder's employees in attempting to collect; and other reasonable costs of collection. I.C. 28-2-8-1(a)

There are some limitations on the statute's applicability. The statute is inapplicable if the issuer pays the full amount of the check or draft within ten (10) days of receiving notice from the holder that the check has been dishonored. I.C. 28-2-8-1(b) The statute defines "notice" as written notification by the holder deposited in the U.S. mail. The notice may be sent to either the address printed on the check or draft, or the address given in writing at the time the check or draft was issued or delivered. I.C. 28-2-8-1(c)

The issuer can be liable for treble damages if the issuer fails to pay the holder within thirty (30) days following a certified mailing of written notice of the check's dishonor. The total damages are limited, however, to \$500.00 in excess of the face amount of the check or draft. I.C. 28-2-8-1(d)

Finally, the statute provides that subsection (d) is inapplicable under the following circumstances: When the issuer is able to successfully defend at a trial on the issuer's liability; or when the insufficiency of funds in the issuer's account was caused by the dishonor of a third party's check deposited into the issuer's account. I.C. 28-2-8-1(f) □

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