

ACT 240

H.B. NO. 1207

A Bill for an Act Relating to Dishonored Payments.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 40-35.5, Hawaii Revised Statutes, is amended to read as follows:

“§40-35.5 Assessment and collection of service charges for dishonored [items.] payments. (a) Unless otherwise provided by law or rules ~~[having the force and effect of law]~~, every public accountant receiving revenue or other moneys on account of the State shall assess and collect a service charge in the amount of[:

- (1) ~~\$15 for any check or electronic funds transfer; and~~
- (2) ~~\$7.50 for any draft, certificate of deposit, or other negotiable instrument;]~~ \$25 for any remittance for payment that

the public accountant receives that is dishonored for any reason. A public accountant shall require payment of the full amount of the dishonored payment, plus the service charge in cash [or], by certified or cashier's check, or by bank or postal money order. The amount of the service charge shall be deposited with the director of finance as a realization of the general fund.

(b) The service charge shall be enforced as follows:

- (1) For charges due on dishonored checks written or electronic funds transfers made for payment of any tax administered by the department of taxation under title 14, the charges shall be nonwaivable penalties and shall be made a part of the tax for which the payment was made in the same manner as penalties are made part of the tax under section 231-39; and
- (2) For ~~[charges due on]~~ other dishonored ~~[items,]~~ payments, if payment of the full amount of the dishonored payment plus the service charge is not made, the public accountant shall refer the entire matter, including the service charge due on the dishonored [item and interest on the penalty,] payment, to the department of the attorney general or a collection agency bonded under chapter 443B for collection.

~~[(c) Interest on the penalty at the rate of two-thirds of one per cent a month or fraction of a month shall be paid for the period beginning the first calendar day after the date of notification of dishonor and ending on the date paid.~~

~~(d)]~~ (c) All penalties~~[-including interest thereon,]~~ for dishonored ~~[items]~~ payments shall be debts due the State.

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[(e)] (d) Penalties [~~and interest~~] collected for dishonored [~~items~~] payments by the department of taxation pursuant to this section shall be collected in the same manner as are taxes under chapter 231. The penalty shall be a realization of the general fund in the same manner as other penalties collected by the department of taxation.

(e) No interest shall be charged on any penalty.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 2007.)