

## CHAPTER 161

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**CONSUMER AND COMMERCIAL TRANSACTIONS**


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**HOUSE BILL 09-1108**

BY REPRESENTATIVE(S) Kerr A., Apuan, Benefield, Gagliardi, Hullinghorst, Labuda, Ryden, Soper, Todd, Green, Primavera;  
also SENATOR(S) Boyd, Carroll M., Heath, Hudak, Tochtrop.

**AN ACT**

**CONCERNING THE FAILURE OF AN EMPLOYER'S BANK TO HONOR AN EMPLOYEE'S PAYCHECK UPON PRESENTMENT.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 8-4-103 (1), Colorado Revised Statutes, is amended to read:

**8-4-103. Payment of wages - insufficient funds - pay statement - record retention - tip notification.** (1) (a) All wages or compensation, other than those mentioned in section 8-4-109, earned by any employee in any employment, other than those specified in subsection (3) of this section, shall be due and payable for regular pay periods of no greater duration than one calendar month or thirty days, whichever is longer, and on regular paydays no later than ten days following the close of each pay period unless the employer and the employee shall mutually agree on any other alternative period of wage or salary payments.

(b) AN EMPLOYER IS SUBJECT TO THE PENALTIES SPECIFIED IN SECTION 8-4-113 (1) IF, TWO OR MORE TIMES WITHIN ANY TWENTY-FOUR-MONTH PERIOD, THE EMPLOYER CAUSES AN EMPLOYEE'S CHECK, DRAFT, OR ORDER TO NOT BE PAID BECAUSE THE EMPLOYER'S BANK DOES NOT HONOR AN EMPLOYEE'S PAYCHECK UPON PRESENTMENT. THE DIRECTOR MAY INVESTIGATE COMPLAINTS REGARDING ALLEGED VIOLATIONS OF THIS PARAGRAPH (b).

**SECTION 2.** 13-21-109 (2) (a), Colorado Revised Statutes, is amended to read:

**13-21-109. Recovery of damages for checks, drafts, or orders not paid upon presentment.** (2) (a) If notice of nonpayment on presentment of the check, draft, or order has been given in accordance with ~~the provisions of~~ subsections (3) and (4) of this section and the total amount due as set forth in the notice has not been paid

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

within fifteen days after such notice is given, instead of the amounts set forth in paragraph (a) or (b) of subsection (1) of this section, the person shall be liable to the holder or any assignee for collection for three times the face amount of the check but not less than one hundred dollars AND, WITH REGARD TO A PAYCHECK, ACTUAL DAMAGES CAUSED BY THE NONPAYMENT, INCLUDING ASSOCIATED LATE FEES.

**SECTION 3. Act subject to petition - effective date - applicability.** (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to acts occurring on or after the applicable effective date of this act.

Approved: April 22, 2009