1	Senate Bill No. 335
2	(By Senator Minard)
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4	[Introduced January 18, 2012; referred to the Committee on
5	Banking and Insurance.]
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10	A BILL to amend and reenact $\$61-3-39e$ of the Code of West Virginia,
11	1931, as amended, relating to permitting payees or holders of
12	electronic transfers that have been dishonored because of
13	insufficient funds or credit may send notice to the drawer of
14	the transfer and impose a fee up to \$25.
15	Be it enacted by the Legislature of West Virginia:
16	That §61-3-39e of the Code of West Virginia, 1931, as amended,
17	be amended and reenacted to read as follows:
18	ARTICLE 3. CRIMES AGAINST PROPERTY.
19	<pre>§61-3-39e. Notice of dishonor by payee; service charge.</pre>
20	The payee or holder of a check, draft, or order <u>or electronic</u>
21	payment which has been dishonored because of insufficient funds or
22	credit may send notice thereof to the drawer of the check, draft,
23	or order or electronic payment. The payee or holder of any

1 dishonored check <u>or electronic payment</u> may impose a fee of up to 2 \$25 <u>for</u> a worthless check <u>or for each returned electronic payment.</u> 3 This fee may not be imposed or collected after a complaint for 4 warrant has been delivered to magistrate court. No payee or holder 5 of a check, draft or order which has been dishonored because of 6 insufficient funds or credit shall incur any civil or criminal 7 liability for the sending of a notice substantially in the form 8 provided herein, other provisions of law notwithstanding. The form 9 of the notice shall be substantially as follows:

10 "You are hereby notified that a check/electronic transfer, 11 number issued by you on (date of 12 check/electronic transfer), drawn upon (name of bank), and payable 13 to Pursuant 14 to West Virginia law, you have ten days from the date of this 15 notice to tender payment of the full amount of the check/electronic 16 transfer plus a fee of \$..... (not to exceed \$25 a 17 worthless check/electronic transfer) to the undersigned at 18 You are further notified that in the 19 event the above amount is timely paid in full you will not be 20 subject to legal proceedings, civil or criminal.

21 Dated 20.....

24 The provisions of this section do not authorize the making of

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1 any other written or oral threats of prosecution to enforce or 2 enhance the collection or honoring of the dishonored check, draft 3 or order or any form of electronic payment.

4 The holder or payee of any check, draft or order shall 5 relinquish the check, draft or order to the maker upon tender of 6 the full amount due at any time before a complaint for warrant has 7 been presented to magistrate court. In the event complaint for 8 warrant has been presented to magistrate court, payment may be made 9 only through the court and any holder or payee unlawfully accepting 10 payment after that time shall be liable for all costs which may be 11 imposed by the magistrate court in the matter, including all costs 12 which may have accrued by the time the magistrate court is notified 13 of the payment.

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⁽NOTE: The purpose of this bill is to permit the payee or holder of an electronic payment that has been dishonored because of insufficient funds or credit may send notice to the drawer and impose a fee up to \$25. The bill makes electronic payments subject to the same fees as are currently permitted for returned checks.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)