

ORIGINAL FILED

MARTIN COUNTY ORDINANCE NO. 92-11

ORDINANCE ESTABLISHING SERVICE CHARGE ON
UNPAID OR DISHONORED CHECKS

WHEREAS, Indiana Code 36-1-3 provides for the passage of local ordinances pursuant to said Home Rule Statute; and

WHEREAS, the Office of the Martin County Prosecuting Attorney pursuant to Indiana Code 35-43-5-5 has established a procedure for notice to persons who have issued or delivered a check, draft, or order on a credit institution (hereinafter "Check") for payment of or to acquire money or other property, which said Check has been unpaid or dishonored; and

WHEREAS, such procedure established by the Martin County Prosecuting Attorney is a governmental service undertaken on behalf of those individuals or businesses which receive such unpaid and dishonored checks; and

WHEREAS, the Office of the Martin County Prosecuting Attorney provides a service to the entire citizenry of Martin County in causing such unpaid and dishonored checks to be paid by the payor thereof; and

WHEREAS, the payors of such unpaid or dishonored checks should be required to pay a service charge reasonably related to the cost of this service provided by the office of the Martin County Prosecuting Attorney; and

WHEREAS, such service charge, when collected by the office of the Martin County Prosecuting Attorney should be paid over to the County Auditor as provided herein.

NOW, THEREFORE, BE IT ORDAINED AND ADOPTED by the Board of the Commissioners of Martin County, Indiana:

Section 1. The Office of Martin County Prosecuting Attorney shall impose a service charge for each unpaid and dishonored check processed by and through the above-referenced procedure, to be paid by the payor of such unpaid or dishonored check for which notice is set pursuant to Indiana Code 35-43-5-5.

Section 2. That said service charge shall be in such an amount as the Prosecuting Attorney may stipulate and fix on a uniform basis (which charge may be a fixed dollar amount or a percentage of the value of the bad check, but which may not exceed the amount permitted under Indiana Code 35-43-5-5[e]) to cover the costs of providing such service which said charge shall be reasonably related to the costs associated with exercising such regulatory power.

Section 3. All service charges collected by the Office of the Martin County Prosecuting Attorney provided for by this ordinance once collected, are considered County General Fund Miscellaneous Revenue. The charges shall be remitted by the Martin County Prosecuting Attorney to the County Auditor on a monthly basis, and the County Auditor is hereby authorized to establish and maintain a Prosecutor's Service Charge Fund, and the charges collected by the Prosecutor's Office shall be deposited into said fund. The County Council may only appropriate monies on deposit in the Prosecutor's Service Charge Fund for purposes of the Prosecutor's Office, although such appropriations may be made for any purpose for which County monies lawfully may be appropriated to the Prosecutor's Office and need not necessarily be limited to directly attributable costs of the functions and services from which the charges derive.

Section 4. When the Martin County Prosecuting Attorney has implemented a bad check collection service authorized by this ordinance, he may establish and maintain a public funds checking account (trust account) into which he shall deposit the principal amount of any bad check which he collects from the issuer thereof on behalf of the payee or holder. Checks from such accounts may be written to the payee or holder of the bad check to whom the money is lawfully due without appropriation.

Section 5. This Ordinance repeals and shall replace Martin County Ordinance 87-1. All funds presently on deposit in the General Fund of Martin County which have been collected and held under the authority of Ordinance 87-1 shall be transferred to the new Prosecutor's Service Charge Fund. Said amount is \$19,946.16 as of November 20, 1992.

PASSED by the Board of Commissioners of Martin County, Indiana, on the 7th day of December, 1992, and upon that day signed and executed by the members of the Board as appears by their respective signatures and all attested to by the Auditor of Martin County, Indiana.

DATED this 7th day of December, 1992.

Vincent J. Williams
Vincent J. Williams

Martin Tow
Martin Tow

Max D. Warren
Max D. Warren

Attested:

Victor P. Crew
Victor Crew, Auditor