

JAN 25 2006

S.B. NO. 2909

A BILL FOR AN ACT

RELATING TO DEFERRED DEPOSITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 480F, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§480F- Registration program. All "check cashers", as
5 that term is defined in section 480F-1, doing business in the
6 State shall register with the department of commerce and
7 consumer affairs. The registration shall include, but not be
8 limited to, the following information:

- 9 (1) Proof of registration under this section;
10 (2) The names and addresses of the owners of the check
11 cashing or rapid anticipation loan business;
12 (3) The names and locations of all check cashing or rapid
13 anticipation loan businesses being registered;
14 (4) The total number of transactions executed in the past
15 year;
16 (5) The average number of checks or loans transacted per
17 client during the past calendar year;



1 (6) The gross and net income of the owners registered
2 under this section during the past tax year; and

3 (7) Any other information deemed necessary by the
4 department of commerce and consumer affairs.

5 The department of commerce and consumer affairs may adopt
6 rules pursuant to chapter 91 to effectuate this section
7 including registration, renewal, and other appropriate fees."

8 SECTION 2. Section 480F-1, Hawaii Revised Statutes, is
9 amended by adding a new definition to be appropriately inserted
10 and to read as follows:

11 "Rapid anticipation loan" means a loan that is provided to
12 a consumer who anticipates receiving funds in the future, such
13 as a loan that is made in anticipation of a tax refund."

14 SECTION 3. Section 480F-1, Hawaii Revised Statutes, is
15 amended by amending the definition of "check casher" to read as
16 follows:

17 "Check casher" means a person or entity that engages in
18 the business of cashing checks for a fee[-] and, for the
19 purposes of section 480F- , includes a person in the business
20 of providing rapid anticipation loans."

21 SECTION 4. Section 480F-4, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "**§480F-4 Deferred deposits, when allowed.** (a) No check
2 cashier may defer the deposit of a check except as provided in
3 this section.

4 (b) Each deferred deposit shall be made pursuant to a
5 written agreement that [~~has been signed~~] shall:

6 (1) Be signed by the customer and the check cashier or an
7 authorized representative of the check cashier[~~. The~~
8 ~~written agreement shall contain~~];

9 (2) Contain a statement of the total amount of any fees
10 charged for the deferred deposit, expressed both in
11 United States currency and as an annual percentage
12 rate[~~. The written agreement shall authorize~~];

13 (3) Authorize the check cashier to defer deposit of the
14 personal check until a specific date not later than
15 thirty-two days from the date the written agreement
16 was signed[~~. The written agreement shall not~~]; and

17 (4) Not permit the check cashier to accept collateral.

18 (c) The face amount of the check shall not exceed \$600,
19 and the deposit of a personal check written by a customer
20 pursuant to a deferred deposit transaction may be deferred for
21 no more than thirty-two days. A check cashier may charge a fee
22 for deferred deposit of a personal check in an amount not to



1 exceed [~~fifteen~~] ten per cent of the face amount of the check.
2 Any fees charged for deferred deposit of a personal check in
3 compliance with this section shall be exempt from chapter 478.

4 (d) All fees, including annual percentage rates charged by
5 a check casher under this section, shall be posted in a
6 conspicuous place within the check casher's place of business.

7 [~~(d)~~] (e) A check casher shall not enter into an agreement
8 for deferred deposit with a customer during the period of time
9 that an earlier agreement for a deferred deposit for the same
10 customer is in effect. A deferred deposit transaction shall not
11 be repaid, refinanced, or consolidated by or with the proceeds
12 of another deferred deposit transaction.

13 [~~(e)~~] (f) A check casher who enters into a deferred
14 deposit agreement and accepts a check passed on insufficient
15 funds, or any assignee of that check casher, shall not be
16 entitled to recover damages in any action brought pursuant to or
17 governed by chapter 490. Instead, the check casher may charge
18 and recover a fee for the return of a dishonored check in an
19 amount not greater than \$20.

20 [~~(f)~~] (g) No amount in excess of the amounts authorized by
21 this section and no collateral products such as insurance shall



1 be directly or indirectly charged by a check casher pursuant or
2 incident to a deferred deposit agreement."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

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Report Title:

Check Cashing; Deferred Deposits

Description:

Requires check cashing businesses to post deferred deposit agreement fees in a conspicuous place, provides a blank percentage to modify the maximum fee that a check cashing business may charge for a deferred deposit agreement, and requires check cashing and rapid anticipation loan businesses to register with the department of commerce and consumer affairs.

