

JAN 24 2007

A BILL FOR AN ACT

RELATING TO CHECK CASHING.

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

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

4 "§480F- License required. (a) No check cashier shall
5 engage in business without a license obtained pursuant to this
6 chapter and rules prescribed by the director.

7 (b) The director shall prescribe the form of the license
8 application. Each application shall be accompanied by the
9 appropriate fee as prescribed by the director.

10 (c) No person shall be issued a license unless the person
11 has passed a certified check cashier examination. The check
12 cashier examination shall be in a form prescribed by the
13 director; provided that the examination shall cover the
14 following:

15 (1) Federal and state statutes and rules relating to check
16 cashiers; and

17 (2) General principles of business law.



1 (d) Every person applying for a license shall possess a
2 reputation for honesty, truthfulness, financial integrity, and
3 fair dealing and shall not have been convicted of a felony
4 directly related to the operation of a check cashing agency,
5 unless the conviction has been expunged or annulled. The Hawaii
6 criminal justice data system shall provide such information to
7 the director upon request.

8 **§480F- Issuance of license.** (a) Upon receipt of an
9 application for a license to conduct business as a check casher,
10 the director may issue a license if the applicant has met the
11 requirements of this chapter.

12 (b) Every license issued shall only be valid as to the
13 cash checker and any branch offices the check casher may
14 maintain.

15 (c) No license shall be issued to a check casher that
16 establishes or maintains a place of business in, or conducts
17 business from, a home, apartment, hotel room, or any other
18 location where the premises may be considered not in the public
19 interest, unless otherwise approved by the director.

20 **§480F- Licensing fee; biennial renewal; restoration.**

21 (a) No person applying for a license under this chapter shall



1 be allowed to take the check casher examination until the
2 appropriate fees have been paid to the director.

3 (b) Every licensee shall register with the director and
4 pay a biennial renewal fee before June 30 of each even-numbered
5 year. The failure, refusal, or neglect to pay a renewal fee
6 shall constitute a forfeiture of the license. Any license
7 forfeited under this section may be restored within one year of
8 the forfeiture upon the filing of an application and payment of
9 the renewal and restoration fees.

10 (c) A licensee who is not actively engaged in the business
11 of a check casher, upon written request to the director, shall
12 be placed on inactive status and shall be exempt from paying the
13 renewal fee for the period in which the licensee is inactive.
14 If the licensee resumes engaging in the business of check
15 cashing, the licensee shall notify the director and remit the
16 renewal fee for the current biennial period. While on inactive
17 status, the licensee shall not engage in the business of check
18 cashing.

19 (d) All licensing and renewal fees required to be paid
20 under this section shall be provided in rules adopted by the
21 director pursuant to chapter 91.



1 **§480F- Payment plans.** (a) A check casher may enter
2 into a payment plan with a non-default customer for a period of
3 up to ninety days. Under the payment plan, no interest may be
4 charged; provided that an administrative fee of \$30 may be added
5 to any fees or sums already owed by the customer. There shall
6 be a thirty day period after the completion of any payment plan
7 during which no new payment plan with that customer shall
8 commence.

9 (b) A check casher shall offer an interest-free payment
10 plan with a minimum term of sixty days to any customer who is in
11 default. Any collection letter written to a customer in default
12 shall inform the customer of the option of interest-free
13 payment.

14 **§480F- Records and reports.** Every check casher shall
15 keep records and make reports with respect to the operation of
16 business as provided in rules adopted by the director pursuant
17 to chapter 91.

18 **§480F- Rules.** The director, pursuant to chapter 91,
19 shall adopt rules necessary to implement this chapter."

20 SECTION 2. Section 237-24.75, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "~~§~~237-24.75~~§~~ **Additional exemptions.** In addition to
2 the amounts exempt under section 237-24, this chapter shall not
3 apply to ~~amounts~~:

4 (1) Amounts received as a beverage container deposit
5 collected under chapter 342G, part VIII~~[-]~~; and

6 (2) Amounts received in fees and interest by check cashers
7 for deferred deposit transactions."

8 SECTION 3. 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 "Director" means the director of commerce and consumer
12 affairs."

13 SECTION 4. Section 480F-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§~~480F-2~~§~~ **Posting and notice of fees charged.** Any
16 person who cashes one or more checks for a fee shall:

17 (1) Post in a conspicuous place in every location at which
18 the person does business a notice that sets forth~~[-]~~
19 in point type:

20 (A) The fees charged for cashing a check, for selling
21 or issuing a money order, ~~and~~ for the initial
22 issuance of any membership or identification



- 1 cards[-and], and the fees and annual percentage
2 rate for deferred deposit transactions;
- 3 (B) That consumer complaints about the check cashing
4 business may be filed with the department of
5 commerce and consumer affairs, and includes and
6 identifies the telephone number and address of
7 the consumer information service of the
8 department of commerce and consumer affairs;
- 9 (C) That deferred deposit transactions are not
10 suitable for long-term borrowing;
- 11 (D) That only one deferred deposit transaction can be
12 opened from all sources;
- 13 (E) Information on where to obtain financial
14 education and credit counseling; and
- 15 (F) A copy of the license to do business as a check
16 casher as required by this chapter;
- 17 (2) Provide written notice [~~to each customer of the fees~~
18 ~~charged for cashing checks~~] in point type to each
19 customer, that is separate from and in addition to any
20 posted notice[+], containing the following
21 information:



- 1 (A) The fees and annual percentage rate to be charged
2 for a deferred deposit transaction;
- 3 (B) That consumer complaints about the check cashing
4 business may be filed with the department of
5 commerce and consumer affairs, and includes and
6 identifies the telephone number and address of
7 the consumer information service of the
8 department of commerce and consumer affairs;
- 9 (C) That deferred deposit transactions are not
10 suitable for long-term borrowing;
- 11 (D) That only one deferred deposit transaction can be
12 opened from all sources;
- 13 (E) That an extended repayment plan option is
14 available after any customer has entered into
15 four or more consecutive transactions with the
16 same check casher; provided that the customer
17 requests the option within twenty-four hours of
18 the customer's last payment due date. For
19 purposes of this subparagraph, "consecutive
20 transactions" means back to back transactions
21 occurring within twenty-four hours of each other;



- 1 (F) The right to rescind a deferred deposit
- 2 transaction within twenty-four hours of the
- 3 transaction; and
- 4 (G) Where to obtain financial education and credit
- 5 counseling;

6 (3) Obtain a written acknowledgment from the customer that

7 written notice of [~~the fees charged for cashing~~

8 ~~checks~~] all information required to be provided by

9 paragraph (2) was provided[+] to the customer; and

10 (4) Provide each customer a receipt documenting any and

11 all fees charged."

12 SECTION 5. Section 480F-4, Hawaii Revised Statutes, is

13 amended by amending subsections (c), (d), and (e) to read as

14 follows:

15 "(c) The face amount of the check shall not exceed \$600

16 and the deposit of a personal check written by a customer

17 pursuant to a deferred deposit transaction may be deferred for

18 no more than thirty-two days. A check casher may charge a fee

19 for deferred deposit of a personal check in an amount not to

20 exceed fifteen per cent of the face amount of the check. The

21 total amount of a transaction, including principal and fees,

22 shall not exceed twenty-five per cent of the customer's gross



1 monthly income. Any fees charged for deferred deposit of a
2 personal check in compliance with this section shall be exempt
3 from chapter 478.

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

10 (e) A check casher who enters into a deferred deposit
11 agreement and accepts a check passed on insufficient funds, or
12 any assignee of that check casher, shall not be entitled to
13 recover damages in excess of principal, interest, and out-of-
14 pocket legal costs in any action brought pursuant to or governed
15 by chapter 490. No additional interest may be collected except
16 the ten per cent allowed by law on uncollected judgments.

17 Instead, the check casher may charge and recover a fee for the
18 return of a dishonored check in an amount not greater than
19 [~~\$20-~~] \$30."

20 SECTION 6. Section 480F-5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[f]§480F-5[+] Exemptions. This chapter shall not apply
2 to[+

3 ~~(1) Any person who is principally engaged in the bona fide~~
4 ~~retail sale of goods or services, and who, either as~~
5 ~~incident to or independent of the retail sale or~~
6 ~~service, from time to time cashes items for a fee or~~
7 ~~other consideration, where not more than \$2, or two~~
8 ~~per cent of the amount of the check, whichever is~~
9 ~~greater, is charged for the service; or~~

10 (2) Any] any person authorized to engage in business as a
11 bank, trust company, savings bank, savings and loan
12 association, financial services loan company, or
13 credit union under the laws of the United States, any
14 state or territory of the United States, or the
15 District of Columbia."

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect upon approval.

19

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Report Title:

Asset Building; Check Cashing; Regulation

Description:

Requires the department of commerce and consumer affairs to regulate the check cashing industry through licensing requirements.

