
A BILL FOR AN ACT

RELATING TO PAYDAY LENDING.

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

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

4 "§480F- Registration required. (a) No check casher
5 shall conduct business in this state without first registering
6 with the department of commerce and consumer affairs. Check
7 cashers shall renew their registration annually.

8 (b) The director shall prescribe the form of applications
9 for registration and renewal of registration, which shall
10 include the following:

11 (1) The names of all owners of the check casher's
12 business;

13 (2) The address of the principal office of the check
14 cashier;

15 (3) The name and address of the check casher's agent for
16 service of process in the state; and

17 (4) The names and locations of all check cashing stores in
18 the state.



1 (c) Applications for registration and renewal of
2 registration shall be accompanied by the appropriate fee as
3 prescribed by the director.

4 **§480F- Payment plans.** (a) A check casher may enter
5 into a payment plan for a period of up to ninety days with a
6 customer who is not in default, under which plan no interest may
7 be charged; provided that an administrative fee of \$30 may be
8 added to any fees or sums already owed by the customer. No
9 payment plan with a customer shall commence within thirty days
10 after the completion of any other payment plan with the same
11 customer.

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

17 (c) A check casher shall offer an extended repayment plan
18 option to any customer who has entered into four or more
19 deferred deposit agreements with the same check casher in which
20 every agreement after the first is consecutive; provided that
21 the extended repayment plan shall become available only if the



1 customer requests the option within twenty-four hours of the
2 customer's last payment due date.

3 For purposes of this subsection, "consecutive" means the
4 deferred deposit agreement occurs within twenty-four hours of
5 the customer's last payment under a prior deferred deposit
6 agreement with the check casher.

7 **§480F- Records and reports.** Every check casher shall
8 keep records and make reports with respect to the operation of
9 business as provided in rules adopted by the director pursuant
10 to chapter 91.

11 **§480F- Rules.** The director, pursuant to chapter 91,
12 shall adopt rules necessary to implement this chapter."

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

16 "Director" means the director of commerce and consumer
17 affairs."

18 SECTION 3. Section 237-24.75, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **§237-24.75 Additional exemptions.** In addition to the
21 amounts exempt under section 237-24, this chapter shall not
22 apply to:



- 1 (1) Amounts received as a beverage container deposit
2 collected under chapter 342G, part VIII;
- 3 (2) Amounts received by the operator of the Hawaii
4 convention center for reimbursement of costs or
5 advances made pursuant to a contract with the Hawaii
6 tourism authority under section 201B-7[+]; [~~and~~]
- 7 [+](3) Amounts received[+] by a professional employment
8 organization from a client company equal to amounts
9 that are disbursed by the professional employment
10 organization for employee wages, salaries, payroll
11 taxes, insurance premiums, and benefits, including
12 retirement, vacation, sick leave, health benefits, and
13 similar employment benefits with respect to assigned
14 employees at a client company; provided that this
15 exemption shall not apply to a professional employment
16 organization upon failure of the professional
17 employment organization to collect, account for, and
18 pay over any income tax withholding for assigned
19 employees or any federal or state taxes for which the
20 professional employment organization is responsible.
21 As used in this paragraph, "professional employment
22 organization", "client company", and "assigned



1 employee" shall have the meanings provided in section
2 373K-1[-]; and

3 (4) Amounts received by check cashers as fees and interest
4 on deferred deposit transactions under chapter 480F."

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

7 "[+]§480F-2[+] **Posting and notice of fees charged.** Any
8 person who cashes one or more checks for a fee shall:

9 (1) Post in a conspicuous place in every location at which
10 the person does business a copy of the check cashier's
11 registration to do business and a notice that sets
12 forth[+] in thirty-eight point type:

13 (A) The fees charged for cashing a check, for selling
14 or issuing a money order, and for the initial
15 issuance of any membership or identification
16 cards[+], and the fees and annual percentage rate
17 for deferred deposits;

18 (B) That consumer complaints about the check cashing
19 business may be filed with the department of
20 commerce and consumer affairs, and includes and
21 identifies the telephone number and address of



- 1 the consumer information service of the
2 department of commerce and consumer affairs;
- 3 (C) That deferred deposit transactions are not
4 suitable for long-term borrowing;
- 5 (D) That the check casher business and a customer may
6 not enter into more than one agreement at a time
7 to defer the deposit of a check; and
- 8 (E) Information on where to obtain financial
9 education and credit counseling
- 10 (2) Provide written notice [~~to each customer of the fees~~
11 ~~charged for cashing checks~~] in sixteen point type to
12 each customer, that is separate from and in addition
13 to any posted notice[+], containing the following
14 information:
- 15 (A) The fees and annual percentage rate to be charged
16 for a deferred deposit;
- 17 (B) That consumer complaints about the check cashing
18 business may be filed with the department of
19 commerce and consumer affairs, and the telephone
20 number and address of the consumer information
21 service of the department of commerce and
22 consumer affairs;



- 1 (C) That deferred deposit transactions are not
- 2 suitable for long-term borrowing;
- 3 (D) That the check casher business and a customer may
- 4 not enter into more than one agreement at a time
- 5 to defer the deposit of a check;
- 6 (E) That an extended repayment plan option is
- 7 available:
- 8 (i) After a customer has entered into four or
- 9 more deferred deposit agreements with a
- 10 check casher in which every agreement after
- 11 the first is consecutive. "Consecutive"
- 12 means the deferred deposit agreement occurs
- 13 within twenty-four hours of the customer's
- 14 last payment under a prior deferred deposit
- 15 agreement with the check casher; and
- 16 (ii) If the customer requests the option within
- 17 twenty-four hours of the customer's last
- 18 payment due date;
- 19 (F) That the customer has the right to rescind a
- 20 deferred deposit agreement within twenty-four
- 21 hours of the transaction; and



1 (G) Where to obtain financial education and credit
2 counseling;

3 (3) Obtain a written acknowledgment from the customer that
4 written notice of [~~the fees charged for cashing~~
5 ~~checks~~] all information under paragraph (2) was
6 provided[+] to the customer; and

7 (4) Provide each customer a receipt documenting any and
8 all fees charged."

9 SECTION 5. Section 480F-4, Hawaii Revised Statutes, is
10 amended by amending subsections (d) and (e) to read as follows:

11 "(d) A check casher shall not enter into an agreement for
12 deferred deposit with a customer during the period of time that
13 an earlier agreement for a deferred deposit from any source for
14 the same customer is in effect. A deferred deposit transaction
15 shall not be repaid, refinanced, or consolidated by or with the
16 proceeds of another deferred deposit transaction.

17 (e) A check casher who enters into a deferred deposit
18 agreement and accepts a check passed on insufficient funds, or
19 any assignee of that check casher, shall not be entitled to
20 recover damages in excess of principal, interest, and out-of-
21 pocket legal costs in any action brought pursuant to or governed
22 by chapter 490. No additional interest may be collected except

1 the ten per cent allowed by law on uncollected judgments.
 2 Instead, the check casher may charge and recover a fee for the
 3 return of a dishonored check in an amount not greater than
 4 [~~\$20.~~] \$30."

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

7 "[~~+~~]**§480F-5**[~~+~~] **Exemptions.** This chapter shall not apply
 8 to[~~+~~

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

16 ~~(2) Any~~ any person authorized to engage in business as a
 17 bank, trust company, savings bank, savings and loan
 18 association, financial services loan company, or
 19 credit union under the laws of the United States, any
 20 state or territory of the United States, or the
 21 District of Columbia."



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2010, and
4 shall be repealed on June 30, 2011.

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INTRODUCED BY: Della A. Belatti

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Crummley

~~_____~~
Tom Brown

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JAN 23 2009



Report Title:

Check Cashing; Payday Lending Businesses

Description:

Requires check cashing (deferred deposit) businesses to register with DCCA, post and provide consumers with rate, fee, and other information, keep records, and report to DCCA; regulates payment plans; exempts check casher fees and interest from general excise tax; regulates retailers who occasionally cash checks.

