

JAN 18 2013

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# 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 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, including deferred deposit  
6 transactions, without first registering with the department of  
7 commerce and consumer affairs under this chapter.

8 (b) The director shall prescribe the form of the  
9 application for registration. Each application shall be  
10 accompanied by the appropriate fee as prescribed by the  
11 director.

12 (c) Check casher registration shall be updated annually  
13 and shall include the following:

14 (1) The address of the principal office of the check  
15 casher;

16 (2) The name and address of the check casher's agent for  
17 service of process in the State; and



1       (3) Payment of the appropriate registration fees, as  
2           established by the director.

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

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

16       (c) A check casher shall offer an extended repayment plan  
17 option after any customer has entered into four or more  
18 consecutive transactions with the same check casher; provided  
19 that the customer requests the option within twenty-four hours  
20 of the customer's last payment due date. For purposes of this  
21 subsection, "consecutive transactions" means entering into back



1 to back agreements within twenty-four hours of the payment of a  
2 previous transaction.

3 §480F- Records and reports. Every check casher shall  
4 keep records and make reports with respect to the operation of  
5 business as provided in rules adopted by the director pursuant  
6 to chapter 91.

7 §480F- Rules. The director, pursuant to chapter 91,  
8 shall adopt rules necessary to implement this chapter."

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

11 "§237-24.75 Additional exemptions. In addition to the  
12 amounts exempt under section 237-24, this chapter shall not  
13 apply to:

14 (1) Amounts received as a beverage container deposit  
15 collected under chapter 342G, part VIII;

16 (2) Amounts received by the operator of the Hawaii  
17 convention center for reimbursement of costs or  
18 advances made pursuant to a contract with the Hawaii  
19 tourism authority under section 201B-7 ~~[+; and]~~;

20 [+](3) Amounts received[+] by a professional employment  
21 organization from a client company equal to amounts  
22 that are disbursed by the professional employment



1 organization for employee wages, salaries, payroll  
 2 taxes, insurance premiums, and benefits, including  
 3 retirement, vacation, sick leave, health benefits, and  
 4 similar employment benefits with respect to assigned  
 5 employees at a client company; provided that this  
 6 exemption shall not apply to a professional employment  
 7 organization upon failure of the professional  
 8 employment organization to collect, account for, and  
 9 pay over any income tax withholding for assigned  
 10 employees or any federal or state taxes for which the  
 11 professional employment organization is responsible.  
 12 As used in this paragraph, "professional employment  
 13 organization", "client company", and "assigned  
 14 employee" shall have the meanings provided in section  
 15 373K-1 [-]; and

16 (4) Amounts received in fees and interest by check cashers  
 17 for deferred deposit transactions under chapter 480F."

18 SECTION 3. Section 480F-1, Hawaii Revised Statutes, is  
 19 amended by adding a new definition to be appropriately inserted  
 20 and to read as follows:

21 "Director" means the director of commerce and consumer  
 22 affairs."



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

3 "[+]§480F-2[+] Posting and notice of fees charged. Any  
4 person who cashes one or more checks for a fee shall:

5 (1) Post in a conspicuous place in every location at which  
6 the person does business a notice that sets forth[+] in thirty-eight point type:

7  
8 (A) The fees charged for cashing a check, for selling  
9 or issuing a money order, [~~and~~] for the initial  
10 issuance of any membership or identification  
11 cards[; ~~and~~], and the fees and annual percentage  
12 rate for deferred deposit transactions;

13 (B) That consumer complaints about the check cashing  
14 business may be filed with the department of  
15 commerce and consumer affairs, and includes and  
16 identifies the telephone number and address of  
17 the consumer information service of the  
18 department of commerce and consumer affairs;

19 (C) That deferred deposit transactions are not  
20 suitable for long-term borrowing;

21 (D) That only one deferred deposit transaction can be  
22 opened from all sources;



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



- 1           (E) That an extended repayment plan option is  
2           available after any customer has entered into  
3           four or more consecutive transactions with the  
4           same check casher; provided that the customer  
5           requests the option within twenty-four hours of  
6           the customer's last payment due date. For  
7           purposes of this subparagraph, "consecutive  
8           transactions" means back to back transactions  
9           occurring within twenty-four hours of each other;
- 10          (F) The right to rescind a deferred deposit  
11          transaction within twenty-four hours of the  
12          transaction; and
- 13          (G) Where to obtain financial education and credit  
14          counseling;
- 15          (3) Obtain a written acknowledgment from the customer that  
16          written notice of [~~the fees charged for cashing~~  
17          ~~checks~~] all information required to be provided by  
18          paragraph (2) was provided[;] to the customer; and
- 19          (4) Provide each customer a receipt documenting any and  
20          all fees charged."



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

4 "(c) The face amount of the check shall not exceed \$600  
5 and the deposit of a personal check written by a customer  
6 pursuant to a deferred deposit transaction may be deferred for  
7 no more than thirty-two days. A check casher may charge a fee  
8 for deferred deposit of a personal check in an amount not to  
9 exceed fifteen per cent of the face amount of the check. The  
10 total amount of a transaction, including principal and fees,  
11 shall not exceed thirty-six per cent of the customer's net  
12 monthly income. The annual percentage rate charged for a  
13 deferred deposit transaction shall not exceed thirty-six per  
14 cent. Any fees charged for deferred deposit of a personal check  
15 in compliance with this section shall be exempt from chapter  
16 478.

17 (d) A check casher shall not enter into an agreement for  
18 deferred deposit with a customer during the period of time that  
19 an earlier agreement for a deferred deposit from any source for  
20 the same customer is in effect. A deferred deposit transaction  
21 shall not be repaid, refinanced, or consolidated by or with the  
22 proceeds of another deferred deposit transaction.





1 (e) A check casher who enters into a deferred deposit  
2 agreement and accepts a check passed on insufficient funds, or  
3 any assignee of that check casher, shall not be entitled to  
4 recover damages in excess of principal, interest, and out-of-  
5 pocket legal costs in any action brought pursuant to or governed  
6 by chapter 490. No additional interest may be collected except  
7 the ten per cent allowed by law on uncollected judgments.  
8 Instead, the check casher may charge and recover a fee for the  
9 return of a dishonored check in an amount not greater than  
10 [~~\$20.~~] \$30."

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

13 "[~~+~~]**\$480F-5**[~~+~~] **Exemptions.** This chapter shall not apply  
14 to[~~+~~

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



1        ~~(2)~~ Any] any person authorized to engage in business as a  
2            bank, trust company, savings bank, savings and loan  
3            association, financial services loan company, or  
4            credit union under the laws of the United States, any  
5            state or territory of the United States, or the  
6            District of Columbia."

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

9            SECTION 8. This Act shall take effect upon its approval.

10

INTRODUCED BY: *Glenn Kaniel*  
*Mike Hubbard*  
*[Signature]*



**Report Title:**

Check Cashing; Regulation

**Description:**

Requires the DCCA to regulate the check cashing industry through registration requirements. Exempts fees and interest received by check cashers for deferred deposit transactions from general excise taxes. Limits the monetary amounts that can be transacted and the annual percentage rate charged by check cashers.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

