

# SB 598

Measure Title: RELATING TO CHECK CASHING.

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.

Companion:

Package: None

Current Referral: CPN, WAM

Introducer(s): KAHELE, Gabbard, Wakai

<b><u>Sort by Date</u></b>		<b>Status Text</b>
1/18/2013	S	Introduced.
1/22/2013	S	Passed First Reading.
1/22/2013	S	Referred to CPN, WAM.
1/29/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-08-13 9:00AM in conference room 229.



NEIL ABERCROMBIE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

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PRESENTATION OF THE  
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2013

FRIDAY, FEBRUARY 8, 2013  
9:00 A.M.

TESTIMONY ON SENATE BILL NO. 598  
RELATING TO CHECK CASHING

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND TO THE HONORABLE BRICKWOOD GALUTERIA, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("DCCA"), Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify on Senate Bill No. 598, Relating To Check Cashing. My name is Bruce B. Kim and I am the Executive Director of OCP.

OCP opposes S.B. 598. The bill amends HRS Chap. 480F, Check Cashing, by adding provisions requiring registration and licensing for check cashers; amends HRS § 237-24.75 to exempt fees and interest received by check cashers for deferred deposit transactions from the Hawaii General Excise Tax; restricts the total amount of a deferred deposit transaction to not more than thirty-six percent (36%) of the customer's

“net monthly income”; and sets the maximum annual percentage rate (“APR”) charged for a deferred deposit transaction at thirty-six percent (36%).

Chap. 480F was enacted in 1999. The current statute caps the amount of a payday loan at \$600.00 and limits the fee to fifteen percent (15%) of the face amount of the check. HRS § 480F-4(c). The existing deferred deposit transaction is not exempt from Hawaii General Excise Tax.

The Federal Trade Commission (“FTC”) has issued a consumer advisory on payday loans. The advisory provides the following example of the cost of such short-term loans:

A payday loan – that is, a cash advance secured by a personal check or paid by electronic transfer is a very expensive credit. How expensive? Say you need to borrow \$100 for two weeks. You write a personal check for \$115, with \$15 the fee to borrow the money. The check casher or payday lender agrees to hold your check until your next payday. When that day comes around, either the lender deposits the check and you redeem it by paying the \$115 in cash, or you roll-over the loan and are charged \$15 more to extend the financing for 14 more days. If you agree to electronic payments instead of a check, here’s what would happen on your next payday: the company would debit the full amount of the loan from your checking account electronically, or extend the loan for an additional \$15. The cost of the initial \$100 loan is a \$15 finance charge and an annual percentage rate of [391%]. If you roll-over the loan three times, the finance charge would climb to \$60 borrow the \$100.<sup>1</sup>

As illustrated by the FTC’s hypothetical, a Hawaii payday lender could charge the customer a fee of \$90.00 on a maximum loan amount of \$600.00 under § 480F-4(c).

The APR on a 14-day loan is 391 percent (391%) and 182 percent (182%) for a 30-day

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<sup>1</sup> <http://www.consumer.ftc.gov/articles/0097-payday-loans>

loan at the current statutory rate.

Check cashers appeal to vulnerable individuals, including the elderly, who believe they have no access to traditional financial products or may not be aware about more reasonable financing options for short-term credit. By any reasonable analysis, payday lending in Hawaii comes at an extremely high cost for these consumers.

Given the proliferation of internet-based payday lending operations, amending existing law to permit registration and licensing of such operations will not afford increased protections to Hawaii consumers. Indeed, it will make enforcement much more difficult given the anticipated flood of mainland-based operations that will blanket the Hawaii market with payday lending television, radio and internet solicitations under the guise of being licensed to conduct such activities.

The proposed language amending HRS § 480F-4(c), makes an already complicated financial transaction even more complicated and difficult for a consumer to understand. Were a payday loan to be made on the maximum value of \$600 with maximum fees, given the undefined variable of "the customer's net monthly income", a fifteen percent (15%) fee would stand a high chance of violating either the thirty-six percent (36%) of net monthly income limit, or the thirty-six percent (36%) APR cap proposed by the bill.

Exempting these transactions from the Hawaii General Excise Tax makes little sense from a policy standpoint. If a bank or credit union is required to pay a Franchise Tax, there is no reason to exempt a payday lender from the Hawaii General Excise Tax.

See, HRS Chap 241.

OCP submits that this bill as written would encourage unscrupulous predatory lenders to enter the Hawaii market and prey on unsophisticated consumers who lack the financial savvy to fully appreciate the implications of the debt they are assuming. It would also make it difficult for the consumer to determine the amount of the fee they will be charged under the proposed measure as written. It also confers a questionable benefit to payday lenders who will be exempted from the Hawaii General Excise Tax.

Section 1 of S.B. 598 also imposes a significant burden upon the DCCA to register, draft administrative rules and regulate this industry as well as incurring the cost of hiring staff to administer the program. The DCCA would be required to incur substantial start up costs for this new regulatory responsibility.

If this legislation is allowed to move forward, it would be in the best interests of Hawaii consumers to delete sections 1, 2, 3 and 6; delete the amendments reflected in Section 5; and replace (c) in its entirety with the following amendment:

- (c) The face amount of the check shall not exceed \$600 and the deposit of a personal check written by a customer pursuant to a deferred deposit transaction may be deferred for no more than thirty-two days. A check casher may charge a fee for deferred deposit of a personal check not to exceed an amount equal to thirty-six percent (36%) annual percentage rate on the amount of the customer's check. Any fees charged for deferred deposit of a personal check in compliance with this section shall be exempt from chapter 478.

Thank you for the opportunity to testify on S.B. 598. I will be happy to answer any questions that the members of the Committee may have.

NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

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FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

To: The Honorable Rosalyn H. Baker, Chair  
and Members of the Senate Committee on Commerce and Consumer Protection

Date: Friday, February 8, 2013

Time: 9:00 a.m.

Place: Conference Room 229, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. No. 598 Relating to Check Cashing

The Department of Taxation (Department) defers to the Department of Commerce and Consumer Affairs on the merits of S.B. 598, and offers the following information and comments for your consideration.

S.B. 598 requires the Department of Department of Commerce and Consumer Affairs (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, and limits the monetary amounts that can be transacted and the annual percentage rate charged by check cashers. This measure is effective upon its approval.

With respect to the tax implications, this measure would exempt from the general excise tax (GET) amounts received by a check casher for fees and/or interest for deferred deposit transactions. It is not clear why this exemption is warranted. Section 237-24.8, Hawaii Revised Statutes (HRS) provides a general excise tax exemption for financial institutions only. In lieu of the GET, financial institutions are subject to taxes set forth under chapter 241, HRS. A check cashing operation would not be considered a financial institution, and the exemption would appear to be unwarranted.

The Department notes that, if adopted, it will not be able to implement the tax provisions of this measure upon approval as set forth in this bill. Instead, the Department recommends that the effective date of the measure be changed to taxable years beginning after December 31, 2013.

Thank you for the opportunity to provide comments.

To: Senator Rosalyn H. Baker, Chair  
Senator Brickwood Galuteria, Vice Chair  
Committee on Commerce and Consumer Protection

From: R. Craig Schafer, President  
Money Service Centers of Hawaii, Inc.

Date: February 4, 2013

Subject: In opposition to SB598

Money Service Centers of Hawaii, Inc. is a locally owned and operated money service business headquartered in Kapaa, Kauai. We operate 10 fee-based money service centers throughout the State under the trade name PayDayHawaii.

We do not support SB598 as introduced. We object to the following sentence added in section 5(c): **“The annual percentage rate charged for a deferred deposit transaction shall not exceed thirty-six per cent.”** We believe SB598 should be amended to remove this provision.

Our objection is twofold:

**First;** the annual percentage rate or APR of 36% is inconsistent with the allowable fee of 15% of the face amount of the check.

A statement of APR is required for credit products under Regulation Z. The APR is designed to help consumers compare the cost of credit among different lenders. The APR is the annual cost of credit stated as a percentage. It is not an "interest" rate. Calculation of the APR is based on the amount financed, the finance charge and the payment schedule. The finance charge includes interest and other fees including one-time application fees or loan processing charges.

In the case of deferred deposit transactions no interest is allowed. The cost to the consumer is the fee of 15%. Under HRS 480F a deferred deposit transaction is limited to 32 days. The APR varies over time. It is not possible to charge the allowed fee and do a transaction for 32 days or less with an APR of no more than 36%.

**Second;** the current fee structure allows for a reasonable profit for check cashers and is a fair price to consumers. A deferred deposit transaction is a short-term credit product. It began decades ago as nothing more than a check casher holding a personal check for a few extra days and charging a higher fee for doing so. Interest never entered into the transaction. The fee charged is based on the inherent risk of holding a personal check that both parties know is not backed by funds deposited in the maker's bank.

Currently, under HRS 480F, we are allowed to charge up to ten percent simply for cashing a personal check because of the risk involved. It is reasonable to charge 15% for the additional risk of a deferred deposit transaction.

The usual reason cited for an APR cap is to avoid the "cycle of debit". However repeat borrowing, not fees, is the true cause of the "cycle of debit. When a consumer borrows repeatedly they will spend hundreds of dollars over the course of a year. The excess use of short-term credit to solve long-term credit problems should rightly be discouraged. This is not the intent of the product and these consumers should be encouraged to seek out a longer-term loan from a bank, credit union or finance company.

To address this issue, SB598 requires a notice to the consumer on the contract that a payment plan option is available. For consumers in default, collection letters must inform the consumer of this option. The payment plan option is designed to stop repeat borrowing, what is often termed "rolling over". We are in favor of this change to HRS 480F.

Another contributor to the "cycle of debit" is pyramiding deferred deposit transactions from multiple check cashers. These consumers may end up owing thousands of dollars with no hope of repayment. This practice has the same effect as juggling balances on dozens credit cards. Fortunately, this does not happen often with responsible check cashers in this State.

To address this issue, SB598 allows only one deferred deposit transaction per consumer at a time from all sources. In addition it requires a notice to consumers on signage, and on the contract, that deferred deposit transactions are not suitable for long-term borrowing. We are in favor of this change to HRS 480F.

SB598 contains other consumer provisions followed by responsible businesses currently offering short-term credit and check cashing in Hawaii under HRS480F. **We are in favor of all of the following proposed changes to HRS 480F:**

SB598 provides for a 24 hour right of rescission on deferred deposit transactions. This provision gives consumers an opportunity to read the "fine print" without feeling rushed so they can completely understand the transaction.

SB598 requires posting of the Annual Percentage Rate (APR), along with the current requirement to post the fee. APR was designed by the Federal Government as a universal way to allow consumers to make informed credit decisions. Deferred deposit transactions require the disclosure of APR under Regulation Z of the Truth in Lending Act.

SB598 requires check cashers to tie limit the amount of credit to 36% of the consumer's net monthly income. This will limit the total fee charged to a reasonable level for low-income consumers.

SB598 removes the exemption (480F-5-1) to protect consumers from any entity, other than banks and financial institutions, cashing checks for a fee. Retailers who cash checks over \$1000.00, such as Wal-Mart, are required to register as a Money Service Business (MSB) with the U.S. Treasury Department because of the Patriot Act. They should not be exempt from registration under Hawaii state law.

In conclusion we believe that SB598 is, for the most part, a well written bill that promotes consumer protection. Money Service Centers of Hawaii, Inc. will happily support it with our recommended amendment.

Sincerely,

R. Craig Schafer

President,

Money Service Centers of Hawaii, Inc.





1436 Lancaster Avenue, Suite 310  
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February 8, 2013

Honorable Rosalyn H. Baker, Chairwoman  
Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol, Room 229  
Honolulu, HI 96813

**RE: SB598 Relating to Check Cashing**

Dear Chairwoman Baker:

Thank you, Chairwoman Baker, for the opportunity to submit testimony regarding Senate Bill 598. My name is Kerry Palombo, and I am Director of Compliance for Dollar Financial Group, Inc. based in Berwyn, Pennsylvania. Through a subsidiary, we operate nine Money Mart<sup>®</sup> stores in the State of Hawaii, where we employ 37 state residents who are drawn from the neighborhoods we serve. These stores offer deferred deposit transactions that would be affected by Senate Bill 598. We oppose the rate-cap provisions of this bill because those provisions set a price ceiling well below our costs and would force us out of business.

Dollar Financial Group is also a board member company of Community Financial Services Association of America (CFSA). CFSA is the deferred deposit industry's national trade association, which represents more than half of storefront locations nationally. I am submitting testimony today on both my company's and CFSA's behalf.

CFSA promotes responsible industry practices through mandatory Best Practices for members. These Best Practices help our customers make sound and informed financial decisions. CFSA also supports state legislation that preserves working families' access to small-dollar,

short-term credit, while ensuring them of substantive consumer protections. To that end, my company and other CFSA members have supported responsible legislation in the 32 states that regulate deferred deposit transactions, including Hawaii.

Dollar and CFSA oppose the rate-cap provisions of Senate Bill 598, although we support the remainder of the bill.

### **Background**

As mentioned, we offer Hawaiians deferred deposit transactions, typically called payday loans. These loans provide a convenient, reasonably-priced, well-regulated option for meeting small, short-term financial needs.

Borrowers must have a steady income and personal checking account in order to be approved for an advance. They are typically middle-income, educated young families. They represent 19 million American households, who choose deferred deposit loans as a cheaper alternative to bounced-check or overdraft-protection fees and late-bill-payment penalties; they also find it more desirable than asking family for money or pledging collateral for a small-dollar loan. Deferred deposit loan customers are overwhelmingly satisfied with the service, a fact confirmed by state regulators who report very few complaints from their citizens who use our service. We count Hawaii among this group.

### **Our Interest in Senate Bill 598**

Across the country CFSA members have demonstrated our commitment to working with policymakers to achieve state regulation that benefits consumers. We support balanced regulation that appropriately protects consumers and enables reputable payday lenders to operate profitably. This second element is the problem with Senate Bill 598: not only would the 36 percent rate cap in this bill prohibit us from operating profitably, it would put payday lenders out of business completely. While we are more than willing to work with this Committee in support of many of the provisions in Senate Bill 598, we oppose legislation that would put us out of business and leave our customers only with less-desirable credit alternatives.

### **The Cost of a Deferred Deposit Advance and Why APR Calculations are Misleading**

Our business serves working families who frequently must choose between a deferred deposit advance and more costly or less desirable alternatives. Our customers generally look at

the real dollar cost of their available credit options and make rational, informed decisions when choosing a payday loan.

By contrast, critics of our industry tend to disregard the true relative costs of short-term credit products. Overly-simplified APR comparisons in this context tend to be quite misleading. In Hawaii, the maximum fee allowed for a deferred deposit transaction is 15% of the face amount of the check. For a \$100 advance, the maximum fee that may be charged is \$17.65. The fee remains \$17.65 whether the advance is paid back in 14 days, 30 days—or a year, for that matter. There is no accrual of interest. Current law caps the cost of our product in terms of fees, not interest, which makes sense because we charge a one-time fee for a loan. It makes no sense to express a limit on our fees in the context of an annual percentage rate.

### **The Impact of Restrictive APR Caps: De Facto Ban**

Many critics have called for capping rates at 36% or a similar APR level, and some states have obliged. The result has been elimination of the deferred deposit advance product in those states. That's because a 36% APR means a lender can only charge about \$1.38 per \$100 borrowed. For deferred deposit lenders in Hawaii, this equates to a 92.2% reduction in gross income—not profit or net income, but gross income—from which all expenses must be paid. Under existing law, gross income on a \$100 transaction is \$17.65. Under this proposal, it is \$1.38. No business can survive a 92.2% decrease in gross income. It doesn't leave enough revenue to pay the light bill, much less employee payroll and benefits.

Despite what industry critics say, a 36% annual rate cap is not a reform approach, it is an outright ban. Unfortunately, that point has been proven in some states, most often with unintended consequences.

- In July 2007 a new law in Oregon capped payday loans at 36% APR plus an origination fee that yielded an effective APR of 154%. Within a year, 75% of the stores closed, and those that remained open offered check cashing and other services to survive. The press reported that 800 jobs had been lost and that state officials were concerned because Oregonians were beginning to use unregulated payday lenders on the Internet.<sup>1</sup> Four years later the Portland Business Journal was still reporting that, “. . . the laws, which capped interest rates at 36%, forced cash-hungry borrowers to turn to the shady world of Internet Payday loans. . . .”<sup>2</sup>

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<sup>1</sup> “Middle-class squeeze leads to a rush at local pawnshop”, *The Oregonian*, Sept. 27, 2008.

<sup>2</sup> “Borrowers flock to online payday lenders,” *Portland Business Journal*, Feb. 11, 2011.

- In 2008 New Hampshire passed a 36% APR cap on payday and car title loans; and before the law even took effect, most of the payday lending stores had closed.<sup>3</sup> In 2011 a state representative estimated that 200 people had lost their jobs in the lending industry after the law passed. Another said that banning the loans hurt consumers.<sup>4</sup>
- Montana adopted a 36% APR cap by ballot initiative in 2010. A year later, in an editorial entitled “What were voters thinking?” the Daily Inter-Lake paper said, “. . . it didn’t just cripple the payday lending industry in Montana; it flat-out killed it along with an estimated 800 jobs.” The editorial went on to speculate there may have been a perception the rate cap would merely rein in payday lending, not kill it.<sup>5</sup>

These real-world examples are proof of the consequences of restrictive annual rate caps. Stores closed, employees lost their jobs and consumers were left to choose among more-expensive and less-desirable credit alternatives. As noted by a number of policymakers in these states, many payday lending customers turned to unregulated payday advance lenders operating below the radar screen and to offshore Internet payday lenders over which U.S. regulators have no control. Since these unregulated companies do not report to Hawaii’s Department of Commerce and Consumer Affairs, your state would not be able to measure or regulate consumer use of these products.

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<sup>3</sup>“*Good riddance to pricey short-term loans*,” *Concord Monitor*, Jan. 8, 2009.

<sup>4</sup>“*Bill would lift rate cap on title loans*,” *Concord Monitor*, February 1, 2011.

<sup>5</sup>“*What were voters thinking?*” *Daily Inter Lake*, November 14, 2011.

## Consumers Suffer Under Payday Loan Ban

Academic and third party research has consistently found that consumers have suffered in states where payday advances are no longer available, as evidenced by these few examples.

- A staff report from the Federal Reserve Bank of New York notes that consumers in Georgia and North Carolina “. . . *bounced more checks, complained more about lenders and debt collectors, and have filed for Chapter 7 bankruptcy at a higher rate*” following the elimination of the payday lending industry in those two states.<sup>6</sup>
- Another study by Dartmouth College Professor Jonathan Zinman found that restricting access to payday loans “*caused deterioration in the overall financial condition of Oregon households.*”<sup>7</sup>
- In the study *The Case Against New Restrictions on Payday Lending*, Prof. Todd J. Zywicki of George Mason University reports that “[E]fforts by legislators to regulate the terms of small consumer loans (such as by imposing price caps on fees or limitations on repeated use “rollovers”) almost invariably produce negative unintended consequences that vastly exceed any social benefits gained from the legislation.”<sup>8</sup>

## Closing

In closing, we would like to point out that Hawaii already has a consumer-friendly deferred deposit statute in place, with a cap on fees and the amount that may be borrowed, as well as a prohibition on rollovers. We support regulation that protects consumers and would like to work with this Committee on improvements it deems necessary in that regard. But we respectfully submit that Senate Bill 598 in its current form—which includes an annual percentage rate cap—will not protect consumers. Instead, it would eliminate a regulated environment and take away their access to a much-needed credit option at a time when families are finding their access to traditional forms of credit limited or cut-off entirely. Furthermore, if Senate Bill 598 is enacted, Dollar Financial Group will be forced to close its nine Hawaii stores and terminate our 37 employees.

We support the provisions of Senate Bill 598 other than the rate cap. However, because of the rate cap alone, which would doom this industry, we urge you to reject the current form of Senate Bill 598.

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<sup>6</sup> “*Payday Holiday: How Households Fare after Payday Credit Bans.*” by Donald Morgan, Federal Reserve Bank of New York, November 2007.

<sup>7</sup> “*Restricting Consumer Credit Access: Household Survey Evidence on Effects Around the Oregon Rate Cap.*” by Dartmouth College Prof. Jonathan Zinman. October 2008.

<sup>8</sup> *The Case Against New Restrictions on Payday Lending*, Prof. Todd Zywicki, George Mason University, July 2009.

Thank you for your consideration. At the Committee's request, I would be pleased to provide additional information or make myself available to answer any follow-up questions you may have.

Respectfully Submitted,

Kerry Palombo  
Director of Compliance



1436 Lancaster Avenue, Suite 310  
Berwyn, PA 10312  
(610) 296 - 3400

**Written Testimony Re: Senate Bill 598**  
**Before the Senate Committee on Commerce and Consumer Protection**  
By Marylou Tolentino  
February 8, 2013

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**INTRODUCTION**

- Chairwoman Baker, members of the committee, my name is Marylou Tolentino.
- I was born and raised in Hawaii, and have lived in Kailua Kona for the last 22 years.
- I am employed by Money Mart and manage our store in Kailua Kona, where I supervise 3 employees who also live in Kailua Kona.
- June 2013 will be my third anniversary with the Money Mart.
- I'm testifying on behalf of myself, my family, my employees, and my customers.
- I am asking this Committee to oppose SB 598 because the rate cap would not allow us to continue offering payday loans. So, my job depends on your decision; and my family and my customers depend on me.

**MY RESPONSIBILITIES**

- As a Store Manager, I'm responsible for all aspects of my store's business.
- Most importantly, I'm responsible for how we interact with and treat our customers. We treat them with dignity and respect and I'm proud of the way we are able to help them with their financial needs.
- Many people who do not understand the payday loan product also do not understand the customers who use them and why.
- My customers are average citizens. They are rental car agents, hotel workers, teachers, hospital and road maintenance employees, retail store managers and stock clerks.
- They are **not** poor or homeless. They have jobs and families and responsibilities like rent or a house payment. But like many of us, they sometimes get caught a little short between paydays. That can be caused by anything from a car problem or medical expense to a child who needs money for lunch, school supplies, or bus services. Some

parents have children who wait unattended at school until they finish work to pick them up because parents are unable to give them money daily to ride the bus home. Hotel, car rental agents and retail workers get sent home early without pay when business is slow. Customers run short in their pay due to an increase in social security deductions. Our customers who are state and county employees are furloughed one day per month with no pay and, as a result of an unsettled contract, have not had a wage increase in over 2 years yet gas and food prices continue to rise.

- My customers are not uneducated either. They know enough to look at their options in these situations and determine what is best for them and their families.
- Our customers depend on us and I'm glad we are there for them. While many of them have other options that may be more expensive or that they don't like as well, some of them would have nowhere to turn if it were not for us.

#### I'M CONCERNED

- Yes, I am concerned and I will worry about my customers if we cannot continue to give them a loan because of the rate cap in this bill.
- I am also concerned about me and my family. I depend on this job to help meet my own responsibilities and obligations which includes a mortgage payment, a car payments, and medical coverage for my family.
- If this bill passes with a rate cap in it, I expect I'll lose my income and I don't know what I would do.
- This would not only affect the industry, it would affect entire households—mine included.
- For this reason I ask the committee to please oppose SB 598. Thank you, Marylou Tolentino.





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February 8, 2013

Honorable Rosalyn H. Baker, Chairwoman  
Senate Committee on Commerce and Consumer Protection  
Hawaii State Capitol, Room 229  
Honolulu, HI 96813

**RE: SB598 Relating to Check Cashing**

Dear Chairwoman Baker:

I have been employed with Dollar Financial Group (DBA Money Mart) for approx 13yrs. I've had the pleasure of working at each of our location (6 Oahu locations, 3 Outer islands Hilo, Maui, Kona). Over the years, there has been one constant that I take pride in, our amazing customer service extended to our clients. Our remarkable staff, ranging from Waianae thru Waikiki and 3 outer islands, continues to provide great service to our community. When I visit any location, our customers who sought our help, in either check cashing, western union, prepaid debit, and our consumer loans are always highly grateful for our excellent service.

Our wonderful and loyal customers, whom most we know by first name, are elated and appreciative that we are able to provide mid-pay help. I and many others see this as such a great option instead of pawning or a long term loans. Born and raised here in Hawaii (both Island of Hawaii/Oahu), I have seen hardships in my own family. Growing up we did not have the opportunity to take a payday loan, our only option was to pawn our belongings. I saw my sisters struggle day to day to provide for their growing families. To see the heartbreak of them losing gifts from our father, to get a \$200-\$300 loan seemed too hard to bear. I look back on those child hood memories and wonder, "Why weren't there more options?"

I am concerned about the bill passing. In retrospect to my own life, I feel it will greatly impact our business with: possible income cuts, layoffs, or business closures. However, I think it will greatly affect our customers the most. Some coming in once a month to get their rent money, fix their cars, pay for children needs, and help with medical bills. Where will they go now? If they have no assets to pawn, or great credit to borrow from banks/financial institution, how will they get this additional cash?

Please do not support this bill. If it passes it would not only affect the industry, it will also have affect entire households - mine and my staff included. For this reason I ask the committee to oppose SB 598.

Mahalo,

Kiki Kahaawi

## Testimony for SB598

I Robert Douglas am testifying in support of SB598.

The citizens of this state that would most likely draw a loan from when it is providers are some of the most financially vulnerable citizens of this state, this is a known fact. It is the state's obligation to protect the citizens from any and all predatory lending. This act constitutes a formidable step in the right direction and I support it wholeheartedly.

Years ago while serving my country in the United States Army I was taken advantage off by these very tactics. In those days I had no choice as a regular bank would not extend the credit. I recall that a \$500 loan took years to repay. This is reprehensible and we should do all we can to protect those that are vulnerable.

**SB598**

Submitted on: 2/6/2013

Testimony for CPN on Feb 8, 2013 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Susan Miyasaka	Individual	Support	No

Comments: I support SB598, because it provides consumer protection for the poorest people in our state.

Dear Chair and members of the Senate Consumer Protection Committee:

SB 598 is virtually identical to HB 483 which was introduced, and tabled, in the 2007 legislative session, and SB 1305 which met the same fate in the 2010 session. None of the problems which led to the non-passage of those bills have been addressed in SB 598. Here is a list of five glaring problems with SB 598 (all of which we pointed out in opposition to the prior identical legislation). We respectfully suggest that SB 598 be tabled and that it not be reintroduced in subsequent sessions of the legislature until its authors make an attempt to deal with the below issues:

(1) The term “extended repayment plan” is not defined at all in the bill. What does “extended repayment plan” mean? How long is “extended”? Is it completely up to the lender to interpret that term? There is no prescribed timetable or duration of the required repayment plan -- no guidelines whatsoever in the bill. The original loan term for these transactions is 30 days, so can the “extended” repayment plan timetable be, say, 40 days? Can the lender require regular payments every day or week during the duration of the repayment plan, or does he have to wait until the last day of the period and collect it all then? Can the lender charge interest on the repayment plan? At what interest rate?

(2) Why should “any person who cashes checks for a fee” have to post a notice about deferred deposit transactions, or, for that matter, “information on where to obtain financial education and credit counseling”? This provision confuses normal everyday check cashing with deferred deposit transactions or “payday loans.” The latter is not really the cashing of a check but is actually a form of loan. Check cashers and payday lenders are really two completely separate types of businesses. They have been lumped together in H.R.S. Chapter 480F, but payday lending only comprises one section of that chapter, Section 480F-4. Check cashing means someone brings in a negotiable check written to that person by a third party, and exchanges it for cash. Small fees are allowed, as prescribed by Section 480F-3. Deferred deposit or payday lending, on the other hand, is when a person comes into the shop and applies for a loan; about a third of the time there is not even any “check” involved, but instead a form authorizing the business to debit the amount due out of the customer’s savings account on a certain date. They are really very different kinds of transactions and the legislature should not attempt to regulate them together. The current law separates them effectively enough even though they are in the same HRS chapter, but S.B. 598 in its current form would muddle the two kinds of businesses together.

(3) The putative “right to rescind a deferred deposit transaction” is required to be placed on a notice given to the customer. The problem is that nowhere in the bill (or in existing law) does it say that the customer actually has any such right, nor does the bill define the extent of that right and whether any fees can be attached in case a customer rescinds. (Amending the bill to specifically grant customers a right to rescind a loan without paying a fee is not a reasonable solution: it would invite people to obtain a loan so as to have 24 hours’ free use of cash for gambling purposes and then return the loan if they win their bet. Customers should not be allowed to use the check casher’s money free of charge in order to place a football bet or join a poker game.)

(4) The provision that a customer may not get a payday loan if he or she has an outstanding loan with another lender, is well-intentioned but completely unenforceable. This is why DCCA several years ago advocated the creation of a statewide database as other states have done, so that the lenders can check for any other outstanding loans, before giving a potential customer a loan. Without such a database, SB 598 imposes an impossible duty on the payday lender, exposing him or her to civil and criminal liability if the customer conceals from the lender the fact that the customer has already taken out a loan with another lender.

(5) The requirement that the posted notice be in 38-point type is overkill.

# 38-point type is THIS SIZE.

At that size, the posted notice would fill at least five 8½ x 11 pages, probably six or seven of them. More appropriate would be to have the captions only in 38-point type.

Thank you for your consideration of our input on the above matters.

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