

STAND. COM. REP. NO. 2669

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 2679
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2679 entitled:

"A BILL FOR AN ACT RELATING TO CHECK CASHING,"

begs leave to report as follows:

The purpose and intent of this measure is to increase certain
consumer protection aspects of the deferred deposit loan industry,
including:

- (1) Specifying that a customer has the right to rescind a
deferred deposit if certain conditions are met;
- (2) Permitting a customer to convert a deferred deposit into
a loan installment plan under certain circumstances;
- (3) Protecting against harmful collection practices;
- (4) Defining annual percentage rate;
- (5) Improving loan disclosure requirements;
- (6) Capping the annual percentage rate for deferred deposit
of a personal check at no more than thirty-six percent;
and
- (7) Permitting prepayment of deferred deposit agreements
with no additional fees.



Your Committee received testimony in support of this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs, Office of the Auditor, Office of Hawaiian Affairs, The CHOW Project, Community Alliance on Prisons, Catholic Charities Hawai'i, Hawai'i Appleseed Center for Law and Economic Justice, Faith Action for Community Equity, and six individuals. Your Committee received testimony in opposition to this measure from Dollar Financial Group, Inc.; Money Service Centers of Hawaii, Inc.; and Maui Loan Inc. Your Committee received comments on this measure from the Division of Financial Institutions of the Department of Commerce and Consumer Affairs and one individual.

Your Committee finds that deferred deposit agreements, commonly referred to as payday loans, are small, short term, unsecured loans that borrowers commit to repay from their next paycheck or a regular income payment. A study by the Pew Charitable Trusts found that the majority of borrowers use deferred deposit agreements for recurring expenses, rather than unexpected expenses or emergencies, because they live paycheck to paycheck. According to testimony received by your Committee, only two percent of borrowers can afford to pay off a deferred deposit the first time. As a result, four out of five deferred deposit borrowers either default or renew a deferred deposit loan over the course of a year. Furthermore, according to the Pew Charitable Trusts, the average deferred deposit loan borrower is in debt for almost six months a year and pays an average of \$520 in fees for \$375 in credit.

Your Committee further finds that this measure offers several protections for borrowers who take out deferred deposit loans, including capping the annual percentage rate of these types of loans at thirty-six percent. Existing state law permits check cashers to charge a fee of fifteen percent of the face value of a check for each transaction, which can amount to an annual percentage rate of four hundred sixty-five percent. Your Committee notes that the thirty-six percent cap proposed by this measure would be consistent with the growing trend around the country to provide more consumer protections for these loans. According to testimony received by your Committee, sixteen jurisdictions have either capped deferred deposit agreements at thirty-six percent or banned these types of loans completely. The thirty-six percent cap also follows precedent established by the federal government, who in 2006 made it illegal to charge more



than a thirty-six percent annual percentage rate on payday loans to active-duty service members and their families.

Your Committee additionally finds that the Division of Financial Institutions has offered suggestions that will help clarify certain aspects of this measure. Amendments to this measure incorporating these suggested clarifications are therefore necessary, although your Committee notes that additional clarification may be needed as this measure moves through the legislative process.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that a check casher shall return to a customer who exercises the right to rescind any postdated check taken as collateral;
- (2) Clarifying that if a customer notifies a check casher in writing regarding the customer's inability to repay a deferred deposit prior to the maturity of the loan term, then the check casher shall inform the customer about the ability to convert the deferred deposit to a loan installment plan;
- (3) Clarifying that a loan installment plan agreement shall provide payment terms for the total amount due on a deferred deposit; provided that the loan term shall be no longer than six months;
- (4) Specifying that payments for a loan installment plan shall not exceed five percent of a customer's monthly gross income, calculated at the time of conversion from a deferred deposit to a loan installment plan, and requiring the loan installment plan to provide for equal installment payments with the exception of the final loan installment payment;
- (5) Requiring a customer to provide proof of income at the time of conversion from a deferred deposit to a loan installment plan and specifying that if the customer fails to provide proof of income or does not have income, the deferred deposit shall become due and payable;



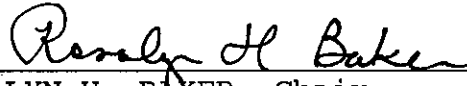
- (6) Specifying that all allowable outstanding principal, costs, and fees associated with a deferred deposit converted to a loan installment plan shall be amortized over the life of the loan installment plan;
- (7) Clarifying that a customer may pay the balance of a loan installment plan at any time;
- (8) Specifying that a customer who prepays a loan installment shall be refunded a prorated portion of unearned cost and fees, based on the ratio of time left before maturity to the loan installment term;
- (9) Specifying that a check casher's violation of any of the requirements for loan installment plans shall be a violation of the chapter relating to check cashing;
- (10) Clarifying that the restrictions on collection by check cashers or third parties apply to any employee, agent, or third party assignee of a check casher;
- (11) Clarifying the definition of "annual percentage rate";
- (12) Clarifying that the written agreement for deferred deposit shall not permit a check casher to accept collateral, except for the customer's postdated personal check;
- (13) Clarifying that any fees, costs, and interest charged for deferred deposit of a personal check in compliance with the check cashing law shall be exempt from the usury law;
- (14) Specifying that a customer who prepays a deferred deposit shall be refunded a prorated portion of unearned cost and fees, based on the ratio of time left before maturity to the loan term; and
- (15) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2679, as amended herein, and



recommends that it pass Second Reading in the form attached hereto as S.B. No. 2679, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,




ROSALYN H. BAKER, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2679	CPH	2-19-14		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended <small>2312</small>				
<input checked="" type="checkbox"/> Pass, with amendments <small>2311</small>				
<input type="checkbox"/> Hold <small>2310</small>				
<input type="checkbox"/> Recommit <small>2313</small>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
KIDANI, Michelle N. (VC)	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.	/			
SLOM, Sam	/			
TOTAL	7			
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes