

JAN 24 2018

A BILL FOR AN ACT

RELATING TO CHECK CASHING.

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

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

"§480F- Registration required. (a) No check casher shall conduct business in the State under this chapter, including deferred deposit transactions, without first registering with the department of commerce and consumer affairs.

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

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

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



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

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

§480F- Payment plans. (a) At the time of origination of a fourth consecutive deferred deposit transaction made to a customer by a check casher, and at the time of origination of any subsequent consecutive deferred deposit transactions, the check casher shall offer the customer, in writing, the option to participate in a voluntary payment plan.

(b) To convert a deferred deposit loan to a payment plan, the customer shall return to the check casher's point of sale location and request a payment plan prior to the close of business on the business day prior to the maturity date of the transaction.

(c) The payment plans shall provide the customer with the option to pay off the existing debt, including the principal and fee, in at least six equal payments that coincide with the customer's periodic pay dates or the date on which the customer is scheduled to receive benefits, unless the customer requests different payment due dates. Payments made pursuant to a



1 voluntary payment plan shall be applied directly to the existing
2 debt, and the lender shall not charge the customer any
3 additional fee, other than an administration fee not to exceed
4 \$30 for participation in the payment plan.

5 (d) The check casher shall provide a written copy of the
6 payment plan agreement to the customer. The check casher shall
7 be prohibited from engaging in collection activities while the
8 customer continues to make payments in accordance with the
9 payment plan. The check casher shall be prohibited from making
10 any additional deferred deposit transactions to the customer
11 prior to the consumer's completion of the payment plan.

12 (e) The check casher may require the customer to provide a
13 post-dated check or electronic authorization for funds
14 transferred for each payment due under the payment plan. If any
15 check or electronic authorization accepted by the check casher
16 is dishonored, the check casher may not charge the customer a
17 fee for the dishonored instrument.

18 (f) If the customer fails to make payments in accordance
19 with a payment plan under subsection (c), the check casher shall
20 be entitled to take action as otherwise allowed under this



1 chapter to collect the remaining funds due and may charge the
2 customer a one-time default fee of \$30.

3 (g) For purposes of this section, "consecutive deferred
4 deposit transaction" means a deferred deposit transaction that
5 occurs within twenty-four hours of the immediately previous
6 deferred deposit transaction by the same customer.

7 **§480F- Single deferred deposit transaction limitations.**

8 A check casher shall take reasonable measures to ensure that no
9 customer has more than one deferred deposit transaction
10 outstanding at a time from all sources. Check cashers shall
11 include a notice on each written deferred deposit transaction
12 agreement stating that no customer may have more than one
13 deferred deposit transaction outstanding at a time from all
14 sources and shall receive written confirmation from each
15 customer that the customer does not have any outstanding
16 deferred deposit transactions as of the date the customer enters
17 into the deferred deposit transaction.

18 **§480F- Records and reports.** Every check casher shall
19 keep records and make reports with respect to the operation of
20 business as provided in rules adopted by the director.



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1 §480F- Rules. The director shall adopt rules pursuant
2 to chapter 91 necessary to carry out the purposes of this
3 chapter."

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

7 "Director" means the director of commerce and consumer
8 affairs."

9 SECTION 3. Section 480F-2, Hawaii Revised Statutes, is
10 amended to read as follows:

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

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

16 (A) The fees charged for cashing a check, [~~for~~]
17 selling or issuing a money order, and [~~for~~] the
18 initial issuance of any membership or
19 identification cards[~~+~~and] and the fees and
20 annual percentage rate for deferred deposit
21 transactions;



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

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

(D) That only one deferred deposit transaction can be open at any given time from all sources;

(E) Information on where to obtain financial education and credit counseling; and

(F) A copy of the registration to do business as a check casher as required by this chapter;

(2) Provide written notice in twelve-point type to each customer ~~[of the fees charged for cashing checks]~~ that is separate from and in addition to any posted notice ~~[+]~~, which contains the following information:

(A) The fees and annual percentage rate to be charged for a deferred deposit transaction;



1 (B) That consumer complaints about the check cashing
2 business may be filed with the department of
3 commerce and consumer affairs, including and
4 identifying the telephone number and address of
5 the consumer information service of the
6 department of commerce and consumer affairs;

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

9 (D) That only one deferred deposit transaction can be
10 open at any given time from all sources;

11 (E) That an extended repayment plan option is
12 available after any customer has entered into
13 four or more consecutive transactions with the
14 same check casher; provided that the customer
15 requests the option within twenty-four hours of
16 the customer's last payment due date. For
17 purposes of this subparagraph, "consecutive
18 transactions" means back-to-back transactions
19 occurring within twenty-four hours of each other;



(F) The right to rescind a deferred deposit transaction within twenty-four hours of the transaction; and

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

(3) Obtain a written acknowledgment from the customer that written notice of the ~~[fees charged for cashing checks]~~ information required by paragraph (2) was provided~~[, and]~~ to the customer; and

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

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

"(c) The face amount of the check shall not exceed ~~[\$600]~~ \$1,000, 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]~~ one hundred eighty days. A check casher may charge a fee for deferred deposit of a personal check in an amount not to exceed fifteen per cent of the face amount of the check. The total amount of a



1 transaction, including principal and fees, shall not exceed
2 thirty per cent of the customer's gross monthly income. Any
3 fees charged for deferred deposit of a personal check in
4 compliance with this section shall be exempt from chapter 478.

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

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

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



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

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

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

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

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.



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1 SECTION 7. This Act shall take effect on July 1, 2020.

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INTRODUCED BY:

MM N. M'

By Request



S.B. NO. 2840

Report Title:

Check Cashers; Deferred Deposits; Registration; Payment Plans

Description:

Requires check cashers to register with the department of commerce and consumer affairs. Requires check cashers to offer consumers the option to participate in a payment plan, if certain conditions are met. Requires posting of certain information and written notice containing specific information to be provided to consumers. Amends the limit, deposit deferral, and fees charged for deferred deposit transactions. Removes the exemption for entities engaged in the retail sale of good or services that periodically cash items for a fee. Effective 7/1/2020.

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

