

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO CHECK CASHERS.

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

1           SECTION 1. The legislature finds that for the millions of  
2 Americans who do not have a bank account or simply cannot  
3 qualify for one, check cashing businesses provide an opportunity  
4 for them to pay their bills, cash their checks quickly, or get a  
5 payday loan. Estimates from a survey conducted by the Federal  
6 Deposit Insurance Corporation, in partnership with the United  
7 States Census Bureau, indicate that seven per cent of households  
8 in the United States were unbanked in 2015, which represents  
9 approximately nine million households. This survey also  
10 indicates that an additional 19.9 per cent, or 24,500,000, of  
11 United States households were underbanked, meaning that the  
12 household had a checking or savings account but also obtained  
13 financial products and services outside of the banking system.  
14           There are numerous reasons for unbanked and underbanked  
15 consumers to use check cashing businesses to handle their  
16 personal finances in lieu of traditional banks, including:



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- 1           (1) The inability to open checking accounts at banks,  
2                   usually because of blemishes on banking history;
- 3           (2) The convenience of check cashing businesses, such as  
4                   business hours that begin earlier and extend later  
5                   than banks;
- 6           (3) The variety of services offered, such as payday loans  
7                   and other types of loans, money transfers, bill  
8                   payments, money orders, post office boxes, mailing  
9                   services, notary public, currency exchange, prepaid  
10                  debit and credit cards, and automated teller machines;  
11                  and
- 12          (4) The immediate access to the full amount of a check  
13                  minus a service fee.

14 Check cashing businesses offering payday loans, also known as  
15 cash advance loans, check advance loans, deferred deposit loans,  
16 or post-dated check loans, are especially convenient and  
17 attractive options for consumers with no credit or bad credit.

18           The legislature further finds that although some may  
19 consider check cashing businesses as providing convenience to  
20 their customers, critics contend that check cashing businesses  
21 exploit the consumers they serve. The most common criticism



1 against check cashing businesses is the high fees associated  
2 with obtaining financial products and services provided by these  
3 types of businesses. Checks cashed at these businesses can  
4 incur an average of three to five per cent of the check amount  
5 in fees, regardless of the nature of the check. On average, the  
6 annual costs of using a check cashing business are greater than  
7 the fees associated with using a checking account at a bank for  
8 similar needs.

9 Furthermore, there is controversy regarding payday loans.

10 Although payday loans can be a good tool for quickly and easily  
11 borrowing cash during an emergency when there are no other  
12 financial options available, critics contend that payday  
13 lenders:

- 14 (1) Fail to adequately inform consumers about the true  
15 financial costs and potential consequences of  
16 borrowing;
- 17 (2) Target the military, elderly, and other vulnerable  
18 groups; and
- 19 (3) Charge exorbitant interest rates that result in  
20 chronic borrowing and contribute to unmanageable  
21 levels of personal consumer debt.



1           The legislature notes that check cashing businesses are  
2 subject to a regulation throughout most of the United States,  
3 including approximately thirty-four states with check cashing-  
4 specific laws, approximately thirty-eight states that regulate  
5 payday advance lending, and approximately forty-eight states and  
6 the District of Columbia, which have laws governing money  
7 transmission services. Furthermore, approximately thirty states  
8 and the District of Columbia require check cashers to obtain a  
9 license, permit, or registration to conduct check cashing  
10 services. In Hawaii, chapter 480F, Hawaii Revised Statutes,  
11 establishes check cashing, including payday loan, requirements,  
12 authorized fees, exceptions, and penalties. However, unlike in  
13 a number of other states, check cashers are not required to  
14 obtain a license, permit, or registration to perform check  
15 cashing services in Hawaii.

16           The legislature further notes that Auditor Report No. 05-  
17 11, *Sunrise Analysis: Check Cashing and Deferred Deposit*  
18 *Agreements (Payday Loans)*, recommends that chapter 480F, Hawaii  
19 Revised Statutes, be strengthened, rather than be expanded.  
20 However, in light of the number of consumers who regularly  
21 depend on check cashing businesses for their financial needs,



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1 the potential for harm to consumers for using such services, and  
2 the fact that many of the recommendations made in the auditor's  
3 report were not adopted, the legislature believes that check  
4 cashing businesses should be regulated.

5 Accordingly, the purpose of this Act is to establish  
6 licensure requirements for certain persons or entities to engage  
7 in the business of cashing checks for a fee to persons in the  
8 State.

9 SECTION 2. Chapter 480F, Hawaii Revised Statutes, is  
10 amended by adding two new sections to be appropriately  
11 designated and to read as follows:

12 "§480F-A License required. (a) No person or entity  
13 except those exempt from this chapter under section 480F-5,  
14 shall engage in the business of cashing checks for a fee without  
15 a license in accordance with section 480F-B.

16 (b) A person or entity is engaged in the business of  
17 cashing checks for a fee if the person or entity provides these  
18 services to persons in the State, regardless of whether the  
19 person or entity providing services has no physical presence in  
20 the State.



1        (c) If a check casher has a physical presence in the  
2 State, the check casher may conduct its business at one or more  
3 locations, directly or indirectly owned, or through one or more  
4 authorized delegates, pursuant to the single license granted to  
5 the check casher.

6        §480F-B License; qualifications; application; fees;  
7 renewal. (a) The commissioner shall determine the  
8 qualifications necessary for an applicant to obtain a license;  
9 provided that the applicant shall provide written documentation  
10 that the applicant and its authorized delegates have  
11 satisfactorily completed financial literacy requirements as  
12 determined by the commissioner.

13        (b) An application for a license shall be filed with the  
14 commissioner, made in writing in a form prescribed by the  
15 commissioner, and signed by the applicant, if the applicant is  
16 an individual, or signed by a member or officer authorized to  
17 sign, if the applicant is an entity. Each application shall  
18 contain any information required by the commissioner, including  
19 but not limited to the name of the business, the type of  
20 business engaged in, and the business address. Each applicant



1 shall be subject to a criminal history record check in  
2 accordance with section 846-2.7.

3 (c) Each applicant shall pay a fee, which shall not exceed  
4 the cost of processing the application, fingerprinting the  
5 applicant, and checking or obtaining the criminal record of the  
6 applicant, at the time of filing the application.

7 (d) Each applicant shall annually, beginning one year from  
8 the date of issuance of the license, file an application for  
9 renewal of the license with the commissioner, along with payment  
10 of a renewal fee, which shall not exceed the cost of processing  
11 the application for renewal and checking or obtaining the  
12 criminal record of the applicant.

13 (e) The commissioner shall deny an application for a  
14 license or renewal of a license, if the applicant has a felony  
15 conviction involving dishonesty, fraud, or deceit and the crime  
16 is substantially related to the qualifications, functions, or  
17 duties of a person engaged in the business of cashing checks for  
18 a fee.

19 (f) The commissioner, for good cause, may:

20 (1) Waive any requirement of this section relating to any  
21 license application or renewal; or



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1        (2) Permit an applicant to submit substituted information  
 2                    in its license application or renewal in lieu of the  
 3                    information required by this section.

4        (g) The commissioner shall adopt rules in accordance with  
 5 chapter 91 to implement this section and determine the amount of  
 6 the application fees required by this section. The commissioner  
 7 shall prescribe forms for the application and license required  
 8 by this section, which shall be uniform throughout the State."

9        SECTION 3. Section 480F-1, Hawaii Revised Statutes, is  
 10 amended as follows:

11        1. By adding four new definitions to be appropriately  
 12 inserted and to read:

13        "Applicant" means a person or entity filing an application  
 14 for a license pursuant to this chapter.

15        "Authorized delegate" means an entity designated by the  
 16 check casher to engage in the business of cashing checks for a  
 17 fee on behalf of the check casher.

18        "Commissioner" means the commissioner of financial  
 19 institutions.

20        "License" means a license in accordance with this chapter."

21        2. By amending the definition of "check casher" to read:





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1            ""Check cashier" means a person or entity that is licensed  
2 in accordance with this chapter and engages in the business of  
3 cashing checks for a fee."

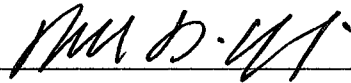
4            SECTION 4. In codifying the new sections added by section  
5 2 of this Act, the revisor of statutes shall substitute  
6 appropriate section numbers for the letters used in designating  
7 the new sections in this Act.

8            SECTION 5. New statutory material is underscored.

9            SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:



**By Request**



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**Report Title:**

Check Cashers; Licensure; License Renewal; Fees; Commissioner of Financial Institutions

**Description:**

Establishes licensure and licensure renewal requirements for certain persons or entities to engage in the business of cashing checks for a fee to persons in the State.

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

