

JAN 24 2019

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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 five new sections to be appropriately  
3 designated and to read as follows:
- 4           "§480F-       Registration required. (a) No check cashier  
5 shall conduct business in the State under this chapter,  
6 including deferred deposit transactions, without first  
7 registering with the department of commerce and consumer  
8 affairs.
- 9           (b) The director shall prescribe the form of the  
10 application for registration. Each applicant shall be  
11 accompanied by the appropriate fee, as prescribed by the  
12 director.
- 13           (c) Check cashier registration shall be updated annually  
14 and shall include the following:
- 15           (1) The address of the principal office of the check  
16           cashier;



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

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

5        §480F- Payment plans. (a) At the time of origination  
6        of a fourth consecutive deferred deposit transaction made to a  
7        customer by a check casher, and at the time of origination of  
8        any subsequent consecutive deferred deposit transactions, the  
9        check casher shall offer the customer, in writing, the option to  
10       participate in a voluntary payment plan.

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

16       (c) The payment plan shall provide the customer with the  
17       option to pay off the existing debt, both the principal and fee,  
18       in at least six equal payments that coincide with the customer's  
19       periodic pay dates or the date on which the customer is  
20       scheduled to receive benefits, unless the customer requests  
21       different payment due dates. The 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 additional  
3 fee, other than an administration fee not to exceed \$30, for  
4 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 customer'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 shall 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. A check casher shall  
11 include a notice on each written deferred deposit transaction  
12 agreement stating that no customer shall 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.



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        "~~[+] §480F-2 [{}]~~ **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, ~~[fex]~~  
17 selling or issuing a money order, and ~~[fex]~~ 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;



- 1           (B) That consumer complaints about the check cashing  
2           business may be filed with the department of  
3           commerce and consumer affairs, and includes and  
4           identifies the telephone number and address of  
5           the consumer [~~information service~~] resource  
6           center of the department of commerce and consumer  
7           affairs;
- 8           (C) That deferred deposit transactions are not  
9           suitable for long-term borrowing;
- 10          (D) That only one deferred deposit transaction can be  
11          open at any given time from all sources;
- 12          (E) Offer a financial education program or seminar to  
13          the customer that has been previously reviewed  
14          and approved by the director for use in complying  
15          with this section; provided that any financial  
16          education program or seminar offered under this  
17          subparagraph shall be provided at no cost to the  
18          customer. A customer shall not be required to  
19          participate in a financial education program or  
20          seminar as a condition of a deferred deposit  
21          transaction proceeds disbursement; and



- 1           (F) A copy of the registration to do business as a
- 2           check casher as required by this chapter;
- 3       (2) Provide written notice in twelve-point type to each
- 4       customer ~~[of the fees charged for cashing checks]~~ that
- 5       is separate from and in addition to any posted
- 6       notice~~[,]~~, which contains the following information:
- 7           (A) The fees and annual percentage rate to be charged
- 8           for a deferred deposit transaction;
- 9           (B) That consumer complaints about the check cashing
- 10          business may be filed with the department of
- 11          commerce and consumer affairs, including and
- 12          identifying the telephone number and address of
- 13          the consumer resource center of the department of
- 14          commerce and consumer affairs;
- 15          (C) That deferred deposit transactions are not
- 16          suitable for long-term borrowing;
- 17          (D) That only one deferred deposit transaction can be
- 18          open at any given time from all sources;
- 19          (E) That an extended repayment plan option is
- 20          available after any customer has entered into
- 21          four or more consecutive transactions with the



1           same check casher; provided that the customer  
2           requests the option within twenty-four hours of  
3           the customer's last payment due date. For  
4           purposes of this subparagraph, "consecutive  
5           transactions" means back-to-back transactions  
6           occurring within twenty-four hours of each other;

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

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

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

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

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





1           "(c) The face amount of the check shall not exceed [~~\$600~~  
2   \$1,000 and the deposit of a personal check written by a customer  
3   pursuant to a deferred deposit transaction may be deferred for  
4   no more than [~~thirty-two~~] one hundred eighty days. A check  
5   casher may charge a fee for deferred deposit of a personal check  
6   in an amount not to exceed fifteen per cent of the face amount  
7   of the check. The total amount of a transaction, including  
8   principal and fees, shall not exceed thirty per cent of the  
9   customer's gross monthly income. Any fees charged for deferred  
10   deposit of a personal check in compliance with this section  
11   shall be exempt from chapter 478.

12           (d) A check casher shall not enter into an agreement for  
13   deferred deposit with a customer during the period of time that  
14   an earlier agreement for a deferred deposit for the same  
15   customer is in effect [~~-~~] from any source. A deferred deposit  
16   transaction shall not be repaid, refinanced, or consolidated by  
17   or with the proceeds of another deferred deposit transaction.

18           (e) A check casher who enters into a deferred deposit  
19   agreement and accepts a check passed on insufficient funds, or  
20   any assignee of that check casher, shall not be entitled to  
21   recover damages in excess of principal, interest, and out-of-



1 pocket legal costs in any action brought pursuant to or governed  
2 by chapter 490. No additional interest may be collected except  
3 the ten per cent allowed by law on uncollected judgments.

4 Instead, the check casher may charge and recover a fee for the  
5 return of a dishonored check in an amount not greater than  
6 ~~[\$20.]~~ \$30."

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

9 "~~{}~~ §480F-5 ~~{}~~ Exemptions. This chapter shall not apply  
10 to ~~{}~~

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

18 ~~(2) Any]~~ any person authorized to engage in business as a  
19 bank, trust company, savings bank, savings and loan  
20 association, financial services loan company, or  
21 credit union under the laws of the United States, any



# S.B. NO. 1074

1 state or territory of the United States, or the  
2 District of Columbia."

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

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

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INTRODUCED BY: \_\_\_\_\_  
*M. P. Hill*  
**By Request**



# S.B. NO. 1074

**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 customers 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 customers. 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.*

