

JAN 18 2019

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 casher
5 shall conduct business in the State, including deferred deposit
6 transactions, without first registering with the department
7 under this chapter.

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

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

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

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



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

3 §480F- Voluntary payment plans. (a) At the time of
4 origination of a third consecutive deferred deposit transaction
5 made to a customer by a check casher, and at the time of
6 origination of any subsequent consecutive deferred deposit
7 transactions, the check casher shall offer the customer in
8 writing the option to participate in a voluntary payment plan.
9 Should the customer be in financial hardship, a voluntary
10 payment plan may be requested by the customer and arranged by
11 the customer and the check casher at any time.

12 (b) The voluntary payment plan shall be structured to pay
13 the existing debt, both the principal and the fee, in at least
14 six equal payments of no more than five per cent of the
15 customer's monthly pretax paycheck that coincide with the
16 customer's periodic pay dates or the date the customer is
17 scheduled to receive benefits, unless the customer requests
18 different payment due dates. The payments made pursuant to the
19 voluntary payment plan shall be applied directly to the existing
20 debt, and the lender shall not charge the customer any
21 additional fee other than an administration fee not to exceed



1 \$30 for participation in the voluntary payment plan. The
2 administration fee charged for a voluntary payment plan in
3 compliance with this section shall be exempt from chapter 478.

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

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

19 (e) If the customer fails to make payments in accordance
20 with a voluntary payment plan, the check casher is entitled to
21 take action as otherwise allowed under this chapter to collect



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

3 §480F- Single deferred deposit transaction limitation.

4 A check casher shall take reasonable measure to ensure that no
5 customer has more than one deferred deposit transaction
6 outstanding at a time from all sources. Check cashers shall
7 receive written confirmation from each customer that the
8 customer does not have any outstanding deferred deposit
9 transactions as of the date the customer enters into a deferred
10 deposit transaction with the check casher.

11 §480F- Records and reports. Every check casher shall
12 keep records and make reports with respect to the operation of
13 business as provided in rules adopted by the director pursuant
14 to chapter 91.

15 §480F- Rules. The director shall adopt rules necessary
16 to implement this chapter pursuant to chapter 91."

17 SECTION 2. Section 480F-1, Hawaii Revised Statutes, is
18 amended by adding three new definitions to be appropriately
19 inserted and to read as follows:

20 "Department" means the department of commerce and consumer
21 affairs.



1 "Director" means the director of commerce and consumer
2 affairs.

3 "Financial hardship" means any hardship from loss of
4 income, reduced work hours, increased living costs, or other
5 hardships outside of the control of the customer at the
6 discretion of the check casher and evidenced with
7 documentation."

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

10 "[+] §480F-2 [+] Posting and notice of fees charged. Any
11 person who cashes one or more checks for a fee shall:

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

15 (A) The fees charged for cashing a check, for selling
16 or issuing a money order, and for the initial
17 issuance of any membership or identification
18 cards; and

19 (B) That consumer complaints about the check cashing
20 business may be filed with the department [~~of~~
21 ~~commerce and consumer affairs~~], and includes and



- 1 identifies the telephone number and address of
2 the consumer information service of the
3 department [~~of commerce and consumer affairs~~];
- 4 (2) Provide written notice to each customer [~~of the fees~~
5 ~~charged for cashing checks~~] in twelve-point type to
6 each customer that is separate from and in addition to
7 any posted notice[+], containing the following
8 information:
- 9 (A) The fees charged for cashing checks; and
- 10 (B) That consumer complaints about the check cashing
11 business may be filed with the department, and
12 includes and identifies the telephone number and
13 address of the consumer information service of
14 the department;
- 15 (3) Obtain a written acknowledgment from the customer that
16 written notice [~~of the fees charged for cashing~~
17 ~~checks~~] as required by paragraph (2) was provided[+]
18 to the customer; and
- 19 (4) Provide each customer a receipt documenting any and
20 all fees charged."



1 SECTION 4. Section 480F-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§480F-4 Deferred deposits, when allowed. (a) No check
4 cashier may defer the deposit of a check except as provided in
5 this section.

6 (b) In addition to the notice required by section 480F-2,
7 a check cashier that defers the deposit of any checks shall post
8 in a conspicuous place in every location at which the check
9 cashier does business a notice that sets forth in thirty-eight
10 point type:

11 (1) The total amount of any fees charged for the deferred
12 deposit, expressed both in United States currency and
13 as an annual percentage rate;

14 (2) That customers have a right to rescind a deferred
15 deposit transaction within twenty-four hours of the
16 transaction;

17 (3) That deferred deposit transactions are not suitable
18 for long-term borrowing;

19 (4) That a customer may have no more than one outstanding
20 deferred deposit transaction from all sources;



1 (5) Information on available financial education services,
2 including contact information for an approved budget
3 and credit counselor or an approved housing counselor;
4 and

5 (6) A copy of the registration to do business as a check
6 casher as required by this chapter.

7 [~~(b)~~] (c) Each deferred deposit shall be made pursuant to
8 a written agreement that has been signed by the customer and the
9 check casher or an authorized representative of the check
10 casher. The written agreement shall contain a statement of the
11 following:

12 (1) The total amount of any fees charged for the deferred
13 deposit, expressed both in United States currency and
14 as an annual percentage rate [-]; and

15 (2) Notices stating that:

16 (A) The customer has a right to rescind a deferred
17 deposit transaction within twenty-four hours of
18 the transaction;

19 (B) The customer may have no more than one
20 outstanding deferred deposit transaction from all
21 sources;



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- 1 (C) Deferred deposit transactions are not suitable
- 2 for long-term borrowing;
- 3 (D) The customer may enter into a voluntary payment
- 4 plan if the customer:
- 5 (i) Is experiencing financial hardship; or
- 6 (ii) Has entered into three or more consecutive
- 7 transactions with the same check casher; and
- 8 (E) Information on available financial education
- 9 services, including contact information for an
- 10 approved budget and credit counselor or an
- 11 approved housing counselor.

12 The written agreement shall authorize the check casher to defer
 13 deposit of the personal check until a specific date not later
 14 than thirty-two days from the date the written agreement was
 15 signed. The written agreement shall not permit the check casher
 16 to accept collateral.

17 ~~[-(e)]~~ (d) The face amount of the check shall not exceed
 18 \$600 and the deposit of a personal check written by a customer
 19 pursuant to a deferred deposit transaction may be deferred for
 20 no more than thirty-two days. A check casher may charge a fee
 21 for deferred deposit of a personal check in an amount not to



1 exceed fifteen per cent of the face amount of the check. Any
2 fees charged for deferred deposit of a personal check in
3 compliance with this section shall be exempt from chapter 478.

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

10 ~~[(e)]~~ (f) A check casher who enters into a deferred
11 deposit agreement and accepts a check passed on insufficient
12 funds, or any assignee of that check casher, shall not be
13 entitled to recover damages in any action brought pursuant to or
14 governed by chapter 490. No additional interest may be
15 collected except the ten per cent allowed by law on uncollected
16 judgments. Instead, the check casher may charge and recover a
17 fee for the return of a dishonored check in an amount not
18 greater than ~~[\$20-]~~ the fee incurred by the check casher from
19 its financial institution.

20 ~~[(f)]~~ (g) No amount in excess of the amounts authorized by
21 this section and no collateral products such as insurance shall



1 be directly or indirectly charged by a check casher pursuant or
2 incident to a deferred deposit agreement.

3 (h) For the purposes of this section:

4 "Approved budget and credit counselor" and "approved
5 housing counselor" shall have the same meaning as those terms
6 are defined in section 667-1."

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~~



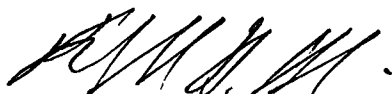
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1 state or territory of the United States, or the
2 District of Columbia."

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, 2019.

6

INTRODUCED BY: 
By Request



S.B. NO. 613

Report Title:

Check Cashers; Registration; Voluntary Payment Plans; Notices

Description:

Requires check cashers to be registered with the Department of Commerce and Consumer Affairs. Requires a check cashier to offer a voluntary payment plan under certain circumstances. Provides the structure for voluntary payment plans. Clarifies that a customer may only have one outstanding deferred deposit transaction from any source. Amends notices required of check cashers. Removes the exemption from the regulations of check cashers for persons engaged in the bona fide retail sale of goods or services.

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

