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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Intrastate Commerce
Tuesday, February 5, 2019
9:30 a.m.
State Capitol, Conference Room 430**

**On the following measure:
H.B. 332, RELATING TO CHECK CASHING**

WRITTEN TESTIMONY ONLY

Chair Ohno and Members of the Committee:

My name is Iris Ikeda, and I am the Commissioner of Financial Institutions (Commissioner) for the Department of Commerce and Consumer Affairs' (Department) Division of Financial Institutions (DFI). The Department appreciates the intent of this bill and offers comments.

H.B. 332 requires check cashers to be registered with the Department. The proposed bill allows for a registration scheme for check cashers, also known as payday lenders. Importantly, it provides a structure for voluntary payment plans at the option of the borrower.

If the Department will be responsible for expanded oversight of this industry as proposed by this bill, it recommends that regulation be consistent with the licensing of other industries that deal with consumer funds and are administered by the DFI. To that

end, the DFI suggests including additional safeguards in this bill to address consumer protection concerns. Specifically, the DFI suggests regulation as follows:

1. If an installment loan scheme is preferred, repeal the deferred check statute to avoid confusion by consumers and by the industry;
2. Full licensure, not registration, to review the company's business model, control persons, and compliance with appropriate state and federal laws;
3. Identify the components of what constitutes an installment loan, including the amount of the loan, the term of the repayment, any fees, and a statement of any pre-payment penalties;
4. Authority to examine the licensees for compliance with state and federal laws;
5. Require renewal of license;
6. Require records and reports; and
7. Require consumer disclosures.

The DFI notes that for many companies it supervises, consumers do not file complaints against a licensee. However, when the DFI examines a licensee, it may find that the licensee has violated state or federal law and order restitution to the consumer and order compliance with the laws. If the company is a nationwide company, the DFI coordinates with other states to conduct a multi-state examination. This multi-state examination saves time and expense for the licensee and state examiners. Through these multi-state examinations, states have issued enforcement orders benefiting consumers nationwide.

Thank you for the opportunity to testify on this bill.

To: Representative Takashi Ohno, Chair
Representative Dale Kobayashi, Vice Chair
The Committee on Intrastate Commerce

From: R. Craig Schafer, President / Money Service Centers of Hawaii, Inc.

February 3, 2019

In support of HB332

Money Service Centers of Hawaii, Inc. is a locally owned and operated money service business (MSB) headquartered in Kapaa, Kauai. We operate fee-based money service centers throughout the State under the trade name PayDayHawaii. Over the past 19 years we have provided check cashing services to over 44,000 Hawaii residents. We provide safeguards not required by law to encourage the responsible use of our short-term credit product. We offer free financial education on our website and mobile devices, 24/7, to help Hawaii's working families in times of financial stress.

We support HB332 which will bring long overdue reform to HRS 480F. The State Auditor completed a Sunrise Analysis* of the law over 15 years ago, but her recommendations have yet to be implemented. Thanks to the efforts of Representative Nakamura, who called together PayDayHawaii, Hawaii Appleseed and Hawaiian Community Assets, we have a bill that will require registration per the report's recommendation. HB332 will also make reforms the above parties agreed on to make deferred deposit transactions more consumer friendly. The bill changes the law as follows:

1. Registration of check cashers by the DCCA to identify businesses governed by HRS 480F, including internet companies, and help ensure and enforce compliance.
2. Require a notice to the consumer that a payment plan option is available after three consecutive deferred deposit transactions. The payment plan option is designed to stop repeat borrowing and avoid the cycle of debt. The option is available anytime to consumers in financial hardship.
3. Limits deferred deposit transactions to one per consumer at a time from all sources including internet lenders. Though part of the current law, it needs clarification and enforcement.
4. Require posting and a written notice of the Annual Percentage Rate (APR), along with the current requirement to post the fees.
5. Require the posting information on where to obtain financial education and credit counseling. Consumers must be warned in signage and on the contract that deferred deposit transactions are not suitable for long-term borrowing.
6. Require a written notice of a 24 hour right of rescission on deferred deposit transactions. This provision gives consumers an opportunity to read the "fine print" without feeling rushed so they can completely understand the transaction.
7. Limits the fee incurred for a dishonored check to a fee no greater than the fee incurred by the check casher from its financial institution.
8. Removes the exemption (480F-5-1) to protect consumers from any entity, other than banks and financial institutions, cashing checks for a fee. Since the law was originally passed retailers who cash checks over \$1000.00, such as Wal-Mart, are required to register as a Money Service Business (MSB) with the U.S. Treasury Department under the Patriot Act.

Most of the proposed reforms come from bills originally proposed by FSPoH, The Legal Aid Society and HACBED after the State Auditor's Sunrise analysis of 2005. We further urge the legislature to authorize another audit so that we have more up-to-date data for Hawaii. The Auditor should research the increasing impact of out-of-state internet lenders who operate in Hawaii, complaint data and the impact of HRS 480F on Hawaii consumers over the last 15 years. Consideration should be given to further consumer protections based on the Auditor's findings.

** Sunrise Analysis: Check Cashing and Deferred Deposit Agreements (Payday Loans). A Report to the Governor and the Legislature of the State of Hawaii, Report No. 05-11, December 2005.*

Sincerely, R. Craig Schafer, President, Money Service Centers of Hawaii, Inc.

LATE

HB-332

Submitted on: 2/4/2019 8:08:35 PM

Testimony for IAC on 2/5/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Gilbreath	Hawaiian Community Assets	Support	No

Comments:

Our organization supports HB332 which would create the option for voluntary repayment plans for payday loan borrowers, require registration of check cashers, and require referral of payday loan borrowers to government certified financial counselors. To measure the effectiveness of the bill, we encourage passage of a resolution that will study the number of requests and uses of voluntary repayment plans as well as studies the potential of nonprofit community development financial institutions meeting the short-term credit needs of Hawaii residents.