

STAND. COM. REP. NO.

1135

Honolulu, Hawaii

MAR 25 2021

RE: H.B. No. 1192
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 1192, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Transition from lump sum deferred deposit transactions to installment loan transactions;
- (2) Specify various consumer protection requirements for installment loans;
- (3) Beginning January 1, 2023, require licensure for installment lenders that offer installment loans to consumers;
- (4) Require check cashers to offer a voluntary payment plan to customers under certain circumstances;
- (5) Clarify that a customer may only have one outstanding deferred deposit transaction from any source;
- (6) Require the Division of Financial Institutions of the Department of Commerce and Consumer Affairs to report on



the implementation of installment loan transaction requirements and the transition of check cashers who engage in deferred deposit transaction to installment lenders;

- (7) Appropriate funds to the Division of Financial Institutions for positions and resources; and
- (8) Repeal the statutory authorization for deferred deposit transactions on July 1, 2023.

Your Committee received testimony in support of this measure from Dollar Financial Group. Your Committee received testimony in opposition to this measure from The Pew Charitable Trusts; Maui Loan, Inc.; and one individual. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs and Hawaii Financial Services Association.

Your Committee finds that nearly one quarter of all Hawaii households use an alternative financial service product, such as a check cashing or payday loan service, at least once during the year. However, due to the lack of certain protections in existing deferred deposit laws, consumers can easily get trapped in unsustainable cycles of debt. Installment loans, rather than traditional payday loans, allow unbanked and underbanked persons to utilize more traditional financial products. This measure would transition the market of payday loans to installment loans over a two-year period and implement certain consumer protections for deferred deposit transactions.

Your Committee notes the concerns raised in testimony that this measure, as currently drafted, does not sufficiently resolve Hawaii's payday loan problem. Specifically, this measure would establish a minimum loan amount of \$600, which does not serve the needs of borrowers who want access to smaller loans. It also allows high fees and unrealistically short-term loans with unaffordable payment amounts. Further, the two-year transition period does not provide the immediate protections needed in today's payday lending industry.

Your Committee further notes that the Department of Commerce and Consumer Affairs' Division of Financial Institutions (DFI) and interested stakeholders have had an opportunity to discuss



potential amendments to this measure to ensure proper protections for consumers who utilize small-dollar loan products. Amendments to this measure are therefore necessary to incorporate this consensus language.

Accordingly, your Committee has amended this measure by:

- (1) Updating section 1 to reflect its amended purpose;
- (2) Amending the definitions of "control", "control person", "finance charges", "instrument", "interest", and "loan charges";
- (3) Inserting a definition for the term "nonprofit organization";
- (4) Deleting the minimum installment loan amount of \$600 and clarifying the total amount of the installment loan shall not be greater than \$1,500;
- (5) Amending the monthly maintenance fees that may be charged by lenders based on a scale of certain original principal loan amounts;
- (6) Clarifying the minimum and maximum contracted repayment terms for installment loans;
- (7) Inserting language clarifying that written agreements for installment loans shall contain a statement that an installment lender shall not require a consumer to purchase add-on products;
- (8) Clarifying a consumer has the right to rescind an installment loan before 5:00 P.M., Hawaii-Aleutian Standard Time, by the third business day at the location where the loan was originated;
- (9) Inserting language that it shall not be a violation of law if a consumer obtains an installment loan voluntarily and separately from the consumer's spouse if the consumer documents the action in writing, either in the written agreement or in a subsequent agreement;



- (10) Inserting language that requires an installment lender to wait a period of three days before the lender may make another installment loan to the same consumer;
- (11) Clarifying that an installment lender shall not negotiate or present an instrument for payment unless the instrument is endorsed with the actual business name of the lender;
- (12) Specifying that, prior to an installment lender negotiating or presenting the instrument, a consumer may redeem any instrument held by the lender as a result of an installment loan if the consumer pays the full amount of the instrument to the lender;
- (13) Clarifying that any loan made in violation of the licensing provisions is void, and no person shall have the right to collect, receive, or retain any principal, interest, fees, or other charges in connection with the loan;
- (14) Amending the fees an installment lender shall pay to DFI to obtain and maintain a valid license;
- (15) Clarifying that a nonprofit organization shall pay certain fees to maintain a valid registration as a nonprofit organization in NMLS;
- (16) Specifying each installment lender shall pay a nonrefundable fee of \$100 to DFI for each office that is relocated;
- (17) Deleting language that would have required check cashers subject to chapter 480F, Hawaii Revised Statutes, to offer consumers the option of participating in voluntary payment plans and limiting consumers to one deferred deposit transaction at a time from all sources;
- (18) Deleting language that would have required DFI to submit a report on the implementation of this measure and the progress of transitioning payday lenders to installment lenders to the Legislature;



- (19) Deleting the appropriation to the Department of Commerce and Consumer Affairs for the purposes of hiring two full-time equivalent (2.0 FTE) permanent examiners to carry out the purposes of the installment loan program;
- (20) Inserting an effective date of July 1, 2021, provided that the licensing requirements for installment lenders shall take effect on January 1, 2022, and provided further that the repealing of certain sections in chapter 480F, Hawaii Revised Statutes, relating to check cashers shall take effect on January 1, 2022; and
- (21) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1192, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1192, H.D. 1, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



