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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Commerce and Consumer Protection  
Tuesday, March 16, 2021  
9:30 a.m.  
Via Videoconference**

**On the following measure:  
H.B. 1192, H.D. 1, RELATING TO CONSUMER PROTECTION**

Chair Baker and Members of the Committee:

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

The purpose of H.D. 1 is to: (1) establish a framework for providing an installment loan program; (2) allow check cashers to continue to make deferred deposit check transactions and offer a voluntary payment plan after the third deferred deposit transaction if the customer is in financial hardship; (3) allow one deferred deposit check transaction at a time per customer; (4) repeal deferred deposit transactions after July 1, 2023; (5) require the DFI to report on the progress of transitioning check cashers to installment lenders; and (6) authorize the DFI to hire two examiners and procure equipment to carry out the purposes of the installment loan program.

The Department appreciates the intent of H.D. 1 to address the unsustainable cycle of debt consumers face when they engage in deferred deposits activity. After discussing this bill with industry members and recognizing that small businesses may

not be able to offer installment loans without a significant outlay of funding for new software, the Department is working on a proposal, attached for your review as proposed H.D. 2, to: (1) repeal the check cashing law in Hawaii Revised Statutes chapter 480F; and (2) move the check cashing law to the purview of the DFI to provide licensure, ongoing supervision, regulation, and examination. Specifically, proposed H.D. 2 will:

1. Amortize the deferred check transaction to not less than six months if the consumer makes this request on the basis of hardship or if the consumer is unable to repay the deferred check transaction after three terms;
2. Cap the maximum allowable fees at 50% of the original deferred check transaction amount;
3. Cap the fee for the extended repayment for consumers;
4. Cap the maximum allowable deferred check transaction to \$600;
5. Require check cashers to provide clear disclosures of the terms and charges of the deferred check transaction;
6. Allow only one deferred check transaction per consumer; and
7. Require full licensure of check cashers.

The Department requests additional time to continue working with the industry members to refine these provisions.

Thank you for the opportunity to testify on this bill.

H.B. NO.1192 PROPOSED  
H.D. 2

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A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

PART I

1           SECTION 1. The legislature finds that a 2019 survey of  
2 household financial health in Hawaii identified that only  
3 thirty-one per cent of households in the state were financially  
4 healthy. That means that more than two in three families  
5 regularly spent more than they earned, failed to pay all their  
6 bills on time, and/or had inadequate liquid and long-term  
7 savings.

8           The survey also found that five per cent of households are  
9 "unbanked," meaning that they do not have a checking or savings  
10 account, and an additional nineteen per cent of households are  
11 "underbanked," meaning they may have either a checking account  
12 or a savings account but may rely on an alternative financial  
13 services product as well. These include money orders, check  
14 cashing, payday loans and pawn shop or auto title loans  
15 services. Despite the high costs, these types of products were  
16 used by twenty-one per cent of households at least once during

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1 the year as many found the convenience and quick access to cash  
2 appealing.

3         The legislature also finds that there has been a shift in  
4 the payday industry toward small dollar installment loans, which  
5 are repayable over time and secured by access to the borrower's  
6 checking account. According to the Pew Charitable Trusts,  
7 national survey data indicates that seventy-nine per cent of  
8 payday borrowers prefer small dollar loans that are due in  
9 installments, which only take a small share of each paycheck.  
10 However, in the absence of sensible regulatory safeguards, this  
11 type of lending, as well as the traditional deferred deposit  
12 lending market, can be harmful to consumers.

13         Unfortunately, due to the State's current deferred deposit  
14 law, the payday lending industry can engage in practices that  
15 trap consumers in unsustainable cycles of debt. Payday lenders  
16 structure loans with unrealistically short repayment terms,  
17 unaffordable payments, and excessive fees, resulting in long-  
18 term, high-cost debt and harm to the consumer. Lenders are also  
19 granted access to the borrower's checking account and may  
20 continue to debit the consumer's account after the deferred  
21 deposit loan is repaid. The Pew Charitable Trusts has reported  
22 that the average Hawaii payday borrower incurs \$529 in fees to

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1 borrow \$300 over five months. Research also shows that this  
2 amount is nearly three times higher than what the same lenders  
3 charge similarly situated consumers in other states.

4         The legislature notes that there has been a growing trend  
5 around the country to provide more consumer protections, which  
6 benefit consumers and encourage responsible and transparent  
7 lending, for deferred deposit transactions and small dollar  
8 installment loans within the payday lending industry. Many  
9 payday borrowers across the nation have found themselves trapped  
10 in a cycle of debt as a result of high annual interest rates and  
11 fees, especially if loans are not repaid on time or if loans are  
12 rolled over into a new loan.

13         The legislature acknowledges that there is a market for  
14 [installment loans] deferred check transactions. However, the  
15 legislature concludes that if [installment loans] deferred check  
16 transactions are going to be offered to Hawaii consumers, there  
17 must be appropriate consumer protections in place to ensure  
18 these loans contain reasonable terms and fees, provide  
19 sufficient protections that allow borrowers to avoid extending  
20 or adding additional loans, and allow borrowers to meet their  
21 basic living expenses.

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1           Accordingly, the purpose of this Act is to encourage  
2 transparency, increase consumer protection in the alternative  
3 financial service industry, and improve the well-being of Hawaii  
4 consumers by:

5                   (1) Amortizing loans in full and renewing the loan  
6 while also permitting borrowers to choose to repay the loan  
7 without penalty;

8                   (2) Capping maximum allowable loan charges at fifty  
9 per cent of the original principal deferred check transaction  
10 amount, preventing a deferred check transaction from being  
11 either too short or too long in duration;

12                   (3) Capping the maximum allowable loan size at \$600;

13                   (4) Requiring check cashers that enter deferred  
14 deposit transactions to provide additional specified disclosures  
15 and post notices;

16                   (5) Prohibiting a check casher from making more than  
17 one loan at a time to a consumer, preventing incentives for  
18 lenders to "split" loans and charge higher fees;

19                   (6) Creating a licensing requirement for check casher,  
20 and placing them under the oversight of the division of  
21 financial institutions of the department of commerce and  
22 consumer affairs;

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1           (7) Requiring a check casher to offer a voluntary  
2 payment plan for deferred deposit transactions;

3           (8) Requiring check cashers to maintain records and  
4 create reports related to their business activities; and

5           (9) Requiring check cashers to take reasonable  
6 measures to ensure that consumers are limited to one deferred  
7 deposit transaction at a time.

8                                   PART II

9           SECTION 2. The Hawaii Revised Statutes is amended by adding  
10 a new chapter to be appropriated designated and to read as  
11 follows:

12   "CHAPTER  
13   CHECK CASHERS  
14   PART A. GENERAL PROVISIONS

15  
16           §       -1 Definitions. In this chapter, unless the context  
17 or subject matter otherwise requires:

18           "Advertisement" or "advertising" means:

- 19           (1)           Issuing any card, sign, or device to any person;  
20           (2)           Causing, permitting, or allowing the placement  
21 of any sign or marking on or in any building, vehicle, or  
22 structure;

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1           (3)           Placing an advertisement in any newspaper,  
2 magazine, or on the Internet;

3           (4)           Listing or advertising in any directory under a  
4 classification or heading that includes the words "payday  
5 lending", "deferred deposit loan", "quick cash" or the like;

6           (5)           Broadcasting commercials by airwave or internet  
7 transmission; or

8           (6)           Transmitting any written communication,  
9 including a letter or a postcard that encourages a person to  
10 borrow from or through a check casher.

11           "Applicant" means a person applying for the issuance of a  
12 license or a renewal of a license under this chapter.

13           "Authorized delegate" means an entity designated by the  
14 licensee under this chapter to engage in the business of check  
15 cashing on behalf of a licensee.

16           "Borrower" means the obligor, maker, cosigner, or guarantor  
17 under a deferred check transaction agreement. For purposes of  
18 this chapter, a borrower is included in the term consumer.

19           "Call report" means a single report of condition that each  
20 licensee may be required to submit to NMLS.

21           "Check" means any electronic or written check, draft, money  
22 order, or other instrument for the transmission or payment of



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1 money. "Check" does not include a traveler's check or foreign  
2 denomination or foreign drawn payment instrument.

3 "Check casher"

4 (1) Means an individual who for compensation or gain or in  
5 the expectation of compensation or gain:

6 (A) Takes a deferred check transaction application;

7 or

8 (B) Offers or negotiates terms of a deferred check  
9 transaction; and

10 (2) Includes an independent contractor as defined in this  
11 section.

12 "Commissioner" means the commissioner of financial  
13 institutions.

14 "Consumer Financial Protection Bureau" means the Bureau of  
15 Consumer Financial Protection established under title 12 United  
16 States Code chapter 53, subchapter V.

17 "Control" means the power, either directly or indirectly,  
18 to direct management or policies of a company, whether through  
19 ownership of securities, by contract, or otherwise.

20 "Control person" means an individual who directly or  
21 indirectly exercises control over a licensee or applicant.

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1           "Deferred deposit" means a transaction in which a check  
2   cashier refrains from depositing a personal check written by a  
3   customer until a date after the transaction date, pursuant to a  
4   written agreement.

5           "Division" means the division of financial institutions of  
6   the department of commerce and consumer affairs.

7           "Elder" means an individual who is sixty-two years of age  
8   or older.

9           "Employee" means an individual who is:

10          (1) Hired to provide services for a licensee on a regular  
11   basis in exchange for compensation and who does not provide  
12   these services as part of the individual's independent business;

13          (2) Subject to tax withholding, the Federal Income  
14   Contributions Act, and other lawful deductions by the licensee  
15   as a condition of employment; and

16          (3) Subject to the right of the licensee to direct and  
17   control the actions of the individual.

18          "Federal banking agencies" means the Board of Governors of  
19   the Federal Reserve System, the Comptroller of the Currency, the  
20   National Credit Union Administration, and the Federal Deposit  
21   Insurance Corporation.

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1           "Fee" includes any payment of cash or other consideration  
2 paid or given by a customer to a check casher in exchange for  
3 the cashing of a check, including an exchange of value for the  
4 purchase of catalog items, which is in excess of regular retail  
5 value, or for coupons, which may be redeemed for goods or  
6 services.

7           "Immediate family member" means a spouse, child, sibling,  
8 parent, grandparent, grandchild, stepparent, stepchild,  
9 stepsibling, and equivalent adoptive relationships.

10          "Independent contractor" means any person who has a  
11 contractual arrangement to perform check casher activities, to a  
12 licensee, but is not an employee of a licensee.

13          "Individual" means a natural person.

14          "Insured depository institution" means the same as in 12  
15 United States Code section 1813(c) (2); provided that it also  
16 includes any credit union.

17          "Key individual" means any individual ultimately  
18 responsible for establishing or directing policies and  
19 procedures of the licensee, such as an executive officer,  
20 manager, director, or trustee.

21          "License" means a license issued under this chapter.

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1           "Licensee" means a person who is licensed or required to be  
2 licensed under this chapter.

3           "NMLS" means a multistate licensing system developed and  
4 maintained by the Conference of State Bank Supervisors for the  
5 state licensing and registration of state-licensed financial  
6 services providers, or any system provided by the Consumer  
7 Financial Protection Bureau.

8           "Nonprofit organization" means an organization that:

9           (1) Has the status of a tax-exempt organization under  
10 section 501(c)(3) of the Internal Revenue Code of 1986, as  
11 amended;

12           (2) Conducts its activities in a manner that serves public  
13 or charitable purposes, rather than commercial purposes;

14           (3) Receives funding and revenue and charges fees in a  
15 manner that does not incentivize it or its employees to act  
16 other than in the best interests of its clients; and

17           (4) Compensates its employees in a manner that does not  
18 incentivize employees to act other than in the best interests of  
19 its clients; and

20           "Offers or negotiates terms of a deferred check  
21 transaction" means:

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1           (1) Presents for consideration by a consumer or  
2 prospective consumer particular deferred check transaction  
3 terms; or

4           (2) Communicates directly or indirectly with a consumer or  
5 prospective consumer for the purpose of reaching a mutual  
6 understanding about prospective deferred check transaction  
7 terms.

8           "Person" means an individual, sole proprietorship,  
9 partnership, corporation, limited liability company, limited  
10 liability partnership, or other association of individuals,  
11 however organized.

12           "Principal place of business" means a deferred check  
13 transaction company's main office location in this State or the  
14 United States that is identified by any means to the public or  
15 customers as a location at which the licensee holds itself out  
16 as a check casher.

17           "Regular business hours" means Monday through Friday,  
18 between the hours of 8:00 a.m. and 4:30 p.m., excluding state  
19 holidays.

20           "Taking a deferred check transaction application" means  
21 receipt of a request or of a response to a solicitation of an  
22 offer from a consumer, either directly or indirectly, for the

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1 purpose of making a deferred check transaction. Taking a  
2 deferred check transaction application does not include mere  
3 physical handling or transmission of a form.

4 "Unique identifier" means a number or other identifier  
5 assigned by protocols established by NMLS.

6 § -2 Deferred deposits, when allowed. (a) No check  
7 casher may defer the deposit of a check except as provided in  
8 this section.

9 (b) Each deferred deposit shall be made pursuant to a  
10 written agreement that has been signed by the customer and the  
11 check casher or an authorized representative of the check  
12 casher. The written agreement shall contain a statement of the  
13 total amount of any fees charged for the deferred deposit,  
14 expressed in United States currency. The written agreement  
15 shall authorize the check casher to defer deposit of the  
16 personal check until a specific date not later than thirty-two  
17 days from the date the written agreement was signed. The  
18 written agreement shall not permit the check casher to accept  
19 collateral.

20 (c) The face amount of the check shall not exceed \$600 and  
21 the deposit of a personal check written by a customer pursuant  
22 to a deferred deposit transaction may be deferred for no more

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1 than thirty-two days. A check casher may charge a fee for  
2 deferred deposit of a personal check in an amount not to exceed  
3 fifteen per cent of the face amount of the check. Any fees  
4 charged for deferred deposit of a personal check in compliance  
5 with this section shall be exempt from chapter 478.

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

12 (e) A check casher may charge and recover a fee for the  
13 return of a dishonored check in an amount not greater than \$20.

14 (f) No amount in excess of the amounts authorized by this  
15 section and no collateral products such as insurance shall be  
16 directly or indirectly charged by a check casher pursuant or  
17 incident to a deferred deposit agreement.

18 § -3 Deferred deposits transactions. (a) A deferred  
19 deposit transaction originator check shall post in a conspicuous  
20 place in every location at which the deferred deposit  
21 transaction originator does business a notice that sets forth in  
22 no smaller than twenty-eight point type:

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1                   (1) The total amount of any fees charged for the  
2                   deferred deposit, expressed in United States currency;

3                   (2) That customers have a right to rescind a  
4                   deferred deposit transaction within twenty-four hours  
5                   of the transaction;

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

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

11                  (5) Information on available financial education  
12                  services, including contact information for an  
13                  approved budget and credit counselor or an approved  
14                  housing counselor; and

15                  (6) A copy of the license to do business as a  
16                  check casher as required by this part.

17                  (b) Each deferred deposit shall be made pursuant to a  
18                  written agreement that has been signed by the customer and the  
19                  check casher, authorized delegate or agent of an authorized  
20                  delegate of the deferred deposit transaction originator. Both  
21                  the written agreement and the corresponding customer signature  
22                  may be provided through electronic means when initiating the



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1 deferred deposit transaction over the Internet. The written  
2 agreement shall contain a statement of the following:

3           (1) The total amount of any fees charged for the  
4 deferred deposit, expressed in United States currency;  
5 and

6           (2) Notices stating that:

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

10                   (B) The customer may have no more than  
11 one outstanding deferred deposit transaction from  
12 all sources;

13                   (C) Deferred deposit transactions are  
14 not suitable for long-term borrowing; and

15                   (D) The customer may enter into a  
16 voluntary payment plan if the customer:

17                           (i) Is experiencing financial  
18 hardship; or

19                           (ii) Has entered into three or  
20 more consecutive transactions with the same check  
21 cashier; and

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1                   (3) A declaration that financial education  
2                   services are available and include contact information  
3                   for an approved budget and credit counselor or an  
4                   approved housing counselor.

5                   The written agreement shall authorize the check casher to  
6                   defer deposit of the personal check until a specific date not  
7                   later than thirty-two days from the date the written agreement  
8                   was signed. The written agreement shall not permit the check  
9                   casher to accept collateral.

10                  (c) The face amount of the check shall not exceed \$600. The  
11                  deposit of a consumer check written by a customer pursuant to a  
12                  deferred deposit transaction may be deferred for no more than  
13                  thirty-two days. A check casher may charge a fee for deferred  
14                  deposit of a consumer check in an amount not to exceed fifteen  
15                  per cent of the face amount of the check. Any fees charged for  
16                  deferred deposit of a consumer check in compliance with this  
17                  section shall be exempt from chapter 478.

18                  (d) A deferred deposit transaction originator shall not  
19                  enter into an agreement for deferred deposit with a customer  
20                  during the period of time that an earlier agreement for a  
21                  deferred deposit for the same customer is in effect. A deferred  
22                  deposit transaction shall not be repaid, refinanced, or

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1 consolidated by or with the proceeds of another deferred deposit  
2 transaction.

3         (e) A check casher who enters into a deferred deposit  
4 agreement and accepts a check passed on insufficient funds,  
5 shall not be entitled to recover damages in any action brought  
6 pursuant to or governed by chapter 490. No additional interest  
7 shall be collected except the ten per cent allowed by law on  
8 uncollected judgments; provided that the check casher may charge  
9 and recover a fee for the return of a dishonored check in an  
10 amount not greater than \$20.

11         (f) No amount in excess of the amounts authorized by this  
12 section and no collateral products such as insurance shall be  
13 directly or indirectly charged by a deferred deposit transaction  
14 originator pursuant or incident to a deferred deposit agreement.

15         (g) For purposes of this section, "approved budget and  
16 credit counselor" and "approved housing counselor" shall have  
17 the same meaning as those terms are defined in section 667-1."

18         §         -4 Voluntary extended payment plans. (a) At the  
19 time of origination of a third consecutive deferred deposit  
20 transaction made to a customer by a check casher, and at the  
21 time of origination of any subsequent consecutive deferred  
22 deposit transactions, the check casher shall offer the customer,

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1 in writing, the option to participate in a voluntary extended  
2 payment plan. Should the customer be in financial hardship, a  
3 voluntary extended payment plan may be requested by the customer  
4 and arranged by the customer and the check casher at any time.

5 (b) The voluntary extended payment plan shall be  
6 structured to pay the existing debt, both the principal and the  
7 fee, for not more than 6 months consisting of equal payments.  
8 The payments made pursuant to the voluntary payment plan shall  
9 be applied directly to the existing debt, and the lender shall  
10 not charge the customer any additional fee other than an  
11 administration fee not to exceed \$30 for participation in the  
12 voluntary extended payment plan.

13 (c) The check casher shall provide a written copy of the  
14 voluntary extended payment plan agreement to the customer, or an  
15 electronic copy if the transaction is being conducted over the  
16 Internet. The check casher shall be prohibited from engaging in  
17 collection activities while the customer continues to make  
18 payments in accordance with the payment plan. The check casher  
19 shall be prohibited from making any additional deferred deposit  
20 transactions to the customer prior to the completion of the  
21 payments under the voluntary extended payment plan.

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1           (d) The check casher may require the customer to provide a  
2 post-dated check or electronic authorization for funds  
3 transferred for each payment under the voluntary extended  
4 payment plan. If any check or electronic authorization accepted  
5 by the check casher as payment for a voluntary payment plan is  
6 dishonored, the check casher shall charge the customer a fee for  
7 the dishonored instrument not to exceed \$20.

8           (e) If the customer fails to make payments in accordance  
9 with a voluntary extended payment plan, the check casher shall  
10 be entitled to take action as otherwise allowed under this  
11 chapter part to collect the remaining funds due and may charge  
12 the customer a one-time default fee of \$30.

13           (f) For purposes of this section, "financial hardship"  
14 means any hardship from loss of income, reduced work hours,  
15 increased living costs, or other hardships outside of the  
16 control of the customer at the reasonable discretion of the  
17 check casher and evidenced with documentation.

18           §       -5 Single deferred deposit transaction limitation.  
19 A check casher shall take reasonable measures to ensure that no  
20 customer has more than one deferred deposit transaction  
21 outstanding at a time from all sources. A check casher that  
22 receives written or electronic confirmation from each customer

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1 that the customer does not have any outstanding deferred deposit  
2 transactions as of the date the customer enters into a deferred  
3 deposit transaction with the check casher shall be deemed to  
4 have met the requirements of this section.

5 § -6 Authorized places of business; business hours.

6 (a) Every check casher licensed under this chapter shall have  
7 and maintain a principal place of business.

8 (b) A check casher that maintains its principal office in  
9 this State shall designate a qualified individual who is  
10 physically present in the principal place of business as its  
11 branch manager to oversee and manage that principal place of  
12 business.

13 (c) The principal place of business of the check casher  
14 shall be identified in NMLS to consumers as a location at which  
15 the licensee holds itself out as a check casher. Each such  
16 location shall be open for business to the public during posted  
17 business hours, at least some of which shall be during regular  
18 business hours. The business hours shall be posted on or  
19 adjacent to the main office door of the check casher's location,  
20 and visible to the public from outside the location. Business  
21 hours, whether posted at a location or on a check casher  
22 website, shall be displayed in a clear, conspicuous, and

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1 accurate manner that informs the consumer when the location will  
2 be open.

3           (d) The commissioner or the commissioner's authorized  
4 representatives shall be able to conduct an examination or  
5 investigation during regular business hours. If the  
6 commissioner or the commissioner's authorized representatives  
7 are denied access to any office, record, or file for any reason,  
8 such denial may be considered a violation of this chapter.

9           §       -7 Posting and notice of fees charged. Any person  
10 who cashes one or more checks for a fee shall:

11           (1) Post in a conspicuous place in every location at  
12 which the person does business a notice that sets forth:

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

17                   (B) That consumer complaints about the check  
18 cashing business may be filed with the department of  
19 commerce and consumer affairs, and includes and  
20 identifies the telephone number of the consumer  
21 information service of the department of commerce and  
22 consumer affairs;

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1           (2) Provide written notice to each customer of the  
2 fees charged for cashing checks that is separate from and in  
3 addition to any posted notice;

4           (3) Obtain a written acknowledgment from the customer  
5 that written notice of the fees charged for cashing checks was  
6 provided; and

7           (4) Provide each customer a receipt documenting any  
8 and all fees charged.

9           §       -8 Authorized fees. (a) No check casher shall  
10 charge fees in excess of the following amounts:

11           (1) Five per cent of the face amount of the check or  
12 \$5, whichever is greater;

13           (2) Three per cent of the face amount of the check or  
14 \$5, whichever is greater, if the check is the payment of any  
15 kind of state public assistance or federal social security  
16 benefit payable to the bearer of the check;

17           (3) Ten per cent of the face amount of a personal  
18 check or money order, or \$5, whichever is greater; or

19           (4) No more than \$10 to set up an initial account and  
20 issue an optional membership or identification card, and no more  
21 than \$5 for a replacement optional identification card.



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1          (b) The fees allowed in this section shall not be assessed  
2 in any transaction or agreement in which the check casher defers  
3 deposit of the check; and

4          (c) The total amount of fees a check casher may charge,  
5 collect, or receive in connection with an deferred check  
6 transaction shall not exceed fifty per cent of the original  
7 principal deferred check transaction amount.

8                                  PART B

9                                  LICENSING

10          §      -9 Requirement of licensure. (a) Effective January  
11 1, 2022, a person, unless specifically exempted from this  
12 chapter, shall not engage in the business of a check casher with  
13 respect to any dwelling located in this State without first  
14 obtaining and maintaining annually, a license under this  
15 chapter. Each licensed check casher shall register with and  
16 maintain a valid unique identifier issued by NMLS and shall  
17 submit to NMLS any reports that shall be in a form and contain  
18 information as NMLS may require.

19          (b) An independent contractor shall not engage in the  
20 activities of a check casher without a license pursuant to  
21 section      -9. Each independent contractor licensed as a  
22 check casher shall obtain and maintain a valid unique identifier

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1 issued by NMLS. An independent contractor who is not an  
2 exclusive agent of a check casher, shall obtain a license as a  
3 check casher.

4 (c) A person who does not represent to the public, through  
5 advertising or other means of communicating or providing  
6 information, including through business cards, stationery,  
7 brochures, signs, or other promotional items, that the  
8 individual can or will perform any of the activities of a check  
9 casher, who does not advertise that the individual can or will  
10 perform any of the activities of a check casher, and who does  
11 not engage in the activities of a check casher shall not be  
12 required to be licensed under this chapter.

13 (d) If this section or any provision of this section  
14 conflicts at any time with any federal law, then the federal law  
15 shall prevail and this section or the relevant provisions of  
16 this section shall become ineffective and invalid. The  
17 ineffectiveness or invalidity of this section or any of its  
18 provisions shall not affect any other provisions or applications  
19 of this chapter which shall be given effect without the invalid  
20 provision or application, and to this end, the provisions of  
21 this section are severable.

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§ -10 Exemptions. This chapter shall not apply to the following:

(1) Any persons chartered or authorized under the laws of any state or federal law to engage in the activity of an insured depository institution as defined in title 12 United States Code section 1813(c)(2), including banks or savings associations, and operating subsidiaries of an insured depository institution;

(2) Trust companies, credit unions, insurance companies, and financial service loan companies licensed by the State;

(3) Employees of government agencies or of housing finance agencies who act as deferred check cashers;

(4) The interest rate for the loan does not exceed the State's usury limit; provided that the exemptions from usury specified in section 478-8 shall not apply to transactions subject to this paragraph;

(5) An applicant or licensee may appoint an entity described in subsection (a) as an authorized delegate.

(6) Any person who is principally engaged in the bona fide retail sale of goods or services, and who, either as incident to or independent of the retail sale or service, from time to time cashes items for a fee or other consideration, where not more

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1 than \$2, or two per cent of the amount of the check, whichever  
2 is greater, is charged for the service;

3       (7) Check cashers shall not be defined as a collection  
4 agency pursuant to section 443B-1.

5       §       -11 License; application; issuance. (a) Applicants  
6 for a license shall apply in a form as prescribed by NMLS or by  
7 the commissioner.

8       (b) To fulfill the purposes of this chapter, the  
9 commissioner may enter into agreements or contracts with NMLS or  
10 other entities to use NMLS to collect and maintain records and  
11 process transaction fees or other fees related to licensees or  
12 other persons subject to this chapter.

13       (c) For the purpose and the extent necessary to  
14 participate in NMLS, the commissioner may waive or modify, in  
15 whole or in part, by rule or order, any or all of the  
16 requirements of this chapter and establish new requirements as  
17 reasonably necessary to participate in NMLS.

18       (d) In connection with an application for a license under  
19 this chapter, the applicant, at a minimum, shall furnish to NMLS  
20 information concerning the applicant's identity, including:

21               (1) Fingerprints of the applicant or, if an  
22 applicant is not an individual, each of the

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1           applicant's control persons and key individuals for  
2           submission to the Federal Bureau of Investigation and  
3           any governmental agency or entity authorized to  
4           receive the fingerprints for a state, national, and  
5           international criminal history background check,  
6           accompanied by the applicable fee charged by the  
7           entities conducting the criminal history background  
8           check; and

9                       (2) Personal history and experience of the  
10           applicant or, if an applicant is not an individual,  
11           each of the applicant's control persons and key  
12           individuals in a form prescribed by NMLS including the  
13           submission of authorization for NMLS and the  
14           commissioner to obtain:

15                               (A) An independent credit report obtained  
16           from a consumer reporting agency described in  
17           section 603(p) of the Fair Credit Reporting Act,  
18           title 15 United States Code section 1681 et seq.;  
19           and

20                               (B) Information related to any  
21           administrative, civil, or criminal findings by  
22           any governmental jurisdiction;

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1           provided that the commissioner may use any  
2           information obtained pursuant to this subsection  
3           or through NMLS to determine an applicant's  
4           demonstrated financial responsibility, character,  
5           and general fitness for licensure.

6           (e) The commissioner may use NMLS as an agent for  
7           requesting information from and distributing information to the  
8           Department of Justice or any governmental agency.

9           (f) The commissioner may use NMLS as an agent for  
10          requesting and distributing information to and from any source  
11          directed by the commissioner.

12          (g) An applicant for a license as a check casher that is a  
13          person other than an individual shall be registered with the  
14          business registration division of the department of commerce and  
15          consumer affairs to do business in this State before a license  
16          pursuant to this chapter shall be granted.

17          §       -12 Presumption of control. An individual is  
18          presumed to control a deferred check transaction company if that  
19          individual is:

20                       (1) A control person; or

21                       (2) A key individual who directly or indirectly  
22          has the right to vote ten per cent or more of a class

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1           of voting securities or has the power to sell or  
2           direct the sale of ten per cent or more of a class of  
3           voting securities of that licensee or applicant.

4           §       -13 Automatic secondary review of license  
5 application. (a) For each application that was determined on  
6 initial review to fail to meet the criteria for licensure, the  
7 commissioner shall provide a secondary level of review of the  
8 application which shall include the:

9                   (1) Overall character and fitness of the  
10                   applicant, taking into account all relevant  
11                   circumstances and weighing all mitigating factors  
12                   appropriately; and

13                   (2) Assurance that non-discretionary licensing  
14                   criteria have been applied correctly.

15           (b) The commissioner may request that an applicant provide  
16 any additional or supplemental information that the commissioner  
17 deems necessary for a secondary review of an application.

18           §       -14 Decision denying application subject to  
19 administrative hearing. (a) Within fifteen days following  
20 receipt of a decision denying an application, an applicant may  
21 petition the commissioner for an administrative hearing that  
22 shall be held in accordance with chapter 91 and the rules of the

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1 department of commerce and consumer affairs. If a petition for  
2 an administrative hearing is not filed within the time  
3 specified, the commissioner's decision denying the application  
4 shall become a final decision and order denying the application.

5       (b) Upon the receipt of a petition for an administrative  
6 hearing, the commissioner shall assign the petition to a  
7 hearings officer for further proceedings pursuant to the rules  
8 of the department of commerce and consumer affairs. The  
9 commissioner shall issue a written final decision and order,  
10 following the hearings officer's transmittal to the commissioner  
11 of the entire record together with the recommended decision, any  
12 timely filed exceptions, and any timely filed statements in  
13 support of the recommended decision.

14       § -15 Abandoned applications. (a) An application for  
15 licensure pursuant to this chapter shall be considered abandoned  
16 if an applicant fails to provide evidence of continued efforts  
17 to complete the licensing application process for thirty days.  
18 The thirty-day period shall begin on the last day of contact  
19 with the division by the applicant. The commissioner may extend  
20 this period for good cause. No refund of filing fees shall be  
21 provided to an applicant for an abandoned application. The  
22 commissioner shall not be required to act on any abandoned



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1 application and is not required to retain abandoned applications  
2 or supporting documents. The commissioner may withdraw  
3 abandoned applications from NMLS.

4 (b) For purposes of this section, failure to provide  
5 evidence of continued efforts to complete the licensing process  
6 includes:

7 (1) Failure to submit required documents and other  
8 information requested by the commissioner within  
9 thirty days from the last date the documents or other  
10 information were requested; or

11 (2) Failure to provide the commissioner with any  
12 written communication indicating that the applicant is  
13 attempting to complete the licensing process for a  
14 period of thirty days.

15 (c) If an application is deemed abandoned by the  
16 commissioner, the applicant may reapply for licensure after  
17 payment of applicable fees and compliance with the licensing  
18 requirements in effect at the time of reapplication.

19 (d) An applicant may withdraw an application that has been  
20 submitted under this chapter at any time; provided that no  
21 refund shall be issued. The commissioner shall treat a

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1 withdrawn application as an abandoned application according to  
2 this section.

3           §       -16 Issuance of license. (a) The commissioner  
4 shall not issue a license pursuant to this chapter unless the  
5 commissioner makes at a minimum the following findings:

6                       (1) The applicant, each of the applicant's  
7 control persons and key individuals, has never had a  
8 check casher or a check casher license revoked in any  
9 jurisdiction; provided that a subsequent formal  
10 vacation of a revocation shall not be deemed a  
11 revocation;

12                      (2) The applicant, each of the applicant's  
13 control persons, executive officers, directors,  
14 general partners, and managing members, has not been  
15 convicted of, or pled guilty or nolo contendere, or  
16 been granted a deferred acceptance of a guilty plea  
17 under federal law or under chapter 853 to a felony in  
18 a domestic, foreign, or military court:

19                           (A) During the seven-year period preceding the  
20 date of the application for licensing; or

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1                   (B) At any time preceding the date of  
2 application, if the felony involved an act of fraud,  
3 dishonesty, breach of trust, or money laundering;  
4 provided that any pardon of a conviction shall not be  
5 deemed a conviction for purposes of this section;

6                   (3) The applicant, each of the applicant's  
7 control persons and key individuals has demonstrated  
8 financial responsibility, character, and general  
9 fitness to command the confidence of the community and  
10 to warrant a determination that the applicant shall  
11 operate honestly, fairly, and efficiently pursuant to  
12 this chapter. For purposes of this paragraph, a  
13 person is not financially responsible when the person  
14 has shown a disregard in the management of the  
15 person's financial condition. A determination that a  
16 person has shown a disregard in the management of the  
17 person's financial condition may be based on:

18                   (A) Current outstanding judgments, except  
19 judgments solely as a result of medical expenses;

20                   (B) Current outstanding tax liens or other  
21 government liens and filings;

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1                   (C) Foreclosures within the past three years;  
2                   and

3                   (D) A pattern of seriously delinquent accounts  
4                   within the past three years;

5                   (4) The applicant, each of the applicant's  
6                   control persons or key individuals has not been  
7                   convicted of, plead guilty or nolo contendere to, or  
8                   been granted a deferred acceptance of a guilty plea  
9                   under federal law or chapter 853 to any misdemeanor  
10                  involving an act of fraud, dishonesty, breach of  
11                  trust, or money laundering.

12                 (b) The applicant, each of the applicant's control persons  
13                 an key individuals, shall submit authorization to the  
14                 commissioner for the commissioner to conduct background checks  
15                 to determine or verify the information in subsection (a) in each  
16                 state where the person has conducted check cashing activities.  
17                 Authorization pursuant to this subsection shall include consent  
18                 to provide additional fingerprints, if necessary, to law  
19                 enforcement or regulatory bodies in other states.

20                 §         -17 Standards for license renewal; renewal report.

21                 (a) The minimum standards for license renewal for check cashers  
22                 shall include the following:

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1                   (1) The check casher continues to meet the  
2                   minimum standards for licensure under section         -5;

3                   (2) The check casher has paid all required fees  
4                   for renewal of the license; and

5                   (3) The check casher is registered with the  
6                   business registration division of the department of  
7                   commerce and consumer affairs.

8           (b) The annual renewal fee shall be accompanied by a  
9           complete annual report, in a form prescribed by the  
10           commissioner, that shall include:

11                   (1) A copy of the licensee's most recent  
12                   audited annual financial statement, including balance  
13                   sheets, statement of income or loss, statement of  
14                   changes in shareholders' equity, and statement of cash  
15                   flows or, if a licensee is a wholly owned subsidiary  
16                   of another corporation, the consolidated audited  
17                   annual financial statement of the parent corporation  
18                   in lieu of the licensee's audited annual financial  
19                   statement;

20                   (2) A report detailing the check casher's  
21                   activities in this State since the prior reporting  
22                   period, including:

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1                   (A) The number of deferred check  
2                   transactions made;

3                   (B) The number of deferred check  
4                   transactions that have defaulted; and

5                   (C) Any other information that the  
6                   commissioner may reasonably require related to  
7                   performance metrics and the efficacy of the  
8                   installment loan program;

9           (c) A check casher that fails to satisfy the minimum  
10 standards for license renewal shall expire.

11           §       -18 Authority to require license. In addition to any  
12 other duties imposed upon the commissioner, the commissioner  
13 shall require check cashers to be licensed through NMLS. The  
14 commissioner is authorized to participate in NMLS. The  
15 commissioner may establish by rule pursuant to chapter 91,  
16 requirements for check cashers and check casher companies,  
17 including:

18                   (1) Background checks of:

19                           (A) Criminal history through fingerprint or  
20                   other databases;

21                           (B) Civil or administrative records;

22                           (C) Credit history; and



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1                   (3) That the licensee is subject to supervision  
2                   and rule by the commissioner.

3           §       -20 Authorized delegate; conduct. (a) An  
4 authorized delegate of a licensee shall not make any fraudulent  
5 or false statement or misrepresentation to a licensee or to the  
6 commissioner.

7           (b) All check cashing activity conducted by authorized  
8 delegates shall be in accordance with the licensee's written  
9 procedures provided to the authorized delegate and shall comply  
10 with all applicable federal and state laws, rules, and  
11 regulations.

12           (c) An authorized delegate is deemed to consent to the  
13 commissioner's inspection, with or without prior notice to the  
14 licensee or authorized delegate, of the books and records of the  
15 authorized delegate when the commissioner has a reasonable basis  
16 to believe that the licensee or delegate is not in compliance  
17 with this chapter.

18           (d) An authorized delegate is under a duty to act only as  
19 authorized under the contract with the licensee. An authorized  
20 delegate that exceeds its authority is subject to cancellation  
21 of the delegate's contract and further disciplinary action by  
22 the commissioner.





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1                   (2) Provisions for the transfer or assumption of  
2 assets;

3                   (3) Provisions for pending applications or  
4 transactions;

5                   (4) Provisions for payment or assumption of  
6 liabilities;

7                   (5) Provisions for the disposition of pending  
8 individual consumer transactions; and

9                   (6) Provisions for transfer or assumption of all  
10 trust, agency, and other fiduciary relationships and  
11 accounts.

12 (b) The commissioner shall approve the surrender if:

13                   (1) The commissioner is satisfied with the plan  
14 as set forth by the licensee; and

15                   (2) No other reason exists to deny the request  
16 for surrender;

17 provided that the commissioner may impose any  
18 restrictions and conditions as the commissioner deems  
19 appropriate.

20 (c) The surrender shall not affect rights and duties that  
21 have matured, penalties that were incurred, and proceedings that

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1 were begun before the effective date of the surrender of a  
2 license under this section.

3           §       -22 Change in control of a licensee; fees. (a) A  
4 licensee shall submit to the commissioner an application  
5 requesting approval of a proposed change of control of the  
6 licensee, accompanied by a nonrefundable application fee of  
7 \$500, payable to the division.

8           (b) The commissioner shall approve a request for change of  
9 control under subsection (a) if, after investigation, the  
10 commissioner determines that the person or group of persons who  
11 will obtain control will be in compliance with this chapter upon  
12 approval of the application for a proposed change of control of  
13 the licensee and will have the competence, experience,  
14 character, and general fitness to control the licensee or person  
15 in control of the licensee in a lawful and proper manner, and  
16 that the interests of the public will not be jeopardized by the  
17 change of control.

18           §       -23 NMLS registry information; challenge process.  
19 The commissioner may establish a process by rule pursuant to  
20 chapter 91 whereby a licensee may challenge information entered  
21 into NMLS by the commissioner.

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1           §       -24 Enforcement authorities; violations; penalties.

2       (a) To ensure the effective supervision and enforcement of this  
3 chapter, the commissioner may, pursuant to chapter 91:

4                   (1) Deny, suspend, revoke, condition, or decline  
5 to renew a license because of a violation of this  
6 chapter, rules, an order, or a directive entered under  
7 this chapter;

8                   (2) Deny, suspend, revoke, condition, or decline  
9 to renew a license if an applicant or licensee  
10 withholds information or makes a material misstatement  
11 in an application for a license or renewal of a  
12 license;

13                   (3) Order restitution against persons subject to  
14 this chapter for violations of this chapter;

15                   (4) Impose fines on persons subject to this  
16 chapter; and

17                   (5) Issue orders or directives under this  
18 chapter as follows:

19                           (A) Order or direct persons subject to this  
20 chapter to cease and desist from conducting  
21 business, including immediate temporary orders to  
22 cease and desist;

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1                   (B) Order or direct persons subject to this  
2 chapter to cease any harmful activities or  
3 violations of this chapter, including immediate  
4 temporary orders to cease and desist;

5                   (C) Enter immediate temporary orders to  
6 cease doing business under a license issued  
7 pursuant to the authority granted under this  
8 chapter if the commissioner determines that the  
9 license was erroneously granted or the licensee  
10 or any person subject to this chapter is  
11 currently in violation of this chapter; or

12                   (D) Order or direct any other affirmative  
13 action as the commissioner deems necessary.

14           (b) The commissioner may impose an administrative fine on  
15 a licensee or authorized delegate subject to this chapter if the  
16 commissioner finds on the record after notice and opportunity  
17 for hearing that the licensee or authorized delegate subject to  
18 this chapter has violated or failed to comply with any  
19 requirement of this chapter or any rule prescribed by the  
20 commissioner under this chapter or order issued under the  
21 authority of this chapter.

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1           (c) The maximum fine for each act or omission described in  
2 subsection (b) shall be \$25,000.

3           (d) Each violation or failure to comply with any directive  
4 or order of the commissioner shall be a separate and distinct  
5 violation.

6           (e) Notwithstanding section 480-13.5, any violation of  
7 this chapter that is directed toward, targets, or injures an  
8 elder, may be subject to an additional civil penalty not in  
9 excess of \$10,000 for each violation in addition to any other  
10 fines or penalties assessed for the violation.

11           §       -25 Confidentiality. (a) Except as otherwise  
12 provided in Public Law 110-289, section 1512, the requirements  
13 under any federal or state law regarding the privacy or  
14 confidentiality of any information or material provided to NMLS,  
15 and any privilege arising under federal or state law, including  
16 the rules of any federal or state court, with respect to the  
17 information or material shall continue to apply to the  
18 information or material after the information or material has  
19 been disclosed to NMLS The information and material may be  
20 shared with all state and federal regulatory officials with  
21 mortgage industry oversight authority without the loss of

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1 privilege or the loss of confidentiality protections provided by  
2 federal or state law.

3       (b) For these purposes, the commissioner is authorized to  
4 enter into agreements or sharing arrangements with other  
5 governmental agencies, the Conference of State Bank Supervisors,  
6 the American Association of Residential Mortgage Regulators, or  
7 other associations representing governmental agencies as  
8 established by rule or order of the commissioner.

9       (c) Information or material that is subject to a privilege  
10 or confidentiality under subsection (a) shall not be subject to:

11               (1) Disclosure under any federal or state law  
12 governing the disclosure to the public of an officer  
13 or an agency of the federal government or a state; or

14               (2) Subpoena or discovery, or admission into  
15 evidence, in any private civil action or  
16 administrative process, unless with respect to any  
17 privilege held by NMLS applicable to the information  
18 or material; provided that the person to whom the  
19 information or material pertains waives, in whole or  
20 in part, in the discretion of such person, that  
21 privilege.

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1           (d) Notwithstanding chapter 92F, the examination process  
2 and related information and documents, including the reports of  
3 examination, are confidential and are not subject to discovery  
4 or disclosure in civil or criminal lawsuits.

5           (e) Notwithstanding any law to the contrary, the  
6 disclosure of confidential supervisory information or any  
7 information or material described in subsection (a) that is  
8 inconsistent with subsection (a) shall be superseded by the  
9 requirements of this section.

10          (f) This section shall not apply to information or  
11 material relating to the employment history of, and publicly  
12 adjudicated disciplinary and enforcement actions against, check  
13 cashers that are included in NMLS for access by the public.

14          §       -26 Investigation and examination authority. (a)  
15 In addition to any other authority under this chapter, the  
16 commissioner shall have the authority to conduct investigations  
17 and examinations. The commissioner may access, receive, and use  
18 any books, accounts, records, files, documents, information, or  
19 evidence, including:

20                       (1) Criminal, civil, and administrative history  
21 information, including nonconviction data under  
22 chapter 853;



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1                   (2) Personal history and experience information  
2 including independent credit reports obtained from a  
3 consumer reporting agency described in section 603(p)  
4 of the Fair Credit Reporting Act; and

5                   (3) Any other documents, information, or  
6 evidence the commissioner deems relevant to the  
7 inquiry or investigation, regardless of the location,  
8 possession, control, or custody of the documents,  
9 information, or evidence.

10           (b) For the purposes of investigating violations or  
11 complaints arising under this chapter, or for the purposes of  
12 examination, the commissioner may review, investigate, or  
13 examine any licensee or person subject to this chapter, as often  
14 as necessary to carry out the purposes of this chapter. The  
15 commissioner may direct, subpoena, or order the attendance of,  
16 and examine under oath all persons whose testimony may be  
17 required about loans or the business or subject matter of any  
18 examination or investigation, and may direct, subpoena, or order  
19 the person to produce books, accounts, records, files, and any  
20 other documents the commissioner deems relevant to the inquiry.

21           (c) Each licensee or person subject to this chapter shall  
22 provide to the commissioner upon request, the books and records

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1 relating to the operations of the licensee or person subject to  
2 this chapter. The commissioner shall have access to the books  
3 and records and shall be permitted to interview the officers,  
4 principals, check cashers, employees, independent contractors,  
5 agents, and customers of the licensed check casher, individual,  
6 or person subject to this chapter concerning their business.

7         (d) Each licensee or person subject to this chapter shall  
8 make or compile reports or prepare other information as directed  
9 by the commissioner in order to carry out the purposes of this  
10 section, including:

11                 (1) Accounting compilations;

12                 (2) Information lists and data concerning loan  
13 transactions in a format prescribed by the  
14 commissioner; or

15                 (3) Other information deemed necessary to carry  
16 out the purposes of this section.

17         (e) In making any examination or investigation authorized  
18 by this chapter, the commissioner may control access to any  
19 documents and records of the licensee or person under  
20 examination or investigation. The commissioner may take  
21 possession of the documents and records or place a person in  
22 exclusive charge of the documents and records in the place where

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1 they are usually kept. During the period of control, no person  
2 shall remove or attempt to remove any of the documents and  
3 records except pursuant to a court order or with the consent of  
4 the commissioner. Unless the commissioner has reasonable  
5 grounds to believe the documents or records of the licensee or  
6 person under examination or investigation have been, or are at  
7 risk of being altered or destroyed for purposes of concealing a  
8 violation of this chapter, the licensee or owner of the  
9 documents and records shall have access to the documents or  
10 records as necessary to conduct its ordinary business affairs.

11 (f) To carry out the purposes of this chapter, the  
12 commissioner may:

13 (1) Retain attorneys, accountants, or other  
14 professionals and specialists, who may be exempt from  
15 chapter 76, as examiners, auditors, or investigators  
16 to conduct or assist in the conduct of examinations or  
17 investigations;

18 (2) Enter into agreements or relationships with  
19 other government officials or regulatory associations  
20 in order to improve efficiencies and reduce regulatory  
21 burden by sharing resources, standardized or uniform

.B. NO.          

1           methods or procedures, and documents, records,  
2           information, or evidence obtained under this section;

3           (3) Use, hire, contract, or employ public or  
4           privately available analytical systems, methods, or  
5           software to examine or investigate the licensee or  
6           person subject to this chapter;

7           (4) Accept and rely on examination or  
8           investigation reports made by other government  
9           officials, within or without this State; and

10          (5) Accept audit reports made by an independent  
11          certified public accountant for the licensee or person  
12          subject to this chapter in the course of that part of  
13          the examination covering the same general subject  
14          matter as the audit and may incorporate the audit  
15          report in the report of the examination, report of  
16          investigation, or other writing of the commissioner.

17          (g) The authority of this section shall remain in effect,  
18          whether a licensee or person subject to this chapter acts or  
19          claims to act under any licensing or registration law of this  
20          State, or claims to act without such authority.

21          (h) No licensee or person subject to investigation or  
22          examination under this section may knowingly withhold, abstract,

.B. NO.          

1 remove, mutilate, destroy, or secrete any books, records,  
2 computer records, or other information.

3         (i) The commissioner may charge an examination or  
4 investigation fee, payable to the division, based upon the cost  
5 per hour per examiner for all licensees and persons subject to  
6 this chapter examined or investigated by the commissioner or the  
7 commissioner's staff. The hourly fee shall be \$60 or an amount  
8 as the commissioner shall establish by rule pursuant to chapter  
9 91. In addition to the examination or investigation fee, the  
10 commissioner may charge any person that is examined or  
11 investigated by the commissioner or the commissioner's staff  
12 pursuant to this section additional amounts for travel, per  
13 diem, mileage, and other reasonable expenses incurred in  
14 connection with the examination or investigation, payable to the  
15 division.

16         (j) Any person having reason to believe that this chapter  
17 or the rules adopted pursuant thereto have been violated, or  
18 that a license issued under this chapter should be suspended or  
19 revoked, may file a written complaint with the commissioner  
20 setting forth the details of the alleged violation or grounds  
21 for suspension or revocation.

.B. NO.          

1           §       -27 Prohibited practices. It shall be a violation  
2 of this chapter for a licensee or person subject to this chapter  
3 to:

4                   (1) Directly or indirectly employ any scheme,  
5 device, or artifice to defraud or mislead consumers or  
6 to defraud any person;

7                   (2) Engage in any unfair or deceptive practice  
8 related to check cashing activities toward any person;

9                   (3) Obtain property by fraud or  
10 misrepresentation;

11                   (4) Solicit or enter into any contract with a  
12 consumer that provides in substance that the person or  
13 individual subject to this chapter may earn a fee or  
14 commission through "best efforts" to obtain a deferred  
15 check transaction even though no deferred check  
16 transaction is actually obtained for the borrower or  
17 applicant for a residential mortgage loan;

18                   (5) Solicit, advertise, or enter into a contract  
19 for specific rates or other financing terms unless the  
20 terms are actually available at the time of  
21 soliciting, advertising, or contracting;

.B. NO.          

1           (6) Conduct any business covered by this chapter  
2 without holding a valid license as required under this  
3 chapter, or assist or aid and abet any person in the  
4 conduct of business under this chapter without a valid  
5 license as required under this chapter;

6           (7) Fail to make disclosures as required by this  
7 chapter and any other applicable state or federal law  
8 including rules or regulations adopted pursuant to  
9 state or federal law;

10          (8) Fail to comply with this chapter or any  
11 order or rule issued or adopted under the authority of  
12 this chapter, or fail to comply with any other state  
13 or federal law, including the rules and regulations  
14 adopted pursuant to state or federal law applicable to  
15 any business authorized or conducted pursuant to this  
16 chapter;

17          (9) Make, in any manner, any false or deceptive  
18 statement or representation, including with regard to  
19 the rates or other financing terms or conditions for a  
20 deferred check transaction, or engage in bait and  
21 switch advertising;

.B. NO.          

1                   (10) Negligently or knowingly make any false  
2 statement or provide any misleading information or  
3 knowingly make any omission of material fact in  
4 connection with any information or reports filed with  
5 a governmental agency or NMLS, including an  
6 application for a license under this chapter, or in  
7 connection with any examination or investigation  
8 conducted by the commissioner or another government  
9 agency;

10                   (11) Make any payment, threat, or promise,  
11 directly or indirectly, to any person for the purposes  
12 of influencing the independent judgment of the person  
13 in connection with a deferred check transaction;

14                   (12) Cause or require a consumer to obtain an  
15 insurance coverage in an amount that exceeds the  
16 replacement cost of the deferred check transaction;

17                   (13) Fail to truthfully account for moneys  
18 belonging to a party to deferred check transaction;

19                   (14) Deliver a misleading or deceptive  
20 communication or advertisement, whether written,  
21 electronic, or oral, when marketing or soliciting a  
22 deferred check transaction; provided that:



.B. NO.          

1                   (A) A communication or advertisement that  
2                   uses the name or trademark of a financial  
3                   institution as defined in section 412:1-109 or  
4                   its affiliates or subsidiaries, or infers that  
5                   the communication or advertisement is from,  
6                   endorsed by, is related to, or is the  
7                   responsibility of the financial institution is a  
8                   misleading or deceptive communication; and

9                   (B) Advertising that a specific rate or  
10                  financial terms are available when the rates or  
11                  financial terms are not actually available is a  
12                  misleading or deceptive communication;

13                  (15) Fill in or complete any blank on a deferred  
14                  check transaction application that requests material  
15                  information from the consumer;

16                  (16) Fill in or complete any blank on any  
17                  deferred check transaction which relates to the  
18                  amount, rate, term, or monthly payment of the deferred  
19                  check transaction;

20                  (17) Use a consumer's account number to prepare,  
21                  issue or create a check on behalf o the consumer;

.B. NO.          

1                   (18) Fail to cease accessing a consumer's account  
2                   after the deferred check transaction has been paid in  
3                   full;

4                   (19) Charge, collect, or receive, directly or  
5                   indirectly, charges for negotiating forms of deferred  
6                   deposit transaction proceeds other than cash,  
7                   prepayment fees, or charges in connection with a  
8                   deferred deposit transaction except those authorized  
9                   in this chapter.

10           §       -28 Powers of commissioner. (a) The commissioner  
11 may adopt rules pursuant to chapter 91 as the commissioner deems  
12 necessary for the administration of this chapter.

13           (b) In addition to any other powers provided by law, the  
14 commissioner shall have the authority to:

15                   (1) Administer and enforce the provisions and  
16                   requirements of this chapter;

17                   (2) Adopt, amend, or repeal rules and issue  
18                   declaratory rulings or informal nonbinding  
19                   interpretations;

20                   (3) Develop requirements for licensure through  
21                   rules;

.B. NO.          

1                   (4) Investigate and conduct hearings regarding  
2 any violation of this chapter or any rule or order of,  
3 or agreement with, the commissioner;

4                   (5) Create fact-finding committees that may make  
5 recommendations to the commissioner for the  
6 commissioner's deliberations;

7                   (6) Require an applicant or any of its control  
8 persons or key individuals to disclose their relevant  
9 criminal history and request a criminal history record  
10 check in accordance with chapter 846;

11                   (7) Contract with or employ qualified persons,  
12 including investigators, examiners, or auditors who  
13 may be exempt from chapter 76 and who shall assist the  
14 commissioner in exercising the commissioner's powers  
15 and duties;

16                   (8) Require that all fees, fines, and charges  
17 collected by the commissioner under this chapter be  
18 deposited into the compliance resolution fund  
19 established pursuant to section 26-9(o);

20                   (9) Process and investigate complaints, subpoena  
21 witnesses and documents, administer oaths, and receive  
22 affidavits and oral testimony, including telephonic

.B. NO.          

1           communications, and do any and all things necessary or  
2           incidental to the exercise of the commissioner's power  
3           and duties, including the authority to conduct  
4           contested case proceedings under chapter 91; and

5                       (10) Require a licensee to comply with any rule,  
6           guidance, guideline, statement, supervisory policy or  
7           any similar proclamation issued or adopted by the  
8           Consumer Financial Protection Bureau and any policy  
9           position of the Conference of State Bank Supervisors.

10         §       -29 Unique identifier shown. The unique identifier  
11 of any check casher, except a person who is exempt from this  
12 chapter, shall be clearly shown on all check cashing forms,  
13 solicitations, and advertisements, including business cards or  
14 websites, and any other documents as established by rule or  
15 order of the commissioner.

16         §       -30 Report to NMLS. Notwithstanding any other law  
17 to the contrary, the commissioner is required to regularly  
18 report violations of this chapter, as well as enforcement  
19 actions and other relevant information, to NMLS subject to the  
20 confidentiality provisions contained in section       -25.

21         §       -31 Check casher and nonprofit organization fees;  
22 bonds. (a) Except as provided in subsection (b), a check

.B. NO.          

1   casher shall pay the following fees to obtain and maintain a  
2   valid check casher license:

- 3           (1)   Initial application fee of \$1,000;
- 4           (2)   Annual license renewal fee of \$1,000;
- 5           (3)   Late fee of \$25 per day; and
- 6           (4)   Criminal history background check fee pursuant to  
7           section       -11, -18, and -22.

8           (b)   A nonprofit organization shall pay the following fees  
9   to maintain a valid registration as a nonprofit organization in  
10 NMLS:

- 11           (1)   Initial registration fee of \$200;
- 12           (2)   Annual registration renewal fee of \$150;
- 13           and
- 14           (3)   Late fee of \$25 per day.

15           (c)   In addition to fees charged by NMLS, a licensee shall  
16 pay to the commissioner a fee of \$100 for each of the following  
17 amendments to information provided to NMLS that require the  
18 review of the commissioner:

- 19           (1)   Change of physical location or mailing  
20           address for branch office or principal place of  
21           business;

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1                   (2) Addition or deletion of a "d/b/a"

2                   assignment;

3                   (3) Change of branch manager; and

4                   (4) Change of check casher's legal name.

5 The commissioner, upon a showing of good cause, may waive any  
6 fee set forth in this subsection.

7           (d) The applicant shall file and maintain a surety bond,  
8 approved by the commissioner, executed by the applicant as  
9 obligor and by a surety company authorized to operate as a  
10 surety in this State, whose liability as a surety does not  
11 exceed, in the aggregate, the penal sum of the bond. The penal  
12 sum of the bond shall be a minimum of \$50,000 and a maximum of  
13 \$250,000, based upon the annual dollar amount of loans  
14 originated.

15           (e) The bond required by subsection (c) shall run to the  
16 State of Hawaii as obligee for the use and benefit of the State  
17 and of any person or persons who may have a cause of action  
18 against the licensee as obligor under this part. The bond shall  
19 be conditioned upon the following:

20                   (1) The licensee as obligor shall faithfully  
21 conform to and abide by this part and all the rules  
22 adopted under this part; and

**.B. NO.**           

1                     (2) The bond shall pay to the State and any  
2                     person or persons having a cause of action against the  
3                     licensee as obligor all moneys that may become due and  
4                     owing to the State and those persons under and by  
5                     virtue of this part.

6                     (f) The commissioner may establish, by rule pursuant to  
7                     chapter 91, any other fees or charges necessary for the  
8                     administration of this chapter.

9                     §       -32 Payment of fees. All fees collected pursuant  
10                    to section -22, -24, -31, administrative fines, and other  
11                    charges collected pursuant to this chapter shall be deposited  
12                    into the compliance resolution fund established pursuant to  
13                    section 26-9(o) and shall be payable through NMLS, to the extent  
14                    allowed by NMLS. Fees not eligible for payment through NMLS  
15                    shall be deposited into a separate account within the compliance  
16                    resolution fund for use by the division.

17   PART III

18                    SECTION 3. Section 846-2.7, Hawaii Revised Statutes, is  
19                    amended by amending subsection (b) to read as follows:

20                             "(b) Criminal history record checks may be conducted  
21                    by:

.B. NO.          

1           (1) The department of health or its designee on  
2 operators of adult foster homes for individuals with  
3 developmental disabilities or developmental disabilities  
4 domiciliary homes and their employees, as provided by section  
5 321-15.2;

6           (2) The department of health or its designee on  
7 prospective employees, persons seeking to serve as providers, or  
8 subcontractors in positions that place them in direct contact  
9 with clients when providing non-witnessed direct mental health  
10 or health care services as provided by section 321-171.5;

11           (3) The department of health or its designee on all  
12 applicants for licensure or certification for, operators for,  
13 prospective employees, adult volunteers, and all adults, except  
14 adults in care, at healthcare facilities as defined in section  
15 321-15.2;

16           (4) The department of education on employees,  
17 prospective employees, and teacher trainees in any public school  
18 in positions that necessitate close proximity to children as  
19 provided by section 302A-601.5;

20           (5) The counties on employees and prospective  
21 employees who may be in positions that place them in close



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1 proximity to children in recreation or child care programs and  
2 services;

3           (6) The county liquor commissions on applicants for  
4 liquor licenses as provided by section 281-53.5;

5           (7) The county liquor commissions on employees and  
6 prospective employees involved in liquor administration, law  
7 enforcement, and liquor control investigations;

8           (8) The department of human services on operators and  
9 employees of child caring institutions, child placing  
10 organizations, and foster boarding homes as provided by section  
11 346-17;

12           (9) The department of human services on prospective  
13 adoptive parents as established under section 346 19.7;

14           (10) The department of human services or its designee  
15 on applicants to operate child care facilities, household  
16 members of the applicant, prospective employees of the  
17 applicant, and new employees and household members of the  
18 provider after registration or licensure as provided by section  
19 346-154, and persons subject to section 346-152.5;

20           (11) The department of human services on persons  
21 exempt pursuant to section 346-152 to be eligible to provide

.B. NO.          

1 child care and receive child care subsidies as provided by  
2 section 346-152.5;

3           (12) The department of health on operators and  
4 employees of home and community-based case management agencies  
5 and operators and other adults, except for adults in care,  
6 residing in community care foster family homes as provided by  
7 section 321-15.2;

8           (13) The department of human services on staff members  
9 of the Hawaii youth correctional facility as provided by section  
10 352-5.5;

11           (14) The department of human services on employees,  
12 prospective employees, and volunteers of contracted providers  
13 and subcontractors in positions that place them in close  
14 proximity to youth when providing services on behalf of the  
15 office or the Hawaii youth correctional facility as provided by  
16 section 352D-4.3;

17           (15) The judiciary on employees and applicants at  
18 detention and shelter facilities as provided by section 571-34;

19           (16) The department of public safety on employees and  
20 prospective employees who are directly involved with the  
21 treatment and care of persons committed to a correctional

.B. NO.          

1 facility or who possess police powers including the power of  
2 arrest as provided by section 353C-5;

3           (17) The board of private detectives and guards on  
4 applicants for private detective or private guard licensure as  
5 provided by section 463-9;

6           (18) Private schools and designated organizations on  
7 employees and prospective employees who may be in positions that  
8 necessitate close proximity to children; provided that private  
9 schools and designated organizations receive only indications of  
10 the states from which the national criminal history record  
11 information was provided pursuant to section 302C-1;

12           (19) The public library system on employees and  
13 prospective employees whose positions place them in close  
14 proximity to children as provided by section 302A 601.5;

15           (20) The State or any of its branches, political  
16 subdivisions, or agencies on applicants and employees holding a  
17 position that has the same type of contact with children,  
18 vulnerable adults, or persons committed to a correctional  
19 facility as other public employees who hold positions that are  
20 authorized by law to require criminal history record checks as a  
21 condition of employment as provided by section 78-2.7;

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1           (21) The department of health on licensed adult day  
2 care center operators, employees, new employees, subcontracted  
3 service providers and their employees, and adult volunteers as  
4 provided by section 321-15.2;

5           (22) The department of human services on purchase of  
6 service contracted and subcontracted service providers and their  
7 employees serving clients of the adult protective and community  
8 services branch, as provided by section 346-97;

9           (23) The department of human services on foster  
10 grandparent program, senior companion program, and respite  
11 companion program participants as provided by section 346-97;

12           (24) The department of human services on contracted  
13 and subcontracted service providers and their current and  
14 prospective employees that provide home and community-based  
15 services under section 1915(c) of the Social Security Act, title  
16 42 United States Code section 1396n(c), or under any other  
17 applicable section or sections of the Social Security Act for  
18 the purposes of providing home and community-based services, as  
19 provided by section 346-97;

20           (25) The department of commerce and consumer affairs  
21 on proposed directors and executive officers of a bank, savings  
22 bank, savings and loan association, trust company, and

.B. NO.          

1 depository financial services loan company as provided by  
2 section 412:3-201;

3           (26) The department of commerce and consumer affairs  
4 on proposed directors and executive officers of a nondepository  
5 financial services loan company as provided by section 412:3-  
6 301;

7           (27) The department of commerce and consumer affairs  
8 on the original chartering applicants and proposed executive  
9 officers of a credit union as provided by section 412:10-103;

10           (28) The department of commerce and consumer affairs  
11 on:

12                   (A) Each principal of every non-corporate  
13 applicant for a money transmitter license;

14                   (B) Each person who upon approval of an  
15 application by a corporate applicant for a money transmitter  
16 license will be a principal of the licensee; and

17                   (C) Each person who upon approval of an  
18 application requesting approval of a proposed change in control  
19 of licensee will be a principal of the licensee,

20                               as provided by sections 489D-9 and 489D 15;

21           (29) The department of commerce and consumer affairs  
22 on applicants for licensure and persons licensed under title 24;

.B. NO.          

- 1           (30) The Hawaii health systems corporation on:
- 2                   (A) Employees;
- 3                   (B) Applicants seeking employment;
- 4                   (C) Current or prospective members of the
- 5 corporation board or regional system board; or
- 6                   (D) Current or prospective volunteers,
- 7 providers, or contractors,
- 8                   in any of the corporation's health facilities as
- 9 provided by section 323F-5.5;
- 10           (31) The department of commerce and consumer affairs
- 11 on:
- 12                   (A) An applicant for a mortgage loan originator
- 13 license, or license renewal; and
- 14                   (B) Each control person, executive officer,
- 15 director, general partner, and managing member of an applicant
- 16 for a mortgage loan originator company license or license
- 17 renewal,
- 18                   as provided by chapter 454F;
- 19           (32) The state public charter school commission or
- 20 public charter schools on employees, teacher trainees,
- 21 prospective employees, and prospective teacher trainees in any

.B. NO.          

1 public charter school for any position that places them in close  
2 proximity to children, as provided in section 302D-33;

3           (33) The counties on prospective employees who work  
4 with children, vulnerable adults, or senior citizens in  
5 community-based programs;

6           (34) The counties on prospective employees for fire  
7 department positions which involve contact with children or  
8 vulnerable adults;

9           (35) The counties on prospective employees for  
10 emergency medical services positions which involve contact with  
11 children or vulnerable adults;

12           (36) The counties on prospective employees for  
13 emergency management positions and community volunteers whose  
14 responsibilities involve planning and executing homeland  
15 security measures including viewing, handling, and engaging in  
16 law enforcement or classified meetings and assisting vulnerable  
17 citizens during emergencies or crises;

18           (37) The State and counties on employees, prospective  
19 employees, volunteers, and contractors whose position  
20 responsibilities require unescorted access to secured areas and  
21 equipment related to a traffic management center;

**.B. NO.**           

1           (38) The State and counties on employees and  
2 prospective employees whose positions involve the handling or  
3 use of firearms for other than law enforcement purposes;

4           (39) The State and counties on current and prospective  
5 systems analysts and others involved in an agency's information  
6 technology operation whose position responsibilities provide  
7 them with access to proprietary, confidential, or sensitive  
8 information;

9           (40) The department of commerce and consumer affairs  
10 on:

11           (A) Applicants for real estate appraiser  
12 licensure or certification as provided by chapter 466K;

13           (B) Each person who owns more than ten per cent  
14 of an appraisal management company who is applying for  
15 registration as an appraisal management company, as  
16 provided by section 466L-7; and

17           (C) Each of the controlling persons of an  
18 applicant for registration as an appraisal management company,  
19 as provided by section 466L-7;

20           (41) The department of health or its designee on all  
21 license applicants, licensees, employees, contractors, and  
22 prospective employees of medical cannabis dispensaries, and



.B. NO.          

1 individuals permitted to enter and remain in medical cannabis  
2 dispensary facilities as provided under sections 329D-15(a)(4)  
3 and 329D 16(a)(3);

4           (42) The department of commerce and consumer affairs  
5 on applicants for nurse licensure or license renewal,  
6 reactivation, or restoration as provided by sections 457-7, 457-  
7 8, 457-8.5, and 457-9;

8           (43) The county police departments on applicants for  
9 permits to acquire firearms pursuant to section 134-2 and on  
10 individuals registering their firearms pursuant to section 134-  
11 3;

12           (44) The department of commerce and consumer affairs  
13 on:

14                   (A) Each of the controlling persons of the  
15 applicant for licensure as an escrow depository, and  
16 each of the officers, directors, and principals who  
17 will be in charge of the escrow depository's  
18 activities upon licensure; and

19                   (B) Each of the controlling persons of an  
20 applicant for proposed change in control of an escrow  
21 depository licensee, and each of the officers,  
22 directors, and principals who will be in charge of the

.B. NO.          

1           licensee's activities upon approval of such  
2           application, as provided by chapter 449;

3           (45) The department of taxation on current or  
4           prospective employees or contractors who have access to federal  
5           tax information in order to comply with requirements of federal  
6           law, regulation, or procedure, as provided by section 231-1.6;

7           (46) The department of labor and industrial relations  
8           on current or prospective employees or contractors who have  
9           access to federal tax information in order to comply with  
10          requirements of federal law, regulation, or procedure, as  
11          provided by section 383-110;

12          (47) The department of human services on current or  
13          prospective employees or contractors who have access to federal  
14          tax information in order to comply with requirements of federal  
15          law, regulation, or procedure, as provided by section 346-2.5;

16          (48) The child support enforcement agency on current  
17          or prospective employees, or contractors who have access to  
18          federal tax information in order to comply with federal law,  
19          regulation, or procedure, as provided by section 576D-11.5;

20          [and]

21          (49) The department of commerce and consumer affairs  
22          on each control person and key individual of a check casher



\_\_\_\_\_.B. NO.\_\_\_\_\_

**Report Title:**

[Keyword; Keyword. Recommended maximum 1 line. Capitalize first letter of each keyword, except "and," "by," "of," etc.]  
Check casher, Deferred check transaction,

**Description:**

[Insert Purpose paragraph from justification sheet, but remove "To." Recommended maximum 5 lines.] The purpose of the Act is to license check cashers by the Division of Financial Institutions.

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



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March 16, 2021

Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair  
Members of the Committee on Commerce and Consumer Protection

Re: HB1192 HD1 Relating to Consumer Protection. - **SUPPORT**

---

On behalf of Dollar Financial Group ("DFG"), we respectfully submit the following testimony relating to HB1192 HD1. DFG **STRONGLY SUPPORTS** HB1192 HD1 with amendments, for the reasons described below.

We would like to begin by applauding both the Legislature and this Committee for considering the industry and consumer advocacy groups' feedback related to prior proposed legislation on alternative financial service products for non-prime consumer borrowers in Hawaii, and drafting a bill that can place Hawaii at the forefront of alternative finance regulation, while at the same time addressing a growing social problem in the state.

The following amendments to the bill are recommended as a result of discussions with the Department of Financial Institutions:

- Creating a new article within Chapter 412 to capture Small Dollar Lending, including Installment Loans and Deferred Deposit Transactions, each in a new section accordingly.
- Creating a new license type, called Deferred Deposit Transaction Originator.
- Transition period to allow DFI and the industry for proper preparation and implementation

Placing all small-dollar lending under the oversight of a single regulator will promote consistency and predictability within the Hawaii subprime lending market, benefiting both consumers and lenders. By building additional measures into Deferred Deposit Transactions and creating a solid statutory and economic framework for a new category of Installment Loans, HB1192 HD1 provides consumers with a greater number of credit options better suited to their situation and credit profiles, while at the same time helping them improve their credit history (which a viable installment lending product will enable them to do). Based on its extensive experience, DFG strongly believes that the optimal statutory and regulatory framework is one that both enables and encourages the delivery of appropriately priced products best suited to the needs of these under and un-banked consumers and creates an economically sustainable credit and lending market for them.

DFG currently is the largest non-prime, small-dollar lender in the State of Hawaii, with 8 places of business, with over 21,000 customers within the state. DFG is a leader in the United States and Canada in the provisioning of single payment loans, deferred deposit transactions, installment loans, money transfer services, and check-cashing services to the

unbanked and underbanked consumers. DFG has recent experience in other U.S. jurisdictions, including California and Florida, and in nearly every province in Canada, with the introduction of new, small dollar installment loans similar to what is proposed in HB 1192. As a result, we believe that DFG is uniquely capable to begin offering new Installment Loan product as quickly as possible should HB1192 HD1 become law.

We understand that the State may encounter complexity and administrative burdens associated with the establishment and supervision of a new consumer lending product and regulatory regime, including the consolidation of licensing and supervision of both Deferred Deposit Transaction and new Installment Loans under a single regulator. We believe that it is imperative, however, that the process of enhancing Deferred Deposit Transactions, licensing Deferred Deposit Transaction originators, and creating a new and viable installment lending product begin as soon as possible, even if certain implementation dates are pushed out to accommodate the regulatory supervision process, including licensing and supervisory requirements and resources.

A new installment lending product will require a substantial capital investment in connection with any lender deciding whether, and prior to being able, to offer such an installment loan in Hawaii. Risk and underwriting systems, loan execution and management facilities and compliance capabilities are just few of those needed investments. In testimony provided in connection with prior bills, local banks have validated this position and indicated that they were not inclined to make such an investment and enter this type of loan market. Establishing the terms and parameters of a new installment lending product now will enable lenders to evaluate whether to offer the installment and loan product and, if so, to sooner begin the investment and build out process to stand up installment lending in Hawaii.

It is essential for the statutory terms to enable a viable and sustainable non-prime, installment lending market to take hold in Hawaii for consumers to be able to move up the credit product ladder, with installment loans acting as a new and essential rung on that ladder. We also feel it is of paramount importance that Deferred Deposit Transactions are not eliminated wholesale, but instead are enhanced to better align certain provisions with best practices we have recently seen implemented with success in several jurisdictions in North America where we operate. Aligning these two products under a single regulatory and supervisory body will enhance consumer protection and promote a better functioning credit market for Hawaii's underbanked and unbanked consumers.

In summary, we believe that if HB1192 HD1 were to be passed, it would result in unified oversight of the underbanked and unbanked credit market in Hawaii, combining an enhanced short-term single payment credit product (Deferred Deposit Transactions) and a new larger, longer-term, installment loan product under the supervision of the Department of Financial Institutions. Together, these would serve as superior credit options for Hawaii's non-prime consumers than what is presently provided for under current regulations. The introduction of a new installment loan product, in particular, will be beneficial in enabling non-prime consumers to improve their credit histories and hopefully gain access to traditional banking

March 16, 2021

Page 3

products. Even if their implementation dates are delayed, it is necessary to begin building the regulatory framework and the business infrastructure to support these critical credit products now. HB1192 HD1 can create stronger protections for the consumer and provide the efficiencies and economics necessary for a viable non-prime installment lending market to take hold in Hawaii. A more effective non-prime lending market can help these borrowers by providing better tailored credit products, enabling them to repair or improve their credit histories, lowering their cost of credit and, most importantly, providing them with continued access to much needed credit to deal with the demands of their daily lives.

Thank you for your consideration of our testimony.

Very truly yours,

DOLLAR FINANCIAL GROUP

James Odell

General Counsel and Executive Vice President

# Maui Loan Inc.

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March 14, 2021

Senator Rosalyn H. Baker, Chair, Senator Stanley Chang, Vice-Chair  
And Members of Senate Committee on Commerce and Consumer Affairs

**SUBJECT: HB1192, HD1 - RELATING TO CONSUMER PROTECTION**

Dear Chair Baker, Vice Chair Chang, and Members of the Senate Committee on Commerce and Consumer Affairs

Aloha, I **OPPOSE HB1192, HD1 - RELATING TO CONSUMER PROTECTION.**

My name is Richard Dan and I have operated a local community-based brick-and-mortar alternative financial institution on Maui for over 40 years. My tens of thousands of customers state-wide know me as Big Rich and they know where to find me if they have questions or complaints.

Before I get into my testimony on this particular bill, I need to alert State legislators to the background of these half-dozen related bills. During prior legislative sessions your predecessors were given a similar special-interest legislative package and wisely declined to act.

I cannot understand why the legislature is pushing new legislation written by, and for, a foreign company to fit that company's procedures in a way that excludes local businesses, because that is what HB1192, HD1 proposes.

All inspired by one company — a foreign (Canadian) company called Dollar Financial and a related business called Money Mart. Since these bills have been written to suit Money Mart and to hinder the operations of anyone else -- particularly local mom and pop businesses — in effect, the Hawaii Legislature is being asked to create a monopoly.

And not just a monopoly, bad as that would be, but a monopoly in favor of a company that, as you will see (attached), has a terrible reputation in those states where it has had similar legislation passed and is still in business there; and, if anything, a worse one in those states where it has been kicked out.

From my point of view the most important point is that Hawaii already has the best deferred deposit regulations in the country. I can back this up by pointing out that very few consumer complaints are brought against operations running under Hawaii law.

I note that in the preamble to this bill there's no reference to complaints from consumers about Hawaii's present deferred deposit lending act. In other words, HB 1192, HD1 is a solution in search of a problem.

The problem with payday loans in Hawaii is the Internet, foreign, and unrelated lenders. If the Legislature wishes to do something useful in this area, it should go



where the problems are.

In Hawaii, borrowers are limited to one payday loan at a time. This helps keep them from becoming overextended, and it also helps protect lenders. We do not want to be lending to customers who have already taken on one or more deferred deposit loans. For one thing, customers who do that must have falsely completed their application. These forms clearly state to customers that they cannot have more than one deferred deposit loan at a time.

I also oppose forcing borrowers to take on larger loans than they want. This should be self-evident; it will be more efficient to keep debt as low as possible. If the minimum loan is made larger, then my business cannot give customers a break over bank late fees.

Let me give an example. If a customer needs \$150 (typical for my Maui customers) and is, for whatever reason, in danger of paying a bill late and incurring a \$30 or \$35 late fee and possibly an over-draft fee, the customer can instead come to me and get \$150 for a total fee of about \$20.

Another suggestion for improving the current regulation that I've proposed year after year, is to require a 3-day "cooling off" period between payday loans. Since a payday loan must be paid off in full before a new payday loan can be written, a gap between ending one loan and obtaining another will encourage borrowers to manage their debt more carefully.

If you will review the complaints filed against these mysterious lenders in online forums, it appears that, at the very least, it is not doing an adequate job of clearly informing borrowers of their risks, rights and obligations. Also, there seems to be no way for customers to obtain even a hearing, much less satisfaction, when they do have a dispute. If a customer of one of those unregulated Internet lenders has a problem, lots of luck to them even finding a place to start.

My business has had almost no complaints but if anyone does want to make one, they know where to find me. I have been on North Market Street for 40 years.

If I can be of assistance in crafting more equitable, accountable and safe legislation as it relates to the matter of small short-term loans and/or payday lending, please contact me at Tel: (808) 244-6666.

Sincerely,  
*Richard Dan*  
Richard Dan, President

Attachment

<https://www.consumeraffairs.com/finance/moneymart.html?#sort=recent&filter=1>

Rated with 1 star

Jerrilynn of Kitchener, ON Verified Reviewer

Original review: Dec. 9, 2020

Worst experience of my life. I went in to cash a check that I received in the amount of 50.00 after participating in a fundraising online raffle. After being questioned by Jennifer about what the check was for, she disappeared into the back room and came back 10 minutes later telling me she wasn't going to cash it, it wasn't legit and I needed to get out... Even after I gave her the website for the raffle and the treasurer's name (this was a catch the ace lottery fundraiser for crimestoppers).

Rated with 1 star

Mike of Meriden, CT Verified Reviewer

Original review: Oct. 16, 2020

I received an email from a collection agency with a lawyer's name attached stating that I owed over 1000 dollars to Money Mart. I have never even heard of this company until I got the email. I have never had any dealings of any kind with them and I believe they are simply trying to scam people. I have never had any reason to go to ANY type of sleazy payday loan type "business" for money.

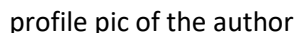
Rated with 1 star

Nicolette of North York, ON Verified Reviewer

Original review: Sept. 26, 2020

I went into Money Mart for a payday loan at Dufferin and Finch on Sept. 25, 2020. When I entered there was no one at the desk to assist customers. I sat and waited 5 minutes. A gentlemen there before me knocked on the window for assistance, no one came. Then he told me to knock on the door because he seen an employee go inside. I knocked on the door and still no one came. A 3rd customer came in and then an employee came to the desk. All of this is evident from the cameras inside! No one was present to assist the customers! She then offered me a \$400 payday loan, after I showed her my bank statement of \$2800 bi-weekly. She stated I'm only able to get \$400 because it was my first time and they only give 30-50% of my pay. However, \$400 is not the minimum 30% of my pay. I then declined and went to another location, in which I was offered \$900 with excellent customer service..

Rated with 1 star



Reema of Scarborough, ON Verified Reviewer

Original review: Sept. 7, 2019

I hate this site, they don't care about their customers at all & seem to have bad service & staff. I applied for a loan, got approved & sent the documents but had to wait 2 days to hear back from them. I called the contact number & the lady was so rude to me so I hung up on her. They don't reply to your emails or anything & have a \*\* excuse for having "a lot of applications". Eventually I withdrew my application. They're terrible. I wouldn't recommend relying on them for a loan, there are way better sites out there. Be careful.

## Money Mart Reviews

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Rated with 1 star

Kevin of Grande Prairie, AB Verified Reviewer

Original review: Aug. 13, 2019

I give this online Money Mart zero stars. My husband got a loan from these guys in May. They took money from my account which they had no authorization for and then the next day took money from my husband's account. Then the day after that they sent him an email saying he owes zero dollars. Then month later collections were phoning us saying he still owes almost \$200. We have been dealing with this for a month phoning around trying to get to the bottom of this, with no luck. I do advise not to deal with Money Mart at all. There is fraudulent workers and it will wreck your credit... STAY AWAY from Money Mart.

Rated with 1 star

[profile pic of the author](#)

Chan of Calgary, AB Verified Reviewer

Original review: Aug. 6, 2019

Went online after being referred by the company as an easy and simple way to re-apply for a loan. They said it was 2 hours and money would be deposited. It's now been 4 days and now sitting on hold as to what's going on. Keep in mind this is the 5th time calling in and now they have informed me that they require biweekly pay information which is fair yet every biweekly pay is different due to my commissions, hours work, etc. And they won't approve me based on stating a monthly income over a biweekly pay on my application?? Best to go in person and avoid online at all cost. They have also dinged my credit twice now online 'cause they wanted me to reapply with different pay structure. I have not had to take a loan out in over 4 years and will be steering clear away from this false online promise in the future. Avoid at all cost unless you're ready to have your credit drop some points and be promised something that can't be done.

Rated with 1 star

Nicholas of Toronto, ON Verified Reviewer

Original review: March 20, 2019

I had a 2000 dollar 1 year structured loan with "Equal payments" that turned out to be nothing but. Unfortunately here in Canada we aren't able to fight back as in the USA as the archaic courts are so 1800 old WASP that they shutter and cringe to even accept that this goes on in \*\* Ontario. Cats and dogs here have more rights than Canadian citizens. If it was anything like the volume in proceeds of crime committed as in the example by Scott Tucker and his massive payday scam, Money Mart in comparison are the Oligarchs of the Penny Lending scam.

Rated with 1 star

[profile pic of the author](#)

Andrew of Other Verified Reviewer

Original review: Feb. 1, 2019

My loan was due yesterday, my pension was not deposited into my account. I went there first thing yesterday morning to explain; they said it will go to my bank. I then stopped payment at my bank, under 2 different names they go by. Then, my pension mysteriously showed up late last night. My worker called it an electronic glitch. Well, I went to Money Mart first thing this morning to pay, and they wanted to charge me an additional \$40 for being late. As a senior, I can't afford this kind of profiteering by a company whose policies are uncaring, unsympathetic, and downright rude! I am going to pay them back \$50.00 per month for 10 months without interest; otherwise, I am suing them for unfair and exploitive business practices. I am sure others have been similarly abused!

Rated with 1 star

Princes of Other, OTHER Verified Reviewer

Original review: Jan. 14, 2019

I took out an online payday loan and I made my payment and they said I didn't. It took them 2 weeks to fix the error. I had to send them copies of my bank statement multiple times because they "lost" it. Come to find out that the problem was that they were having technical difficulties. But during the whole two weeks no one would reply to my email or live chats and the phone agent was rude.

Rated with 1 star

Cory of Concrete, WA Verified Reviewer

Original review: Dec. 5, 2018

I believe my identity has been stolen by this company. I provided all my information as asked by Melvon \*\*. After giving all my information, I realized that this was a scam. I didn't authorize him to do anything with my account. He took it upon himself to use my information deposit money into my account overdrafted and proceeded to put a hold on my account until the 13th in order to steal the money back. This company commits fraud and steals from their patrons. Beware. Do not use this company for any personal loan payday loan or reasons at all. They are a scam and they do commit fraud and steal identities. Beware.

Rated with 1 star

Darin of Canada, Other Verified Reviewer

Original review: Dec. 2, 2018

I got a pay day loan from Money Mart and the December 7th is the last payment to come out, today is the December 1. I had one payment NSF because I haven't been paid. Employer went out of business. He owes me \$3600 and it's through their trustee that I am waiting to be paid. After the NSF I scheduled the replacement payment for the last week, but pay pas has still not been released so that NSF'd and each time the bank charges me a \$45 fee plus Money Mart charges one.

Rated with 1 star

Jeanette of Terrace, BC Verified Reviewer

Original review: June 25, 2018

I agreed to go into a financial arrangement with Money Mart in July 2017. I used to use payday loans years prior when I lived in the city. Everything went smooth except the counter agent did not use the void cheque attached to my loan documents, she used an old inactive account that was in my old records from when I lived in the city. As a result, my first payment was rejected. I noticed immediately and called them and went in to fix the problem. Then a collection agent phoned me threatening me to go pay. Though I explained to him what happened he still barked orders at me then hung up on me. Apparently, you can not make loan payments in person, you HAVE to let the payment return then pay when in arrears along with an additional fee for having gone in arrears.

Rated with 1 star

Jasmine of Sumerco, WV Verified Reviewer

Original review: Dec. 31, 2017

I tried to get a money order, but the cashier said that she needed my employment information. I informed her that I did not want to give her that. She then told me that she would not let me get a money order unless I gave her that information. I then told her that I am unemployed, she asked for work history and I told her I have never worked. She then said she needed to take a photo of me? Damn ridiculous, I can see needing to

## Money Mart Reviews

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verify employment if I was getting a payday loan, but I was getting money orders, and I was gonna pay \$1,500 in cash for it. But too bad, I wound up going to 7-11 to get my money orders, they didn't ask me no questions and I'm sure they were more than happy to get \$1,500 from one customer. This was the Money Mart located at the Pearl Kai shopping area in Aiea, HI, and this happened on 12/30/2018 around 2 pm.

<https://www.bbb.org/ca/bc/victoria/profile/financial-services/money-mart-0047-9570/complaints>

Complaint Type: Billing/Collection Issues

Status: Answered

07/06/2019

Money Mart approved me for a payday loan, didn't give me the funds, and then charged me for a service they didnt provide me. The day before my payment was supposedly due I recieved an email saying they were closing the loan, without my consent, because the account number I gave them was incorrect. If that were true they wouldn't have been able to pull money out of my account. The same day I received the email saying I would not be receiving the funds, I also got an email telling my the next day my first payment will be do. When I called in the day I received the email I asked for confirmation to be sent to me that I wouldn't be charged, the employee basically told me I was making a ridiculous request. "How can we charge you if the account number is incorrect." I was charged anyways. Now they are saying they cannot help me, even though on their end they can see an amount was taken out of my account.

Response

26/06/2019

This customer's issue was resolved on June 7th. She took out a loan on 5/26/2019, however, a system issue led to her never received the funding. The same system error led to the loan remaining active in our systems, and payment was taken. We found the error, closed the loan, and arranged with the store to provide her a refund. hat was Friday afternoon and it's now Tuesday afternoon and I still cannot access my money. Money Mart has been making me go back and forth for a long time, and refuse to be of any help or let me have access to my money so I can pay my bills.

<https://www.bbb.org/ca/bc/victoria/profile/financial-services/money-mart-0047-9570/details#additional-info>

Canadian Company

foreign profit corporation

Money Mart Financial Services, formerly Dollar Financial Group, is a financial services company with over 700 locations in **Canada** and the U.S. The company offers a range of financial services, including installment loan, cash advance/payday loan, check cashing, prepaid card, and money transfer services.



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[pewtrusts.org](http://pewtrusts.org)

To: Chair Rosalyn Baker and members of the Hawaii Senate Committee on Commerce and Consumer Protection

From: Nick Bourke, The Pew Charitable Trusts

*Delivered Electronically*

March 15, 2021

**RE: HB 1192 HD1 – Pew Analysis (Oppose)**

Dear Chair Baker and members of the committee:

Thank you for your ongoing attention and efforts to address the harms of high-cost payday lending in Hawaii. We have appreciated the opportunity to provide your committee with research and technical assistance on this issue recently and over the years. Pew continues to support the goal of reforming Hawaii's consumer credit market by repealing deferred deposits and authorizing new forms of safe and affordable small installment loans.

**Unfortunately, HB 1192 HD1 falls short of this goal and we cannot recommend its enactment in its present form.** HB 1192 HD1 would not sufficiently resolve Hawaii's payday loan problem and would authorize potentially dangerous new forms of lending. As you know, the Senate recently passed a different consumer finance reform bill, SB 974 SD2. While the two bills share some features, in our analysis only SB 974 SD2 would result in better consumer outcomes while retaining widespread access to credit.<sup>1</sup> Given a choice between the two bills, we would recommend SB 974 SD2 without hesitation.

However, should you and your colleagues wish to find a compromise between the two bills we believe this would be possible while still achieving your reform goals. In that case **we would encourage you to consider the following essential revisions with respect to HB 1192 HD1:**

1. **The minimum loan size in HB 1192 HD1 does not serve the needs of borrowers who want access to smaller loans: it should be greatly reduced or eliminated.** HB 1192 HD1 sets a minimum loan size of \$600 which is far higher than the typical payday loan amount today. Our research has found that many borrowers would benefit from access to a safe, affordable installment loan as low as \$100 or \$200.

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<sup>1</sup> For our analysis of SB 974 SD2, please refer to our testimony in front of this committee dated February 8, 2021; we appreciate that the committee amended the bill according to our recommendation at that hearing.

2. **HB 1192 HD1 would allow unrealistically short-term loans with unaffordable payment amounts: a minimum loan term should be added.** The Senate’s bill, SB 974 SD2, includes a four-month minimum term that this committee added when it heard that bill. We strongly support the four month-minimum and encourage you to add it to HB 1192 HD1 as well. Our research also suggests that for the smallest loans, e.g. \$500 or smaller, a special minimum term of two months could be considered. We strongly advise against allowing shorter terms. It is essential that any reform bill sets guidelines to ensure that all loans are repayable in affordable installments over time.
3. **HB 1192 HD1 would overcharge Hawaiians: Allowable pricing should be lower and better tailored to loan sizes.** As enacted by the House, HB 1192 HD1 would result in Hawaiians paying far more for credit than their counterparts in other states. We would recommend using a simplified, scalable pricing approach such as the one enacted in Ohio or Virginia law (interest plus a scalable monthly maintenance fee).<sup>2</sup> Or if the relatively more complicated and inefficient tiered pricing model in the bill is retained, the tiers and allowable fees should be revised and lowered. We can provide specific recommendations on request, which would depend on what other amendments members decide to pursue.
4. **Harmful payday loans currently on the market should be phased out decisively and new installment loans should be authorized quickly.** Both SB 974 SD2 and HB 1192 HD1 rightly would eliminate single-payment deferred deposit loans, allowing a new type of small installment loan instead. Unfortunately, HB 1192 HD1 would let deferred deposit loans phase out over a period of months or years and this could destabilize or suppress the new market for small installment. This would risk exposing Hawaiians to ongoing payday loan harms while simultaneously limiting the growth of a new small installment loan market that would better serve them. In our analysis this type of phase-out period is not needed and would be counterproductive. However, if there is a phase-out period, the goals should be (1) to keep it to the minimum time period necessary to make the transition and (2) to make the transition clear and decisive so that the legislature does not need to address the problem yet again in upcoming legislative sessions. *Other states have set a single date, usually three to nine months after enactment, when the new installment loans are authorized and the old deferred presentment loans are prohibited. This has been successful in other states like Colorado, New Mexico, Ohio, and Virginia and is the best option for Hawaii, in our view.*

Based on over 10 years of deep engagement in the small-dollar lending market, our assessment is that these essential revisions to HB 1192 HD1 would ensure safety and affordability for borrowers, while maintaining widespread access to credit.

**Alternatively, if SB 974 SD2 cannot be enacted or HB 1192 HD1 cannot be sufficiently improved, we would not recommend moving forward with legislation at this time.** Hawaii’s laws would remain

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<sup>2</sup> See Ohio Rev. Code sections 1321.35 to 1321.48, 1321.40 (Permissible short-term loan fees). See also Code of Virginia section 6.2-1800 et seq., 6.2-1817 (Authorized fees and charges).

unreformed, but federal regulators may soon address the problem of very short-term payday loans and the current version of HB 1192 HD1 would not be creating new risks and harms for borrowers.

We are available to discuss these issues with you at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'NB', is positioned above the printed name.

Nick Bourke

Director, Consumer Finance

The Pew Charitable Trusts

[nbourke@pewtrusts.org](mailto:nbourke@pewtrusts.org) | 202.552.2123



# HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

**LATE**

March 16, 2021

Senator Rosalyn H. Baker, Chair  
Senator Stanley Chang, Vice Chair  
and members of the Senate Committee on Commerce & Consumer Protection  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **H.B. 1192, H.D. 1 (Consumer Protection)**  
**Hearing Date/Time: Tuesday, March 16, 2021, 9:30 a.m.**

I am Marvin Dang, the attorney for the **Hawaii Financial Services Association** (“HFSA”). The HFSA is a trade association for Hawaii’s consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans, and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

The HFSA is **submitting comments on this Bill and proposing amendments.**

This Bill: (a) transitions from lump sum deferred deposit transactions to installment loan transactions; (b) specifies various consumer protection requirements for installment loans; (c) beginning 1/1/2023, requires licensure for installment lenders that offer installment loans to consumers; (d) requires check cashers to offer a voluntary payment plan to customers under certain circumstances; (e) clarifies that a customer may only have one outstanding deferred deposit transaction from any source; (f) requires the division of financial institutions of the DCCA 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; (g) appropriates funds to the Division of Financial Institutions for positions and resources; and (h) repeals the statutory authorization for deferred deposit transactions on 7/1/2023.

## **Code of Financial Institutions:**

The HFSA does not represent payday lenders or the payday lending industry.

Some of our members are non-depository financial services loan companies that are licensed and regulated under Article 9 of the Hawaii Code of Financial Institutions (Chapter 412 of the Hawaii Revised Statutes). Article 9 contains a consumer loan statutory structure that exclusively regulates financial services loan companies. Eighty percent (80%) of the non-depository financial services loan companies in Hawaii are members of the HFSA.

## **Proposed amendments to this Bill:**

The HFSA has discussed with the Commissioner of the Financial Institutions **two amendments** to this Bill. The Commissioner and the HFSA are in general agreement with the following:

**1.** The definition of “Annual Percentage Rate” in Sec. -1 on page 6, line 19 through page 7, line 3, should be revised as follows:

“Annual percentage rate” ~~means an annual percentage rate as determined pursuant to section 107 of the federal Truth in Lending Act, title 15 United States Code~~

section 1606. For the purposes of this definition, all fees and charges, including interest and monthly maintenance fees authorized by this part, shall be included in the calculation of the annual percentage rate] shall have the same meaning as under the Truth in Lending Act.

This revised wording is identical to the existing definition of “annual percentage rate” in HRS Section 412:9-302(b)(1) and (2), which is part of Article 9 of the Code of Financial Institutions.

2. For the “Exemptions” in Sec. -32 (which begins on page 33, line 19), “nondepository financial **service** loan company” on page 34, line 1, should be “nondepository financial **services** loan company.”

### **Senate Bill 974, S.D. 2:**

H.B. 1192, H.D. 1 covers the same subject matter as S.B. 974, S.D. 2 (Consumer Protection) which passed the Senate on March 9, 2021.

If your Committee is inclined to amend H.B. 1192, H.D. 1 by inserting the provisions of S.B. 974, S.D. 2, the HFSA requests that your Committee make **three amendments** to the wording from S.B. 974, S.D. 2. The HFSA has discussed these amendments with the Commissioner of Financial Institutions and we are in agreement with the following:

1. The definition of “Annual Percentage Rate” in Sec. 412:9-A on page 5, line 17 through page 6, line 2, should be revised as follows:

“Annual percentage rate” [means an annual percentage rate as determined pursuant to section 107 of the federal Truth in Lending Act, Title 15 United States Code section 1606. For the purposes of this definition, all fees and charges, including interest and monthly maintenance fees authorized by this part, shall be included in the calculation of the annual percentage rate] shall have the same meaning as under the Truth in Lending Act.

This revised wording is identical to the existing definition of “annual percentage rate” in HRS Section 412:9-302(b)(1) and (2) of the Code of Financial Institutions.

2. The definition of “Interest” in Sec. 412:9-A on page 7, line 18 through page 8, line 2, should be revised as follows:

“Interest” [means all charges payable directly or indirectly by a borrower to a licensee as a condition to a loan, including fees, service charges, renewal charges, and any ancillary product sold in connection with a small dollar loan, but does not include the monthly maintenance fees and any check collection charge] does not include the monthly maintenance fees and any check collection charge.

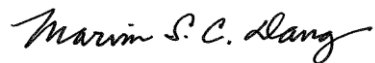
The purpose of this revision is to simply state what are excluded from “interest” for installment loans under the structure being created by this Bill. Other than stating the two exclusions from interest (i.e. monthly maintenance fees and check collection charges), it’s unnecessary to have a “laundry list” of what is considered “interest”. The Code of Financial Institutions doesn’t contain a definition of what is “interest” nor is it necessary to do so in this Bill.

3. For the “Exemptions” in Sec. 412:9S (which begins on page 33, line 8), “nondepository financial **service** loan company” on page 33, line 11, should be “nondepository financial **services** loan company.”

\* \* \*

Accordingly, the HFSA respectfully requests that your Committee amend this Bill as stated above.

Thank you for considering our testimony.

A handwritten signature in black ink that reads "Marvin S.C. Dang". The signature is written in a cursive style with a long, sweeping tail on the letter 'g'.

MARVIN S.C. DANG  
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

**HB-1192-HD-1**

Submitted on: 3/15/2021 11:56:26 PM

Testimony for CPN on 3/16/2021 9:30:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Azuma Chrupalyk	Individual	Oppose	No

Comments:

Check cashers and other agents of financial transactions should be responsible to either have the finances they need to conduct business or defer the check cashing until such a time that the transaction becomes sustainable. The passing of this bill opens the doors for a million more problems. The State of Hawai'i already has enough corruption issues. Let's not add to it.