
A BILL FOR AN ACT

RELATING TO PAYDAY LENDING.

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

1 SECTION 1. The legislature agrees with the finding by the
2 state auditor in its Report No. 05-11, entitled "Sunrise
3 Analysis: Check Cashing and Deferred Deposit Agreements (Payday
4 Loans)," that the payday lending industry, also known as the
5 check-cashing industry or deferred deposit industry, poses the
6 possibility of harm to Hawaii's consumers.

7 The state auditor made the following three recommendations
8 in its sunrise analysis:

9 (1) Require check cashers or payday lenders who enter into
10 deferred deposit agreements (payday loans) to post in
11 a conspicuous place any and all fees that they charge
12 for such an agreement, including the annual percentage
13 rate for the loan;

14 (2) Reduce the maximum fee for a deferred deposit
15 agreement; and

16 (3) Institute a mandatory registration program for all
17 payday lenders to register their businesses with the
18 department of commerce and consumer affairs.



1 The legislature agrees with the state auditor's
2 recommendations. At this time, the legislature finds that it
3 would be reasonable, and in the consumer's interest, to require
4 check cashing, payday lending, and deferred deposit businesses
5 to conspicuously post all rates and fees.

6 SECTION 2. Chapter 480F, Hawaii Revised Statutes, is
7 amended by adding two new sections to be appropriately
8 designated and to read as follows:

9 "§480F- Payment plans. (a) A check casher may enter
10 into a payment plan for a period of up to ninety days with a
11 customer who is not in default, under which plan no interest may
12 be charged. No deferred deposit agreement with a customer shall
13 commence within thirty days after the completion of any other
14 payment plan with the same customer.

15 (b) A check casher shall offer an interest-free payment
16 plan with a minimum term of sixty days to any customer who is in
17 default. Any collection letter written to a customer in default
18 shall inform the customer of the option of an interest-free
19 payment plan.

20 (c) A check casher shall offer an extended repayment plan
21 option to any customer who has entered into an interest-free
22 payment plan; provided that the extended repayment plan shall



1 become available only if the customer requests the option before
2 the close of business on the last payment plan due date.

3 §480F- Rules. The director, pursuant to chapter 91,
4 shall adopt rules necessary to implement this chapter."

5 SECTION 3. Section 480F-1, Hawaii Revised Statutes, is
6 amended by adding a new definition to be appropriately inserted
7 and to read as follows:

8 "Director" means the director of commerce and consumer
9 affairs."

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

12 "[+]§480F-2[+] Posting and notice of fees charged. Any
13 person who cashes one or more checks for a fee shall:

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

17 (A) The fees charged for cashing a check, for selling
18 or issuing a money order, and for the initial
19 issuance of any membership or identification
20 cards[+], and the fees and annual percentage rate
21 for deferred deposits;



1 (B) That consumer complaints about the check cashing
2 business may be filed with the department of
3 commerce and consumer affairs, and includes and
4 identifies the telephone number and address of
5 the consumer information service of the
6 department of commerce and consumer affairs;

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

9 (D) That only one deferred deposit transaction can be
10 opened from all sources at any one time; and

11 (E) Information on where to obtain financial
12 education and credit counseling;

13 (2) Provide written notice [~~to each customer of the fees~~
14 ~~charged for cashing checks~~] in twelve-point type to
15 each customer, that is separate from and in addition
16 to any posted notice[+], containing the following
17 information:

18 (A) The fees and annual percentage rate to be charged
19 for a deferred deposit;

20 (B) That consumer complaints about the check cashing
21 business may be filed with the department of
22 commerce and consumer affairs, and the telephone



1 number and address of the consumer information
2 service of the department of commerce and
3 consumer affairs;

4 (C) That deferred deposit transactions are not
5 suitable for long-term borrowing;

6 (D) That only one deferred deposit transaction can be
7 opened from all sources at any one time;

8 (E) That payment plan and extended repayment plan
9 options are available;

10 (F) That the customer has the right to rescind a
11 deferred deposit agreement by the close of
12 business on the next business day after the
13 transaction; and

14 (G) Where to obtain financial education and credit
15 counseling;

16 (3) Obtain a written acknowledgment from the customer that
17 written notice of [~~the fees charged for cashing~~
18 ~~checks~~] all information under paragraph (2) was
19 provided[+] to the customer; and

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



1 SECTION 5. Section 480F-4, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

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

10 SECTION 6. Section 480F-5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+] ~~§480F-5~~ **Exemptions.** This chapter shall not apply
13 to[+]

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

21 ~~(2) Any] any person authorized to engage in business as a~~
22 bank, trust company, savings bank, savings and loan



1 association, financial services loan company, or
2 credit union under the laws of the United States, any
3 state or territory of the United States, or the
4 District of Columbia."

5 SECTION 7. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on January 1, 2020.



Report Title:

Check Cashing; Payday Lending Businesses

Description:

Requires check cashing (deferred deposit) businesses to post and provide consumers with rate, fee, and other information, provides for payment plans; eliminates exemption from law of retailers who occasionally cash checks. Effective 01/01/2020.
(HB447 HD1)

