A BILL FOR AN ACT

RELATING TO CHECK CASHING.

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

SECTION 1. Chapter 480F, Hawaii Revised Statutes, is amended as follows:

1. By designating sections 480F-1 through 480F-7 as:

"PART I. GENERAL PROVISIONS"

2. By amending section 480F-4 to read:

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

(b) No check casher shall enter into an agreement for a deferred deposit transaction unless the check casher is licensed as required by this chapter.

(c) Each deferred deposit shall be made pursuant to a written agreement that has been signed by the customer and the check casher or an authorized representative of the check casher. The written agreement shall contain a statement of the total amount of any fees charged for the deferred deposit, expressed both in United States currency and as an annual
percentage rate. The written agreement shall authorize the
check casher to defer deposit of the personal check until a
specific date not later than thirty-two days from the date the
written agreement was signed. The written agreement shall not
permit the check casher to accept collateral.

[(e)] (d) The face amount of the check shall not exceed
$600 and the deposit of a personal check written by a customer
pursuant to a deferred deposit transaction may be deferred for
no more than thirty-two days. A check casher may charge a fee
for deferred deposit of a personal check [in] at an [amount]
annual percentage rate not to exceed [fifteen] thirty-six per
cent [of the face amount of the check] a year. Any fees
charged for deferred deposit of a personal check in compliance
with this section shall be exempt from chapter 478.

For the purposes of this subsection, "annual percentage
rate" means an annual percentage rate as determined pursuant to
section 107 of the federal Truth in Lending Act (15 U.S.C
section 1606).

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

(f) A check casher who enters into a deferred deposit agreement and accepts a check passed on insufficient funds, or any assignee of that check casher, shall not be entitled to recover damages in any action brought pursuant to or governed by chapter 490. Instead, the check casher may charge and recover a fee for the return of a dishonored check in an amount not greater than $20.

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

3. By adding a new part, to be appropriately designated and to read:

"PART II. LICENSURE

§480F-A Definitions. As used in this part, unless the context otherwise requires:

"Commissioner" means the commissioner of financial institutions.
"Division" means the division of financial institutions of the department of commerce and consumer affairs.

"NMLS" means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the state licensing and registration of state-licensed loan originators and other financial services providers, or any system provided by the Consumer Financial Protection Bureau.

"Payday lender" means any check casher that enters into deferred deposit agreements with customers.

§480F-B Registration with NMLS; license; application; issuance. (a) The commissioner shall require all licensees to register with NMLS.

(b) Applicants for a license shall apply in a form as prescribed by NMLS or by the commissioner. The application shall contain, at a minimum, the following information:

(1) The legal name, trade names, and business address of the applicant and, if the applicant is a partnership, association, limited liability company, limited liability partnership, or corporation, of every member, officer, principal, or director thereof;
(2) The principal place of business;

(3) The complete address of any other branch offices at which the applicant currently proposes to engage in deferred deposit agreements; and

(4) Other data, financial statements, and pertinent information as the commissioner may require with respect to the applicant or, if an applicant is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managing members.

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

(d) For the purpose and to the extent necessary to participate in NMLS, the commissioner may waive or modify, in whole or in part, by rule or order, any or all of the requirements of this part and establish new requirements as reasonably necessary to participate in NMLS.
(e) In connection with an application for a license under this chapter, the applicant, at a minimum, shall furnish to NMLS information or material concerning the applicant's identity, including:

(1) Fingerprints of the applicant or, if an applicant is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managing members for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the fingerprints for a state, national, and international criminal history background check, accompanied by the applicable fee charged by the entities conducting the criminal history background check; and

(2) Personal history and experience of the applicant or, if an applicant is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managing members in a form prescribed by NMLS, including the submission of authorization for NMLS and the commissioner to obtain:
(A) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, title 15 United States Code section 1681 et seq.; and

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

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

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

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

(h) An applicant for a license as a payday lender shall be registered with the business registration division of the department to do business in this State before a license pursuant to this chapter shall be granted.
§480F-C  Issuance of license; grounds for denial.  (a) The commissioner shall conduct an investigation of every applicant to determine the financial responsibility, character, and general fitness of the applicant. The commissioner shall issue the applicant a license to engage in the business of entering into deferred deposit agreements if the commissioner determines that:

(1) The applicant, or in the case of an applicant that is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managing members, has never had a license revoked in any jurisdiction; provided that a subsequent formal vacating of a revocation shall not be deemed a revocation;

(2) The applicant, or in the case of an applicant that is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managing members, has not been convicted of, or pled guilty or nolo contendere, or been granted a deferred acceptance of a guilty or nolo contendere
plea to a felony under federal law or under chapter 853, or in a domestic, foreign, or military court:

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

(B) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

provided that any pardon of a conviction shall not be deemed a conviction for purposes of this section;

(3) The applicant, or in the case of an applicant that is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managing members, has demonstrated financial responsibility, character, and general fitness to command the confidence of the community and to warrant a determination that the applicant shall operate honestly, fairly, and efficiently pursuant to this chapter. For the purpose of this paragraph, a person is not financially responsible when the person has shown a disregard in the management of the
person's financial condition. A determination that a person has shown a disregard in the management of the person's financial condition may be based upon:

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

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

(C) Foreclosures within the past three years; and

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

(4) The applicant, or in the case of an applicant that is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managing members, has not been convicted of, pled guilty or nolo contendere to, or been granted a deferred acceptance of a guilty plea under federal law or chapter 853 to any misdemeanor involving an act of fraud, dishonesty, breach of trust, or money laundering;

(5) The applicant has satisfied the licensing requirements of this chapter; and
(6) The applicant has the bond required by section 480F-D.

(b) The applicant, or in the case of an applicant that is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managers, shall submit authorization to the commissioner for the commissioner to conduct background checks to determine or verify the information in subsection (a) in each state where the person has conducted deferred deposit agreements.Authorization pursuant to this subsection shall include consent to provide additional fingerprints, if necessary, to law enforcement or regulatory bodies in other states.

(c) A license shall not be issued to an applicant:

(1) Whose license to conduct business under this chapter, or any similar statute in any other jurisdiction, has been suspended or revoked within five years of the filing of the present application;

(2) Who has been banned from the industry by an administrative order issued by the commissioner or the commissioner's designee, for the period specified in the administrative order; or
(3) Who has failed to complete an application for licensure.

(d) A license issued in accordance with this chapter remains in force and effect until surrendered, suspended, or revoked, or until the license expires as a result of nonpayment of the annual license renewal fee as required by this chapter.

§480F-D Fees; bond. (a) A payday lender shall pay the following fees to the division to obtain and maintain a valid license under this chapter:

(1) Initial application fee of $900;

(2) Processing fee of $35 for each controlling person;

(3) Annual license renewal fee of $600;

(4) Applicable fee charged by the entities conducting the criminal history background check of the applicant, or in the case of an applicant that is not an individual, each of the applicant's controlling persons, executive officers, directors, general partners, and managing members for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the fingerprints for a state,
national, and international criminal history
background check;

(5) Applicable fee charged by the entities conducting an
independent credit report obtained from a consumer
reporting agency described in section 603(p) of the
Fair Credit Reporting Act, title 15 United States Code
section 1681 et seq.; and

(6) Information related to any administrative, civil, or
criminal findings by any governmental jurisdiction;
provided that the commissioner may use any information obtained
pursuant to this subsection or through NMLS to determine an
applicant's demonstrated financial responsibility, character,
and general fitness for licensure.

(b) Each branch office shall pay the following fees to the
division to obtain and maintain a valid license under this
chapter:

(1) Initial application fee of $600; and

(2) Annual license renewal fee of $450.

(c) The applicant shall file and maintain a surety bond,
approved by the commissioner, executed by the applicant as
obligor and by a surety company authorized to do a surety
business in this State as surety, whose liability as a surety
does not exceed, in the aggregate, the penal sum of the bond.
The penal sum of the bond shall be a minimum of $30,000 and a
maximum of $250,000, based upon the annual dollar amount of
defered deposit agreements conducted.

(d) The bond required by subsection (c) shall run to the
State of Hawaii as obligee for the use and benefit of the State
and of any person or persons who may have a cause of action
against the licensee as obligor under this chapter. The bond
shall be conditioned that:

(1) The licensee as obligor will faithfully conform to and
abide by this chapter and all the rules adopted under
this chapter; and

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

(e) Each payday lender shall pay a nonrefundable fee of
$ to the division for each office that is relocated.
§480F-E Renewal of license; annual report. (a) On or before December 31 of each year, each licensee shall pay a renewal fee pursuant to section 480F-D.

(b) The annual renewal fee shall be accompanied by a report, in a form prescribed by the commissioner, which shall include:

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

(2) A report detailing the payday lender's activities in this State, including:

(A) The number of deferred deposit agreements made;

(B) The number of deferred deposit agreements the payday lender is servicing;

(C) The type and characteristics of deferred deposit agreements serviced in this State;
(D) The number of deferred deposit agreements in
    default; and

(E) Any other information that the commissioner may
    require;

(3) Any material changes to any of the information
    submitted by the licensee on its original application
    that have not previously been reported to the
    commissioner on any other report required to be filed
    under this chapter;

(4) A list of the principal place of business and branch
    locations, if any, within this State where business
    regulated by this chapter is being conducted by the
    licensee;

(5) Disclosure of any pending or final suspension,
    revocation of a license, or other enforcement action
    by any state or governmental authority; and

(6) Any other information the commissioner may require.

(c) A license may be renewed by continuing to meet the
    licensing requirements of sections 480F-B, 480F-C, and 480F-D,
    and by filing a completed renewal statement on a form prescribed
by NMLS or by the commissioner, paying a renewal fee, and
meeting the requirements of this section.

(d) A licensee that has not filed an annual report that
has been deemed complete by the commissioner or paid its annual
renewal fee by the renewal filing deadline, and has not been
granted an extension of time to do so by the commissioner, shall
have its license suspended on the renewal date. The licensee
shall have thirty days after its license is suspended to file an
annual report and pay the annual renewal fee, plus a late filing
fee of $250 for each business day after suspension that the
commissioner does not receive the annual report and the annual
renewal fee. The commissioner, for good cause, may grant an
extension of the renewal date or reduce or suspend the $250 per
day late filing fee.

§480F-F Enforcement authorities; violations; penalties.

(a) To ensure the effective supervision and enforcement of this
chapter, the commissioner may, pursuant to chapter 91, take any
disciplinary action as specified in subsection (b) against an
applicant or licensee if the commissioner finds that:
(1) The applicant or licensee has violated this chapter or any rule or order lawfully made pursuant to this chapter;

(2) Facts or conditions exist that would clearly have justified the commissioner in denying an application for licensure, had these facts or conditions been known to exist at the time the application was made;

(3) The applicant or licensee has failed to provide information required by the commissioner within a reasonable time, as specified by the commissioner;

(4) The applicant or licensee has failed to provide or maintain proof of financial responsibility;

(5) The applicant or licensee is insolvent;

(6) The applicant or licensee has made, in any document or statement filed with the commissioner, a false representation of a material fact or has omitted to state a material fact;

(7) The applicant, licensee, or any of its owners, members, managers, partners, officers, or directors have been convicted of or entered a plea of guilty or nolo contendere to a crime involving fraud or deceit,
or to any similar crime under the jurisdiction of any federal court or court of another state;

(8) The applicant or licensee has been the subject of any disciplinary action by any state or federal agency which resulted in revocation of a license;

(9) A final judgment has been entered against the applicant or licensee for violations of this chapter, any state or federal law concerning deferred deposit agreements, deferred deposit loans, check cashing, payday loans, banking, mortgage loan originators, money transmitters, or any state or federal law prohibiting deceptive or unfair trade or business practices; or

(10) The applicant or licensee has failed to, in a timely manner as specified by the commissioner, take or provide proof of the corrective action required by the commissioner subsequent to an investigation or examination pursuant to section 480F-L.

(b) After a finding of one or more of the conditions under subsection (a), the commissioner may take any or all of the following actions:
(1) Deny an application for licensure, including an application for a branch office license;

(2) Revoke the license;

(3) Suspend the license for a period of time;

(4) Issue an order to the licensee to cease and desist from engaging in any act specified under subsection (a);

(5) Order the licensee to make refunds to consumers of excess charges under this chapter;

(6) Impose penalties of up to a $1,000 for each violation; or

(7) Bar a person from applying for or holding a license for a period of five years following revocation of the person's license.

(c) The commissioner may issue a temporary cease and desist order if the commissioner makes a finding that the licensee, applicant, or person is engaging, has engaged, or is about to engage in an illegal, unauthorized, unsafe, or unsound practice in violation of this chapter. Whenever the commissioner denies a license application or takes disciplinary action pursuant to this subsection, the commissioner shall enter
an order to that effect and notify the licensee, applicant, or
person of the denial or disciplinary action. The notification
required by this subsection shall be given by personal service
or by mail to the last known address of the licensee or
applicant as shown on the application, license, or as
subsequently furnished in writing to the commissioner.

(d) The revocation, suspension, expiration, or surrender
of a license shall not affect the licensee's liability for acts
previously committed or impair the commissioner's ability to
issue a final agency order or impose discipline against the
licensee.

(e) No revocation, suspension, or surrender of a license
shall impair or affect the obligation of any preexisting lawful
contract between the licensee and any consumer.

(f) The commissioner may reinstate a license, terminate a
suspension, or grant a new license to a person whose license has
been revoked or suspended if no fact or condition then exists
that clearly would justify the commissioner in revoking,
suspending, or refusing to grant a license.

(g) The commissioner may impose an administrative fine on
a licensee or person subject to this chapter if the commissioner
finds on the record after notice and opportunity for hearing that the licensee or person subject to this chapter has violated or failed to comply with any requirement of this chapter or any rule prescribed by the commissioner under this chapter or order issued under the authority of this chapter.

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

(i) Any violation of this chapter that is directed toward, targets, or injures an elder may be subject to an additional civil penalty not to exceed $10,000 for each violation in addition to any other fines or penalties assessed for the violation. For the purposes of this subsection, "elder" shall have the same meaning as in section 480-13.5.

§480F-G Voluntary surrender of license. (a) A licensee may voluntarily cease business and surrender its license by giving written notice to the commissioner of its intent to surrender its license. Prior to the surrender date of a license, the licensee shall have either completed all pending deferred deposit transactions or assigned each pending deferred deposit transaction to another licensee.
(b) Notice pursuant to this section shall be provided at least thirty days before the surrender of the license and shall include:

(1) The date of surrender;

(2) The name, address, telephone number, facsimile number, and electronic mail address of a contact individual with knowledge and authority sufficient to communicate with the commissioner regarding all matters relating to the licensee during the period that it was licensed pursuant to this chapter;

(3) The reason or reasons for surrender;

(4) Total dollar amount of the licensee's outstanding deferred deposit transactions in the State and the individual amounts of each outstanding deferred deposit transaction, and the name, address, and contact telephone number of the licensee to which each outstanding deferred deposit transaction was assigned;

(5) A list of the licensee's Hawaii authorized branch offices, if any, as of the date of surrender;

(6) Confirmation that the licensee has notified each of its authorized branch offices in the State, if any,
that the branch offices may no longer conduct deferred
deposit transactions on the licensee's behalf; and

(7) Confirmation that the licensee has notified each of
its deferred deposit consumers, if any, that the
defered deposit transaction is being transferred and
the name, address, telephone number, and any other
contact information of the licensee to whom the
defered deposit transaction was assigned.

(c) Voluntary surrender of a license shall be effective
upon the date of surrender specified on the written notice to
the commissioner as required by this section; provided that the
licensee has met all the requirements of voluntary surrender and
has returned the original license issued.

§480F-H Sale or transfer of license; change of control.

(a) No license shall be transferred, except as provided in this
section.

(b) A person or group of persons requesting approval of a
proposed change of control of a licensee shall submit to the
commissioner an application requesting approval of a proposed
change of control of the licensee, accompanied by a
nonrefundable application fee of $500.
(c) After review of a request for approval under subsection (b), the commissioner may require the licensee or person or group of persons requesting approval of a proposed change of control of the licensee, or both, to provide additional information concerning the persons who shall assume control of the licensee. The additional information shall be limited to similar information required of the licensee or persons in control of the licensee as part of its original license or renewal application under sections 480F-C and 480F-E. The information shall include, for the five-year period prior to the date of the application for change of control of the licensee, a history of material litigation and criminal convictions of each person who upon approval of the application for change of control will be a principal of the licensee. Authorization shall also be given to conduct criminal history record checks of those persons, accompanied by the appropriate payment of the applicable fee for each record check.

(d) The commissioner shall approve a request for change of control under subsection (b) if, after investigation, the commissioner determines that the person or group of persons requesting approval has the competence, experience, character,
and general fitness to control the licensee or person in control
of the licensee in a lawful and proper manner, and that the
interests of the public will not be jeopardized by the change of
control.

(e) The following persons shall be exempt from the
requirements of subsection (b), but the licensee shall notify
the commissioner when a change of control results in the
following:

(1) A person who acts as a proxy for the sole purpose of
voting at a designated meeting of the security holders
or holders of voting interests of a licensee or person
in control of a licensee;

(2) A person who acquires control of a licensee by devise
or descent;

(3) A person who acquires control as a personal
representative, custodian, guardian, conservator,
trustee, or as an officer appointed by a court of
competent jurisdiction or by operation of law; or

(4) A person who the commissioner, by rule or order,
exempts in the public interest.
(f) Before filing a request for approval for a change of control, a person may request in writing a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the commissioner shall enter an order to that effect and the proposed person and transaction shall not be subject to subsections (b) through (d).

(g) Subsection (b) shall not apply to public offerings of securities.

§480F-I Authorized places of business; principal office; branch offices; relocation; closure. (a) Every payday lender licensed under this chapter shall have and maintain a principal place of business in the State, regardless of whether the payday lender maintains its principal office outside of the State.

(b) If a payday lender has more than one place of business, each additional place of business in Hawaii shall be licensed as a branch office with the commissioner. No business shall be conducted at a branch office until the branch office has been licensed by the commissioner.
(c) A payday lender shall not maintain any branch offices in the State in addition to its principal place of business without the prior written approval of the commissioner. An application to establish a branch office shall be submitted through NMLS with a nonrefundable application fee as required by section 480F-D.

(d) A payday shall not relocate any office in this State without the prior written approval of the commissioner. An application to relocate an office shall be submitted to the commissioner at least thirty days prior to relocating and shall set forth the reasons for the relocation, the street address of the proposed relocated office, and other information that may be required by the commissioner. An application to relocate an office pursuant to this subsection shall be submitted with a nonrefundable fee as required by section 480F-D.

(e) A payday lender shall give the commissioner notice of its intent to close a branch office at least thirty days prior to the closing. The notice shall:

1. State the intended date of closing; and
2. Specify the reasons for the closing.
(f) The principal place of business and each branch office of the payday lender shall be identified in NMLS to consumers as a location at which the licensee holds itself out as a payday lender.

(g) A license issued under this chapter shall be prominently displayed in the principal place of business and each branch office.

§480F-J Payment of fees. All fees collected pursuant to section 480F-D, administrative fines, and other charges collected pursuant to this chapter shall be deposited into the compliance resolution fund established pursuant to section 26-9(o) and shall be payable through NMLS, to the extent allowed by NMLS. Fees not eligible for payment through NMLS shall be deposited into a separate account within the compliance resolution fund for use by the division.

§480F-K Powers of commissioner. (a) The commissioner may adopt rules pursuant to chapter 91 as the commissioner deems necessary for the administration of this chapter.

(b) In addition to any other powers provided by law, the commissioner shall have the authority to:
(1) Issue declaratory rulings or informal nonbinding interpretations;

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

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

(4) Require an applicant or any of its controlling persons, officers, directors, partners, members, managers, and agents to disclose their relevant criminal history and request a criminal history record check in accordance with chapter 846;

(5) Contract with or employ qualified persons, including accountants, attorneys, investigators, examiners, auditors, or other professionals who may be exempt from chapter 76 and who shall assist the commissioner in exercising the commissioner's powers and duties;

(6) Process and investigate complaints, subpoena witnesses and documents, administer oaths, and receive affidavits and oral testimony, including telephonic
communications, and do any and all things necessary or incidental to the exercise of the commissioner's power and duties, including the authority to conduct contested case proceedings under chapter 91;

(7) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this chapter;

(8) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to investigate or examine a licensee or person subject to this chapter;

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

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

§480F-L Investigation and examination authority. (a) In
addition to section 480F-K(b), the commissioner shall have the
authority to conduct investigations and examinations in
accordance with this section. The commissioner may access,
receive, and use any books, accounts, records, files, documents,
information, or evidence that the commissioner deems relevant to
the investigation or examination, regardless of the location,
possession, control, or custody of the documents, information,
or evidence.

(b) For the purposes of investigating violations or
complaints arising under this part, or for the purposes of
examination, the commissioner may review, investigate, or
examine any licensee or person subject to this part as often as
necessary to carry out the purposes of this part. The
commissioner may direct, subpoena, or order the attendance of,
and examine under oath, all persons whose testimony may be
required about deferred deposit agreements or the business or
subject matter of any examination or investigation and may
direct, subpoena, or order the person to produce books,
accounts, records, files, and any other documents the
commissioner deems relevant to the inquiry.

(c) Each licensee or person subject to this part shall
provide to the commissioner upon request the books and records
relating to the operations of the licensee or person subject to
this chapter. The commissioner shall have access to the books
and records and shall be permitted to interview the officers,
principals, managers, employees, independent contractors,
agents, and consumers of the licensee or person subject to this
chapter concerning their business.

(d) Each licensee or person subject to this part shall
make or compile reports or prepare other information as directed
by the commissioner to carry out the purposes of this section,
including:

(1) Accounting compilations;

(2) Information lists and data concerning deferred deposit
transactions in a format prescribed by the
commissioner; or

(3) Other information that the commissioner deems
necessary.
(e) In conducting any investigation or examination authorized by this part, the commissioner may control access to any documents and records of the licensee or person under investigation or examination. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee or person under investigation or examination have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this part, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(f) The authority of this section shall remain in effect, whether a licensee or person subject to this part acts or claims to act under any licensing or registration law of this State, or claims to act without such authority.
(g) No licensee or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

(h) The commissioner may charge an investigation or examination fee, payable to the commissioner, based upon the cost per hour per examiner for all licensees and persons subject to this part investigated or examined by the commissioner or the commissioner's staff. The hourly fee shall be $60 or an amount as the commissioner shall establish by rule pursuant to chapter 91. In addition to the investigation or examination fee, the commissioner may charge any person who is examined or investigated by the commissioner or the commissioner's staff pursuant to this section additional amounts for travel, per diem, mileage, and other reasonable expenses incurred in connection with the investigation or examination, payable to the commissioner.

(i) Any person having reason to believe that this part or the rules adopted under this part have been violated, or that a license issued under this part should be suspended or revoked, may file a written complaint with the commissioner setting forth
the details of the alleged violation or grounds for suspension or revocation.

§480F-M Confidentiality. (a) Except as otherwise provided in Housing and Economic Recovery Act of 2008, P.L. 110-289, section 1512, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to NMLS, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material shall continue to apply to the information or material after the information or material has been disclosed to NMLS. The information and material may be shared with all state and federal regulatory officials with oversight authority over transactions subject to this part, without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

(b) For the purposes of this section, the commissioner is authorized to enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies as established by rule or order of the commissioner.
(c) Information or material that is subject to a privilege
or confidentiality under subsection (a) shall not be subject to:

(1) Disclosure under any federal or state law governing
the disclosure to the public of information held by an
officer or an agency of the federal government or a
state; or

(2) Subpoena or discovery, or admission into evidence, in
any private civil action or administrative process,
unless any privilege is determined by NMLS to be
applicable to the information or material; provided
that the person to whom the information or material
pertains waives, in whole or in part, in the
discretion of such person, that privilege.

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

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

(f) This section shall not apply to information or
material relating to the employment history of, and publicly
adjudicated disciplinary and enforcement actions against,
mortgage servicers that are included in NMLS for access by the
public."

SECTION 2. In codifying the new sections added by section
1 of this Act, the revisor of statutes shall substitute
appropriate section numbers for the letters used in designating
the new sections in this Act.

SECTION 3. If any provision of this Act, or the
application thereof to any circumstance, is held invalid, the
invalidity does not affect other provisions or applications of
the Act that can be given effect without the invalid provision
or application, and to this end the provisions of this Act are
severable.

SECTION 4. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.
SECTION 5. This Act shall take effect on January 1, 2020.

INTRODUCED BY: [Signature]

JAN 23 2019
Report Title:
Payday Lending; Licensure

Description:
Restricts the fees a check casher may charge in connection with a deferred deposit agreement to an annual percentage rate not to exceed 36 percent per year. Establishes a licensing scheme for check cashers that enter into deferred deposit agreements.

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