A BILL FOR AN ACT

RELATING TO CHECK CASHING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. Chapter 480F, Hawaii Revised Statutes, is amended by adding five new sections to be appropriately designated and to read as follows:

"§480F- Registration required. (a) No check cashier shall conduct business in the State under this chapter, including deferred deposit transactions, without first registering with the department of commerce and consumer affairs.

(b) The director shall prescribe the form of the application for registration. Each applicant shall be accompanied by the appropriate fee, as prescribed by the director.

(c) Check cashier registration shall be updated annually and shall include the following:

(1) The address of the principal office of the check cashier;
(2) The name and address of the check casher's agent for service of process in the State; and

(3) Payment of the appropriate registration fees, as established by the director.

§480F- Payment plans. (a) At the time of origination of a fourth consecutive deferred deposit transaction made to a customer by a check casher, and at the time of origination of any subsequent consecutive deferred deposit transactions, the check casher shall offer the customer, in writing, the option to participate in a voluntary payment plan.

(b) To convert a deferred deposit transaction to a payment plan, the customer shall return to the check casher's point of sale location and request a payment plan prior to the close of business on the business day prior to the maturity date of the transaction.

(c) The payment plan shall provide the customer with the option to pay off the existing debt, both the principal and fee, in at least six equal payments that coincide with the customer's periodic pay dates or the date on which the customer is scheduled to receive benefits, unless the customer requests different payment due dates. The payments made pursuant to a
voluntary payment plan shall be applied directly to the existing
debt and the lender shall not charge the customer any additional
fee, other than an administration fee not to exceed $30, for
participation in the payment plan.
(d) The check casher shall provide a written copy of the
payment plan agreement to the customer. The check casher shall
be prohibited from engaging in collection activities while the
customer continues to make payments in accordance with the
payment plan. The check casher shall be prohibited from making
any additional deferred deposit transactions to the customer
prior to the customer's completion of the payment plan.
(e) The check casher may require the customer to provide a
post-dated check or electronic authorization for funds
transferred for each payment due under the payment plan. If any
check or electronic authorization accepted by the check casher
is dishonored, the check casher shall not charge the customer a
fee for the dishonored instrument.
(f) If the customer fails to make payments in accordance
with a payment plan under subsection (c), the check casher shall
be entitled to take action as otherwise allowed under this
chapter to collect the remaining funds due and may charge the customer a one-time default fee of $30.

(g) For purposes of this section, "consecutive deferred deposit transaction" means a deferred deposit transaction that occurs within twenty-four hours of the immediately previous deferred deposit transaction by the same customer.

§480F- Single deferred deposit transaction limitations.

A check casher shall take reasonable measures to ensure that no customer has more than one deferred deposit transaction outstanding at a time from all sources. A check casher shall include a notice on each written deferred deposit transaction agreement stating that no customer shall have more than one deferred deposit transaction outstanding at a time from all sources and shall receive written confirmation from each customer that the customer does not have any outstanding deferred deposit transactions as of the date the customer enters into the deferred deposit transaction.

§480F- Records and reports. Every check casher shall keep records and make reports with respect to the operation of business as provided in rules adopted by the director.
§480F- Rules. The director shall adopt rules pursuant to chapter 91 necessary to carry out the purposes of this chapter."

SECTION 2. Section 480F-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

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

SECTION 3. Section 480F-2, Hawaii Revised Statutes, is amended to read as follows:

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

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

(A) The fees charged for cashing a check, [fee] selling or issuing a money order, and [fee] the initial issuance of any membership or identification cards[+and] and the fees and annual percentage rate for deferred deposit transactions;
(B) That consumer complaints about the check cashing business may be filed with the department of commerce and consumer affairs, and includes and identifies the telephone number and address of the consumer information service resource center of the department of commerce and consumer affairs;

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

(D) That only one deferred deposit transaction can be open at any given time from all sources;

(E) Offer a financial education program or seminar to the customer that has been previously reviewed and approved by the director for use in complying with this section; provided that any financial education program or seminar offered under this subparagraph shall be provided at no cost to the customer. A customer shall not be required to participate in a financial education program or seminar as a condition of a deferred deposit transaction proceeds disbursement; and
(F) A copy of the registration to do business as a check casher as required by this chapter;

(2) Provide written notice in twelve-point type to each customer [of the fees charged for cashing checks] that is separate from and in addition to any posted notice[ ], which contains the following information:

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

(B) That consumer complaints about the check cashing business may be filed with the department of commerce and consumer affairs, including and identifying the telephone number and address of the consumer resource center of the department of commerce and consumer affairs;

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

(D) That only one deferred deposit transaction can be open at any given time from all sources;

(E) That an extended repayment plan option is available after any customer has entered into four or more consecutive transactions with the
same check casher; provided that the customer requests the option within twenty-four hours of the customer's last payment due date. For purposes of this subparagraph, "consecutive transactions" means back-to-back transactions occurring within twenty-four hours of each other;

(F) The right to rescind a deferred deposit transaction within twenty-four hours of the transaction; and

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

(3) Obtain a written acknowledgment from the customer that written notice of the [fees charged for cashing checks] information required by paragraph (2) was provided[—and] to the customer; and

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

SECTION 4. Section 480F-4, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e) to read as follows:
"(c) The face amount of the check shall not exceed $1,000 and the deposit of a personal check written by a customer pursuant to a deferred deposit transaction may be deferred for no more than one hundred eighty days. A check casher may charge a fee for deferred deposit of a personal check in an amount not to exceed fifteen per cent of the face amount of the check. The total amount of a transaction, including principal and fees, shall not exceed thirty per cent of the customer's gross monthly income. Any fees charged for deferred deposit of a personal check in compliance with this section shall be exempt from chapter 478.

(d) 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 from any source. A deferred deposit transaction shall not be repaid, refinanced, or consolidated by or with the proceeds of another deferred deposit transaction.

(e) 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 excess of principal, interest, and out-of-

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pocket legal costs in any action brought pursuant to or governed
by chapter 490. No additional interest may be collected except
the ten per cent allowed by law on uncollected judgments.
Instead, the check cashier may charge and recover a fee for the
return of a dishonored check in an amount not greater than
[$20–] $30."

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

"[–]$480F-5[–] Exemptions. This chapter shall not apply
to:

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

(2) Any person authorized to engage in business as a
bank, trust company, savings bank, savings and loan
association, financial services loan company, or
credit union under the laws of the United States, any
state or territory of the United States, or the District of Columbia."

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

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

INTRODUCED BY: [Signature]

By Request
Report Title:
Check Cashers; Deferred Deposits; Registration; Payment Plans

Description:
Requires check cashers to register with the department of commerce and consumer affairs. Requires check cashers to offer customers the option to participate in a payment plan, if certain conditions are met. Requires posting of certain information and written notice containing specific information to be provided to customers. Amends the limit, deposit deferral, and fees charged for deferred deposit transactions. Removes the exemption for entities engaged in the retail sale of good or services that periodically cash items for a fee. Effective 7/1/2020.

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