

STAND. COM. REP. NO. 579

Honolulu, Hawaii

MAR 05 2015

RE: S.B. No. 737
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 737 entitled:

"A BILL FOR AN ACT RELATING TO CHECK CASHING,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Include interest charged on a deferred deposit transaction to be included in the written agreement; and
- (2) Limit the allowable annual percentage rate of a deferred deposit transaction to thirty-six percent per annum.

Your Committee received testimony in support of this measure from the Office of Consumer Protection of the Department of Commerce and Consumer Affairs; Office of Hawaiian Affairs; PHOCUSED; Hawai'i Appleseed Center for Law and Economic Justice; Hawaiian Community Assets; Catholic Charities Hawai'i; Goodwill Industries of Hawaii, Inc.; Hawai'i Alliance for Community-Based Economic Development; Progressive Democrats of Hawai'i; Community Alliance on Prisons; Faith Action for Community Equity; International Longshore and Warehouse Union, Local 142; UNITE HERE, Local 5; and two individuals. Your Committee received testimony in opposition to this measure from Money Service Centers of Hawaii, Inc.; Dollar Financial Group, Inc.; Community Financial Services Association of America; Cash in Advance, Inc.; Maui Loan



Inc.; and three individuals. Your Committee received comments on this measure from the Office of the Auditor.

Your Committee finds that deferred deposit agreements, commonly referred to as payday loans, are small, short term, unsecured loans that borrowers promise to repay from their next paycheck or regular income payment. Existing state law permits check cashers to charge a fee of fifteen percent of the face value of a check and lend up to a maximum of \$600. This fee cap amounts to an annual percentage rate of four hundred sixty-five percent, which can trap borrowers in a cycle of high interest loans. Your Committee further finds that the high fees associated with deferred deposit agreements make it difficult for individuals to timely repay these loans. According to testimony received by your Committee, only two percent of deferred deposit agreements go to borrowers who can afford to pay off the loan the first time. Furthermore, four out of five payday borrowers either default or renew a payday loan over the course of a year.

Your Committee additionally finds that this measure proposes to adopt a thirty-six percent cap on deferred deposit agreements. Your Committee notes that this cap would be consistent with the growing trend around the country to provide more consumer protections for these loans. According to the Consumer Federation of America, eighteen states plus the District of Columbia have either capped deferred deposit agreements at thirty-six percent or banned these types of loans completely. The thirty-six percent cap also follows precedent established by the federal government, who in 2006 made it illegal to charge more than a thirty-six percent annual percentage rate on payday loans to active-duty service members and their families.

Finally, your Committee has heard testimony that although this measure amends section 480F-4(b), Hawaii Revised Statutes, there is still a reference to the current fifteen percent fee that may be charged on a deferred deposit agreement under section 480F-4(c), Hawaii Revised Statutes. If this reference is not repealed, language regarding the fifteen percent fee will conflict with language imposing a thirty-six percent annual percentage rate cap, as the fifteen percent fee, when annualized, equals an annual percentage rate of four hundred fifty-nine percent. Your Committee concludes that amendments clarifying the thirty-six percent cap on deferred deposit transactions would be more appropriate within section 480F-4(c), Hawaii Revised Statutes.

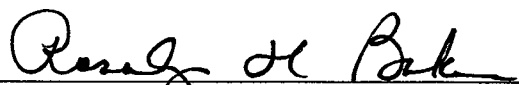


Accordingly, your Committee has amended this measure by:

- (1) Deleting an amendment to section 480F-4(b), Hawaii Revised Statutes, that would have required interest charged on a deferred deposit transaction to be included in the written agreement and limited the allowable annual percentage rate of a deferred deposit transaction to thirty-six percent per annum;
- (2) Clarifying the thirty-six percent annual percentage rate cap on deferred deposit transactions by amending section 480F-4(c), Hawaii Revised Statutes, to:
 - (A) Repeal language that permitted check cashers to charge a fee for deferred deposit of a personal check not to exceed fifteen percent; and
 - (B) Specify that the total amount of fees for the deferred deposit of a personal check shall not exceed a thirty-six percent annual percentage rate; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 737, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 737, S.D. 1, and be placed on the calendar for Third Reading.

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



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB737	CPN	2-20-15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)				✓
KAHELE, Gilbert	✓			
KIDANI, Michelle N.	✓			
NISHIHARA, Clarence K.				✓
WAKAI, Glenn	✓			
SLOM, Sam			✓	
TOTAL	4		1	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes