

JAN 19 2007

A BILL FOR AN ACT

RELATING TO CHECK CASHING.

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

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

4 "§480F- Registration required. (a) No check cashier
5 shall conduct business in this State, including deferred deposit
6 transactions, without first registering with the division of
7 financial institutions under this chapter.

8 (b) The director shall prescribe the form of the
9 application for registration. Each application shall be
10 accompanied by the appropriate fee as prescribed by the
11 director.

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

14 (1) The address of the principal office of the check
15 cashier;

16 (2) The name and address of the check cashier's agent for
17 service of process in this State; and



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

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

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

8 SECTION 3. Section 237-24.75, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[-] §237-24.75 [+] **Additional exemptions.** In addition to
11 the amounts exempt under section 237-24, this chapter shall not
12 apply to [amounts]:

13 (1) Amounts received as a beverage container deposit
14 collected under chapter 342G, part VIII[-]; and

15 (2) Amounts received in fees and interest by check cashers
16 for deferred deposit transactions."

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

19 "[-] §480F-2 [+] **Posting and notice of fees charged.** Any
20 person who cashes one or more checks for a fee shall:



- 1 (1) Post in a conspicuous place in every location at which
2 the person does business a notice that sets forth[+]
3 in at least point type:
- 4 (A) The fees charged for cashing a check, for selling
5 or issuing a money order, and for the initial
6 issuance of any membership or identification
7 cards; [and]
- 8 (B) That consumer complaints about the check cashing
9 business may be filed with the department of
10 commerce and consumer affairs, and includes and
11 identifies the telephone number and address of
12 the consumer information service of the
13 department of commerce and consumer affairs;
- 14 (C) The fees charged and annual percentage rate of
15 interest for a deferred deposit transaction;
- 16 (D) A warning that deferred deposit transactions are
17 not suitable for long-term borrowing;
- 18 (E) The limitation on deferred deposit transactions
19 that a consumer shall only have one open deferred
20 deposit transaction from all sources; and



1 (F) Instructions on how and where to obtain
2 information on financial education and credit
3 counseling;

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

7 (3) Obtain a written acknowledgment from the customer that
8 written notice of the fees charged for cashing checks
9 was provided; and

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

12 SECTION 5. Section 480F-4, Hawaii Revised Statutes, is
13 amended by amending subsections (b), (c), (d), and (e) to read
14 as follows:

15 "(b) Each deferred deposit shall be made pursuant to a
16 written agreement that has been signed by the customer and the
17 check casher or an authorized representative of the check
18 casher. The written agreement shall contain a statement of the
19 total amount of any fees charged for the deferred deposit,
20 expressed both in United States currency and as an annual
21 percentage rate. The written agreement shall authorize the
22 check casher to defer deposit of the personal check until a



1 specific date not later than thirty-two days from the date the
2 written agreement was signed. The written agreement shall not
3 permit the check casher to accept collateral. The written
4 agreement shall contain a statement that provides the customer a
5 twenty-four hour right to rescind the agreement.

6 The written agreement shall contain a statement that a
7 payment plan option is available after or more consecutive
8 deferred deposit transactions. An interest-free payment plan
9 option shall be provided to non-default customers with a maximum
10 term of ninety days. An interest-free payment plan option shall
11 be provided to customers in default with a minimum term of sixty
12 days. Any collection letter written to a customer in default
13 shall inform the customer of the option for interest-free
14 payment. No interest shall be charged on any payment plan
15 option; however, a late or administrative fee of \$30 may be
16 assessed. There shall be a thirty day period after the
17 completion of any payment plan during which no new payment plan
18 shall commence. For purposes of this subsection, "consecutive
19 deferred deposit transactions" means back to back transactions
20 occurring within twenty-four hours of each other.

21 (c) The face amount of the check shall not exceed \$600 and
22 the deposit of a personal check written by a customer pursuant



1 to a deferred deposit transaction may be deferred for no more
2 than thirty-two days. No check casher shall make a deferred
3 deposit transaction in an amount, including principal and fees,
4 greater than twenty-five per cent of a customer's gross monthly
5 income. A check casher may charge a fee for deferred deposit of
6 a personal check in an amount not to exceed fifteen per cent of
7 the face amount of the check. Any fees charged for deferred
8 deposit of a personal check in compliance with this section
9 shall be exempt from chapter 478.

10 (d) A check casher shall not enter into an agreement for
11 deferred deposit with a customer during the period of time that
12 an earlier agreement for a deferred deposit for the same
13 customer is in effect ~~[-]~~ from any source. A deferred deposit
14 transaction shall not be repaid, refinanced, or consolidated by
15 or with the proceeds of another deferred deposit transaction.

16 (e) A check casher who enters into a deferred deposit
17 agreement and accepts a check passed on insufficient funds, or
18 any assignee of that check casher, shall not be entitled to
19 recover damages in excess of principal, interest, and out of
20 pocket legal costs in any action brought pursuant to or governed
21 by chapter 490. No additional interest may be collected except
22 the ten per cent allowed by law on uncollected judgments.



1 Instead, the check casher may charge and recover a fee for the
2 return of a dishonored check in an amount not greater than
3 [~~\$20.~~] \$30."

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

6 " ~~[+] §480F-5~~ ~~[+]~~ **Exemptions.** This chapter shall not apply
7 to ~~[+]~~

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

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

21 SECTION 7. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on July 1, 2007.

2

INTRODUCED BY:

[Signature]
Sharonne Chun Calalang



Report Title:

Check Cashing

Description:

Amends the check cashing laws to require registration of check cashers, provide further requirements on deferred deposit transactions, and clarify applicability requirements.

