

HOUSE BILL REPORT

HB 1487

As Amended by the Senate

Title: An act relating to check cashers and sellers.

Brief Description: Regulating check cashers and sellers.

Sponsor(s): Representatives Dellwo, Zellinsky, R. Johnson, R. Meyers, Mielke, Broback, Winsley, Inslee, Anderson, Scott, Dorn, Silver, Jacobsen and Paris.

Brief History:

Reported by House Committee on:

Financial Institutions & Insurance, February 8, 1991, DP;

Passed House, March 19, 1991, 98-0;

Amended by Senate.

**HOUSE COMMITTEE ON
FINANCIAL INSTITUTIONS & INSURANCE**

Majority Report: *Do pass.* Signed by 9 members: Representatives Dellwo, Chair; Zellinsky, Vice Chair; Broback, Ranking Minority Member; Mielke, Assistant Ranking Minority Member; Inslee; R. Johnson; R. Meyers; Paris; and Winsley.

Staff: John Conniff (786-7119).

Background: More than eleven Washington companies operate check cashing businesses. A few of these companies do business at several locations. In addition to cashing checks, many of these companies lend money and issue checks such as money orders.

Check cashing companies engaged in lending activities take advantage of the state statute governing pawnbrokers and obtain an interest rate far in excess of state usury limits. Arguably, a personal check or similar instrument constitutes personal property within the meaning of the pawnbroker statute, thus allowing the check casher to take a post-dated check and loan money secured by the check.

Most check cashing companies that sell checks act as an agent for a major check company such as American Express. Some check cashing companies act as agents for other companies who forward cash such as Western Union. As agents for these companies, the check cashing companies are not relying upon

their own assets to pay these checks. However, some businesses, whether calling themselves check cashing companies or not, issue checks drawn upon their own business account. A customer purchasing a check drawn upon a business's own account risks having the check later dishonored for insufficient funds.

No state statute specifically governs the activities of check sellers; nor does Washington regulate check cashing companies.

Summary of Bill: "Check casher or seller" and "licensee" are defined. The act applies to organizations that, for compensation, engage in the business of cashing or selling checks, drafts, money orders, or other commercial paper serving the same purpose.

The act does not apply to financial institutions or to other organizations that cash checks as a convenience, as a minor part of its business, and not for profit; to the issuance or sale of checks by companies with a net worth of more than five million dollars; or to the issuance or sale of checks by agents of companies with a net worth of more than five million dollars.

Upon application to the supervisor, the supervisor may exempt an organization not otherwise exempt under the act from all or a part of the provisions of the act if the supervisor finds that the applicant is not primarily engaged in the business of cashing checks and such exemption would not be detrimental to the public.

Unless exempt, no check casher or seller may engage in business without first obtaining a license from the supervisor of banking. The applicant must pay a fee established by the supervisor to cover the costs of regulation. However, the supervisor must differentiate between and consider the relative risks of check cashing versus check selling in determining the amount of fee and investigation required.

If the applicant will sell checks, the applicant must obtain and maintain a fidelity bond for officers and employees in an amount determined by the supervisor. The applicant may deposit security in lieu of a bond.

The supervisor may deny a license if the applicant or a substantial stockholder of the applicant has been convicted of certain crimes or had a prior license revoked in the twelve months preceding the new application.

Except for the lending activities of pawnbrokers as amended in section 20, no licensee may lend money or credit, or engage in the business of discounting notes or checks. No loan business may be conducted on the same premises as the check cashing and selling business.

No licensee may cash post-dated checks unless the check is a government or payroll check payable on the next banking day.

No licensee may engage in false or deceptive advertising and no licensee may advertise the fact that they are regulated by the supervisor of banking.

Each licensee must comply with federal currency transaction reporting laws.

A violation of the act constitutes a misdemeanor offense and is subject to the Consumer Protection Act.

The pawnbroker statute is amended to prohibit pawnbrokers from engaging in the business of cashing and selling checks unless such activity conforms to the requirements of the check cashing and selling act.

EFFECT OF SENATE AMENDMENT(S): The capital required to obtain an exemption from check selling regulation is lowered from five to three million dollars. Financial statements of check cashers and sellers submitted to the supervisor of banking are not subject to public disclosure.

Fiscal Note: Not requested.

Effective Date: The bill takes effect January 1, 1992.

Testimony For: Check cashing companies who engage in the business of lending money at high rates through the cashing of post-dated checks give the check cashing industry a bad reputation. Licensing is necessary to keep criminals out of the business and to ensure the high standards of companies committed to the business. Banks support the legislation as long overdue.

Testimony Against: None.

Witnesses: Mark McDonald, Check Mart, Inc. (Pro); Trevor Sandison, Washington Bankers Association (Pro); and Tom Oldfield, Supervisor of Banking.

VOTE ON FINAL PASSAGE:

Yeas 98; Nays 0; Excused 0