

SENATE BILL REPORT

HB 1487

AS REPORTED BY COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE,
APRIL 5, 1991

Brief Description: Regulating check cashers and sellers.

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

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended.

Signed by Senators von Reichbauer, Chairman; Johnson, Vice Chairman; Owen, Pelz, Rasmussen, and Vognild.

Staff: Benson Porter (786-7470)

Hearing Dates: April 2, 1991; April 5, 1991

BACKGROUND:

More than 11 companies offer check cashing services in Washington. A few companies have several locations and many lend money and sell checks such as money orders.

Some check cashing companies engaged in lending activities utilize the pawnbrokers statute to charge a rate of interest exceeding the state usury limits. The pawnbroker statute allows a pawnbroker to accept personal property and loan the customer funds that must be repaid before the property is returned. Technically, a personal check constitutes personal property, allowing the pawnbroker to loan funds on a post-dated check. Because pawnbrokers are defined as persons making loans secured by personal property, a check cashing company can claim to act as a pawnbroker to charge the fees authorized under the pawnbroker statute. An informal Attorney General's opinion has expressed that such activity may violate the state pawnbrokering and usury statutes.

Most check cashing companies that sell checks act as an agent for a major check company or for other companies who forward cash. As agents for these companies, the check cashing companies are not relying upon their own assets to pay these checks. However, some businesses 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 or regulates check cashing companies.

SUMMARY:

Those entities defined as a "check casher or seller" must meet certain licensing and regulatory requirements.

The act does not apply to financial institutions or to other organizations that cash checks as a convenience, as a minor part of its customary business, and not for profit. Moreover, the sale of checks by companies with a net worth exceeding \$5 million or by agents of such companies are exempt from the act. Other organizations may be exempted from the act if the Supervisor of Banking finds certain criteria are met.

Unless exempt, no check casher or seller may engage in business without obtaining and maintaining a license from the supervisor. A license shall be issued if the supervisor determines that the applicant meets certain requirements prescribed under the act. The supervisor may deny a license if the applicant or a substantial stockholder of the applicant has been convicted of a felony. Other provisions concerning the denial of a license, the public display of the license, the transferability and term of the license, and fees are included in the act.

If the applicant will sell checks, the applicant must obtain and maintain a fidelity bond for officers and employees or deposit security in lieu of a bond. Checks sold by a licensee must be drawn on an account in a Washington financial institution. No check may be sold unless the licensee concurrently receives full payment for the check in cash or by check, draft, or money order believed to be valid. All funds received from the sale of checks must be maintained in a trust account in a Washington financial institution.

Except for permissible pawnbroker activities, no licensee may lend money unless the licensee obtains the appropriate lending license and physically separates the lending business from the check cashing operation. No licensee may cash post-dated checks unless the check is a government or payroll check payable on the next banking day. Further, no licensee may engage in false or deceptive advertising or advertise the fact that they are regulated by the state.

The supervisor is authorized to examine the books and records of licensees, obtain specified financial reports, and take certain regulatory actions.

A violation of the act constitutes a misdemeanor offense and is subject to the Consumer Protection Act. The Attorney General is authorized to recover a fine of not more than \$100 for each violation of the act.

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

Appropriation: none

Revenue: none

Fiscal Note: requested

SUMMARY OF PROPOSED SENATE AMENDMENT:

Check sellers or their agents with a net worth of more than \$3 million, rather than \$5 million, are exempted from the act.

In addition to an applicant's residential telephone number and address, an applicant's financial statement is excluded from disclosure.

A prohibition against a pawnbroker providing check cashing or check selling services is deleted.

TESTIMONY FOR:

The rates charged by some check cashing businesses are excessive, and the existence of such businesses prolong and worsen the financial situation of some persons. Alternatives exist to enable military personnel to obtain short term funds.

TESTIMONY AGAINST:

There is a lack of any evidence or complaints necessitating this legislation. The services provided by these businesses fill a niche not filled by other financial institutions.

TESTIFIED: Darrel Wells, Paycheck (con); Dingeman Bakker, Washington State Coin and Bullion Dealers Association (con); Dennis Bassford, Check-X-Change (pro); Mike Grant, Andy Carter, Attorney General's Office (pro); Roger Shepard, Army Community Service (pro); Craig Rhyne, WSC&BO (pro)