

# SENATE BILL REPORT

## SB 5612

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As of February 5, 2015

**Title:** An act relating to check cashing fees.

**Brief Description:** Restricting check cashing fees.

**Sponsors:** Senators Benton and Keiser.

**Brief History:**

**Committee Activity:** Financial Institutions & Insurance: 2/04/15.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Staff:** Shani Bauer (786-7468)

**Background:** Under the dual system of banking, a commercial bank, savings bank, or savings and loan association (association) chooses whether to be chartered by the state in which it is located or by the federal government. The Department of Financial Institutions (Department), through its Division of Banks, regulates state-chartered commercial and savings banks and associations. The Office of the Comptroller of the Currency (OCC) regulates national banks and associations. Similarly, credit unions may be state or federally chartered.

Under both state and federal laws, the various types of financial institutions are subject to different regulations regarding organization, governance, and business activities. The regulations governing financial institutions include grants of powers and authorities that may be exercised by an institution with respect to corporate governance and operational matters. Generally the types of powers and authorities held by banks and trust companies chartered in Washington are defined by reference to regulations adopted by OCC and the Board of Governors of the Federal Reserve System (Federal Reserve).

Federal regulations provide that a national bank may charge its customers non-interest charges and fees, including deposit account service charges. Customer is interpreted to include any person who presents a check for payment.

For the purposes of chapter 30A.22 RCW, financial institution is defined to include a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A person who does not have an account at a bank may present a check for payment at the bank who maintains the account the check is drawn on. The larger banks will typically charge a fee between \$5 and \$8 to do so.

**Summary of Bill:** When a check is presented for payment at the financial institution who maintains the account the check is drawn on, the financial institution must cash the check at face value and may not charge the payee a fee for payment. This requirement does not prohibit a bank from requiring reasonable verification of the payee's identify before payment.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Those who serve low-income clients frequently hear about the high cost of financial services. The most frequent topics are the high cost of getting a checking account, the high cost of overdraft fees, and the cost of cashing a check. People with low incomes are much more likely to have several part-time jobs and getting charged a fee every time they go to cash a check is a significant hit. When people are able to access more of their income, they are better able to provide for their needs and contribute to the state.

CON: There is extraordinary competition in the marketplace to offer a multitude of options for consumer-based financial instruments and products. Most financial institutions charge a noncustomer to cash a check even if it is drawn on the same financial institution and funds are verified. Most financial institutions do not charge their own customers to cash a check even if it is not drawn on an account from their institution. Research has shown that even though a person is presenting a check in person at the bank, fraudulent presentations occur more frequently with noncustomers and charging a fee cuts down on fraudulent transactions. It is clear that the Legislature has the ability to regulate with regard to state chartered banks, but a little more unclear as to whether the state has the ability to regulate federally chartered banks. This would create an uneven playing field between state-chartered institutions and federally chartered institutions.

**Persons Testifying:** PRO: Marcy Bowers, Statewide Poverty Action Network.

CON: Denny Eliason, WA Bankers Assn., United Financial Lobby.