

Hall of the House of Representatives
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of House Bill No. 1036

"TO CREATE THE OFFENSE OF UNLAWFUL CONSUMER LOANS."

Amendment No. 3 to House Bill No. 1036.

Amend House Bill No. 1036 as engrossed, H1/30/07 (version: 01-30-2007 09:03):

Delete Representative D. Dunn as a cosponsor of the bill

AND

Add Representative Lowery as a cosponsor of the bill

AND

Delete SECTION 2 in its entirety and substitute the following:

"SECTION 2. Arkansas Code § 23-52-102 is amended to read as follows:
23-52-102. Definitions.

As used in this chapter:

- (1) "Board" means the State Board of Collection Agencies;
- (2) "Check" means a check, warrant, draft, money order, travelers' check, or other instrument for the payment of money, whether or not negotiable, but excluding:
 - (A) Any such instrument drawn on an account or financial institution outside of the United States; and
 - (B) Money or currency of any nation;
- (3) "Check-casher" means a person who for compensation engages, in whole or in part, in the check-cashing business, but excluding:
 - (A) The United States, any state of the United States, any political subdivision of such state, or any department or agency of the United States or such state;
 - (B) Receipt of money by any incorporated telegraph company at any agency or office of the company for immediate transmission by telegraph;
 - (C) Any state or federally chartered bank, savings and loan association, or credit union;
 - (D) Any retail seller primarily engaged in the business of selling consumer or other goods to retail buyers that cash checks or issue money orders for a fee as a service to its customers that is incidental to its main purpose or business so long as revenue from such fees does not



exceed three percent (3%) of such retail seller's gross revenues; and

(E) Issuance of a money order;

(4) "Check-cashing business" means the business of a ~~check cashier~~ selling currency or a check to another person in exchange for a check, with or without a deferred presentment option;

(5) "Deferred presentment option" in connection with the check-cashing business means a transaction pursuant to a written agreement involving the following combination of activities in exchange for a fee:

(A) Accepting a customer's personal check ~~dated on the date it was written~~;

(B) Paying that customer an amount of money equal to the face amount of that check less any fees charged pursuant to this chapter; and

(C) ~~Granting~~ Holding the customer's personal check for an agreed period of time before presentment of the customer's personal check for payment or deposit or granting the customer the option to repurchase the customer's personal check for an agreed period of time prior to presentment of such check for payment or deposit. The term "deferred presentment" includes related terms such as "delayed deposit", "deferred deposit", or substantially similar terms evidencing the same type of transaction;

(6) "Permit" means a permit to engage in the check-cashing business issued by the board in accordance with this chapter; and

(7) "Person" means an individual, group of individuals, partnership, incorporated or unincorporated association, corporation, or any other business unit or legal entity.

SECTION 3. Arkansas Code § 23-52-104 is amended to read as follows:
23-52-104. Permissible check-casher fees.

(a) A check-casher may charge a reasonable fee to defray operational costs incurred in the check-cashing business, including, without limitation:

(1) Investigating the checking account and copying required documents;

(2) Photographing the person signing the check;

(3) Securing check and customer records in a safe, fireproof place;

(4) Maintaining records as required by this chapter;

(5) Maintaining required capital and liquidity; and

(6) Processing, documenting, and closing the check-cashing or deferred-deposit transactions.

(b) Unless otherwise authorized by this chapter, the fees authorized by this section shall not exceed the following:

(1) For the service of ~~selling~~ exchanging currency or a check in exchange for checks ~~a check, without regard to whether~~ in a transaction in which a deferred presentment option is not involved, a check-casher may charge:

(A) A fee not to exceed five percent (5%) of the face amount of the check if the check is the payment of any kind of state public assistance or federal social security benefit payable to the bearer of the check or the check is otherwise a check issued by a federal or state governmental entity;

(B) A fee not in excess of ten percent (10%) of the face amount of any ~~personal check or~~ money order or personal check; or

(C) A fee not in excess of six percent (6%) of the face

amount of the check in the case of all other checks. Such a fee may be collected separately or by paying the customer an amount of money equal to the face amount of the check less the appropriate fee under this chapter;

(2) ~~For a deferred presentment option which involves a personal check, an additional fee not to exceed ten dollars (\$10.00) may be charged by a check-casher~~ For the service of exchanging currency or a check for a check in a transaction in which a deferred presentment option is involved, the check-casher may charge a fee not to exceed seventeen percent (17%) per annum of the face amount of the check; and

(3) In addition to the foregoing fees, a check-casher may charge a fee of no more than five dollars (\$5.00) to set up an initial customer account and issue an optional identification card for providing check-cashing services. A replacement optional identification card may be issued at a cost not to exceed five dollars (\$5.00)."

AND

Page 4, delete line 2, and substitute the following:

"SECTION 4. EMERGENCY CLAUSE. It is found and determined by the"

The Amendment was read _____
By: Representative D. Johnson
GRH/YTC - 02-05-2007 16:15
GRH179

Chief Clerk