

Hall of the House of Representatives
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of House Bill No. 2440

"TO AMEND THE LAW CONCERNING PERMISSIBLE CHECK-CASHER FEES."

Amendment No. 2 to House Bill No. 2440.

Amend House Bill No. 2440 as engrossed, H3/9/01:

Page 1, delete lines 10 through 12 and substitute the following:
"AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE 23, CHAPTER 52, THE CHECK-CASHERS ACT, TO BETTER PROTECT ARKANSAS' CHECK-CASHING CONSUMERS; AND FOR OTHER PURPOSES. "

AND

Page 1, delete lines 15 and 16 and substitute the following:
"AN ACT TO AMEND THE CHECK-CASHERS ACT TO BETTER PROTECT ARKANSAS' CHECK-CASHING CONSUMERS. "

AND

Delete Section 1 of the bill and substitute the following:
"SECTION 1. 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, fire-proof 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) The fee, when made and collected, shall not be deemed interest for any purpose of law, and a check-cashing transaction, including one (1) with a deferred presentment option, shall not be and shall not be deemed to be a loan, loan contract, or a contract for the payment of interest notwithstanding any disclosures required by this chapter.~~

~~(c)~~(b) The fees authorized by this section shall not exceed the

following, unless otherwise authorized by this chapter:

(1) For the service of selling currency or check in exchange for checks, without regard to whether a deferred presentment option is involved:

(A) A fee ~~not to exceed~~ of twenty-five dollars (\$25.00) or five percent (5%) of the face amount of the check, whichever is less, if such check is the payment of any kind of state public assistance or federal social security benefit payable to the bearer of such check or such check is otherwise a check issued by a federal or state governmental entity;

(B) A fee ~~not in excess~~ of twenty-five dollars (\$25.00) or ten percent (10%) of the face amount of any personal check or money order, whichever is less; or

(C) A fee ~~not in excess~~ of twenty-five dollars (\$25.00) or six percent (6%) of the face amount of the check, whichever is less, in the case of all other checks. Such 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; 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).

(c) Except for the service charge allowed for dishonored checks under § 5-37-304, it shall be a violation of this chapter for any check-casher to charge any fees in a check-cashing or deferred presentment option transaction other than fees authorized under this section.

SECTION 2. Arkansas Code 23-52-106(m), concerning the terms of doing check-cashing business, is amended to read as follows:

(m)(1) No check-casher shall have more than one (1) deferred presentment check outstanding at any time from any one (1) customer per permitted location.

(2) A deferred presentment check purchased from any one (1) customer and outstanding at any one (1) time shall not exceed four hundred dollars (\$400).

(3) The check-cashing fees or deferred presentment option fees authorized by § 23-52-104 shall not accumulate to a total amount more than the face amount of the check or money order involved in the transaction.

(4) The total amount of check-cashing fees or deferred presentment option fees charged by a check-casher to any one (1) customer during any one (1) year period shall not exceed four hundred dollars (\$400).

SECTION 3. Arkansas Code 23-52-106(n), concerning the terms of doing check-cashing business, is amended to read as follows:

(n)(1) A check-casher shall not renew or otherwise consolidate a deferred presentment option transaction with the proceeds of another deferred presentment option transaction made by the same customer.

(2) A check-casher shall not enter into another deferred presentment option transaction with the same customer until a period of at least seventy-two (72) hours has past after the last transaction was

completed.

(3) It shall be a violation of this chapter to use a deferred presentation option transaction to pay for another deferred presentation transaction.

SECTION 4. Arkansas Code 23-52-117, concerning the complaints of violations of the Check-cashers Act, is amended to add an additional subsection to read as follows:

(g) Any transaction or part of a transaction found to be in violation of any provision of this chapter shall render the entire transaction void."

SECTION 5. Arkansas Code Title 23, Chapter 52 is amended to add an additional section to read as follows:

23-52-118. Deceptive trade practices.

(a) A violation of any of the provisions of this subchapter shall be deemed an unfair or deceptive trade practice under Arkansas Title 4, Chapter 88.

(b)(1) All remedies, penalties, and authority granted to the Attorney General under the Arkansas Title 4, Chapter 88, shall be available to the Attorney General for the enforcement of this chapter.

(2) The remedies and penalties provided by this section are cumulative to each other and the remedies or penalties available under all other laws of this state.

The Amendment was read _____
By: Representative Duggar
EN/VJF - 033020011558
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Chief Clerk