

**ARKANSAS SENATE**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

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**Subtitle of Senate Bill No. 948**

"AN ACT TO CREATE THE PAYDAY LENDING ACT."

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**Amendment No. 1 to Senate Bill No. 948.**

Amend Senate Bill No. 948 as originally introduced:

Delete the title in its entirety and substitute the following:

"AN ACT TO AMEND THE CHECK-CASHERS ACT REGARDING DEFERRED PRESENTMENTS; TO ADD PROTECTIONS FOR MILITARY MEMBERS; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute the following:

"TO AMEND THE CHECK-CASHERS ACT REGARDING DEFERRED PRESENTMENTS AND TO ADD PROTECTIONS FOR MILITARY MEMBERS."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 23-52-102(5), concerning the definition of deferred presentment option, is amended to read as follows:

(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~~ interest charged pursuant to this chapter; and

(C) 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;

SECTION 2. 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:



documents;

- (1) Investigating the checking account and copying required
- (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) 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 five percent (5%) of the face amount of the check, 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 ten percent (10%) of the face amount of any personal check or money order; 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 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 selling currency or a check in exchange for a personal check with the presentment option, a check-casher may only charge a finance charge or a fee as authorized by applicable state or federal law; 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).

SECTION 3. Arkansas Code § 23-52-105 is amended to read as follows:  
23-52-105. General disclosure.

(a) Every check-casher, as applicable to the services provided, shall post a complete, detailed, and unambiguous schedule of all fees and interest for:

(1) Cashing checks and making any deferred presentment option thereof;

(2) The sale or issuance of money orders; and

(3) The initial issuance of any identification card.

(b) Each check-casher shall also post a list of valid identification which is acceptable in lieu of identification provided by the person cashing

the check. The information required by this section shall be posted at each location at which the check-casher conducts the check-cashing business and in clear, legible letters not less than one-half inch (1/2") in height. The information shall be posted in a conspicuous location in the unobstructed view of the public within the check-casher's premises.

(c) A check-casher shall provide to each customer a written notice describing the provisions contained in § 23-52-106(o).

SECTION 4. Arkansas Code § 23-52-106, concerning other terms of doing the check-cashing business, is amended to add an additional subsection to read as follows:

(o) If a customer is a member of the military services of the United States or is the spouse of a member, a check-casher:

(1) Is prohibited from garnishing any military wages or the salary of the military member or his or her spouse;

(2) Is prohibited from conducting any collection activity while the military member is deployed to a combat or combat-support posting for the duration of that deployment;

(3) Is prohibited from contacting the commanding officer of a military member in an effort to collect on a loan to the military member or his or her spouse;

(4) Agrees to be bound by the terms of any repayment agreement negotiated through military counselors or third-party credit counselors; and

(5) Agrees to abide by any statement or proclamation by a military base commander that a specific check-casher location has been declared off limits to military personnel and their spouses."

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Steele  
GLG/TRA - 04-04-2005 12:35  
GLG138

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Secretary