

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/9/01 H4/3/01

A Bill

HOUSE BILL 2440

5 By: Representatives Duggar, Ledbetter, W. Walker, Fite, Holt, Mack, Thomas
6 By: *Senator Hoofman*
7

For An Act To Be Entitled

10 AN ACT TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE
11 TITLE 23, CHAPTER 52, THE CHECK-CASHERS ACT, TO
12 BETTER PROTECT ARKANSAS' CHECK-CASHING CONSUMERS;
13 AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO AMEND THE CHECK-CASHERS ACT TO
16 BETTER PROTECT ARKANSAS' CHECK-CASHING
17 CONSUMERS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code 23-52-104 is amended to read as follows:
24 23-52-104. Permissible check-casher fees.

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

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

29 (2) Photographing the person signing the check;

30 (3) Securing check and customer records in a safe, fire-proof
31 place;

32 (4) Maintaining records as required by this chapter;

33 (5) Maintaining required capital and liquidity; and

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

36 ~~(b) The fee, when made and collected, shall not be deemed interest for~~

1 ~~any purpose of law, and a check-cashing transaction, including one (1) with a~~
2 ~~deferred presentment option, shall not be and shall not be deemed to be a~~
3 ~~loan, loan contract, or a contract for the payment of interest~~
4 ~~notwithstanding any disclosures required by this chapter.~~

5 ~~(c)(b)~~ The fees authorized by this section shall not exceed the
6 following, unless otherwise authorized by this chapter:

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

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

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

17 (C) A fee ~~not in excess of~~ twenty-five dollars (\$25.00) or
18 six percent (6%) of the face amount of the check, whichever is less, in the
19 case of all other checks. Such fee may be collected separately or by paying
20 the customer an amount of money equal to the face amount of the check less
21 the appropriate fee under this chapter;

22 (2) For a deferred presentment option which involves a personal
23 check, an additional fee not to exceed ten dollars (\$10.00) may be charged by
24 a check-casher; and

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

30 (c) Except for the service charge allowed for dishonored checks under
31 § 5-37-304, it shall be a violation of this chapter for any check-casher to
32 charge any fees in a check-cashing or deferred presentment option transaction
33 other than fees authorized under this section.

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

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

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

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

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

13
14 SECTION 3. Arkansas Code 23-52-106(n), concerning the terms of doing
15 check-cashing business, is amended to read as follows:

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

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

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

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

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

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

35 23-52-118. Deceptive trade practices.

36 (a) A violation of any of the provisions of this subchapter shall be

1 deemed an unfair or deceptive trade practice under Arkansas Title 4, Chapter
2 88.

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

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

9 /s/ Duggar, et al.
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