

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 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: S4/5/05

# A Bill

SENATE BILL 948

5 By: Senator Steele  
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## For An Act To Be Entitled

8  
9 AN ACT TO AMEND THE CHECK-CASHERS ACT REGARDING  
10 DEFERRED PRESENTMENTS; TO ADD PROTECTIONS FOR  
11 MILITARY MEMBERS; AND FOR OTHER PURPOSES.  
12

### Subtitle

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14 TO AMEND THE CHECK-CASHERS ACT REGARDING  
15 DEFERRED PRESENTMENTS AND TO ADD  
16 PROTECTIONS FOR MILITARY MEMBERS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 23-52-102(5), concerning the definition of  
22 deferred presentment option, is amended to read as follows:

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

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

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

31 (C) Granting the customer the option to repurchase the  
32 customer's personal check for an agreed period of time prior to presentment  
33 of such check for payment or deposit. The term "deferred presentment"  
34 includes related terms such as "delayed deposit", "deferred deposit", or  
35 substantially similar terms evidencing the same type of transaction;  
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1           SECTION 2. Arkansas Code § 23-52-104 is amended to read as follows:  
2           23-52-104. Permissible check-casher fees.

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

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

7                   (2) Photographing the person signing the check;

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

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

11                  (5) Maintaining required capital and liquidity; and

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

14           (b) The fee, when made and collected, shall not be deemed interest for  
15 any purpose of law, and a check-cashing transaction, ~~including one (1) with a~~  
16 ~~deferred presentment option~~, shall not be and shall not be deemed to be a  
17 loan, loan contract, or a contract for the payment of interest  
18 notwithstanding any disclosures required by this chapter.

19           (c) The fees authorized by this section shall not exceed the  
20 following, unless otherwise authorized by this chapter:

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

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

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

30                           (C) A fee not in excess of six percent (6%) of the face  
31 amount of the check in the case of all other checks. Such fee may be  
32 collected separately or by paying the customer an amount of money equal to  
33 the face amount of the check less the appropriate fee under this chapter;

34                   (2) ~~For a deferred presentment option which involves a personal~~  
35 ~~check, an additional fee not to exceed ten dollars (\$10.00) may be charged by~~  
36 ~~a check-casher~~ For the service of selling currency or a check in exchange for

1 a personal check with the presentment option, a check-casher may only charge  
2 a finance charge or a fee as authorized by applicable state or federal law;  
3 and

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

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10 SECTION 3. Arkansas Code § 23-52-105 is amended to read as follows:  
11 23-52-105. General disclosure.

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

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

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

18 (3) The initial issuance of any identification card.

19 (b) Each check-casher shall also post a list of valid identification  
20 which is acceptable in lieu of identification provided by the person cashing  
21 the check. The information required by this section shall be posted at each  
22 location at which the check-casher conducts the check-cashing business and in  
23 clear, legible letters not less than one-half inch (1/2") in height. The  
24 information shall be posted in a conspicuous location in the unobstructed  
25 view of the public within the check-casher's premises.

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

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

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

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

36 (2) Is prohibited from conducting any collection activity while

1 the military member is deployed to a combat or combat-support posting for the  
2 duration of that deployment;

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

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

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

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12 /s/ Steele  
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