

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H1/22/07 H1/30/07

A Bill

HOUSE BILL 1036

5 By: Representatives D. Johnson, Burris, Cook, Cornwell, Dickinson, Hall, Harrelson, J. Johnson, Key,
6 Maloch, Medley, S. Prater, Reep, Webb, *Abernathy, Allen, Berry, Bond, Breedlove, E. Brown, J. Brown,*
7 *D. Creekmore, Davis, S. Dobbins, Dunn, Edwards, D. Evans, Flowers, Garner, Gaskill, R. Green,*
8 *Greenberg, Harris, Hoyt, D. Hutchinson, King, Lamoureux, W. Lewellen, Lovell, M. Martin, Pate,*
9 *Pennartz, Pickett, Pierce, Powers, Ragland, Rainey, Reynolds, J. Roebuck, Rosenbaum, Sample, L. Smith,*
10 *Sullivan, Walters, Wills*
11 By: Senators Womack, Whitaker, *Glover*
12
13

For An Act To Be Entitled

15 AN ACT TO CREATE THE OFFENSE OF UNLAWFUL CONSUMER
16 LOANS; TO ENFORCE THE PROVISIONS OF ARKANSAS
17 CONSTITUTION, ARTICLE 19, § 13; AND FOR OTHER
18 PURPOSES.

Subtitle

21 TO CREATE THE OFFENSE OF UNLAWFUL
22 CONSUMER LOANS.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code Title 5, Chapter 63, Subchapter 2 is amended
28 to add an additional section to read as follows:

29 5-63-205. Unlawful consumer loans.

30 (a) As used in this section:

31 (1) "Check" means a check, warrant, draft, money order,
32 travelers' check, or other instrument for the payment of money, whether or
33 not negotiable, but excluding:

34 (A) Any such instrument drawn on an account or financial
35 institution outside of the United States; and

36 (B) Money or currency of any nation;



1 (2)(A) "Consumer loan" means a loan extended to an individual in
2 which the money that is the subject of the transaction is primarily used for
3 personal, family, or household purposes.

4 (B) "Consumer loan" does not include a loan that is
5 secured in full by tangible personal property of which the lender takes
6 possession other than a check or checks;

7 (3) "Financial institution" means a federally insured depository
8 institution including a state bank, a national bank, an out-of-state state-
9 chartered bank that has received a certificate of authority under § 23-48-
10 1001, a savings bank, a savings and loan association, a credit union, or a
11 credit union service organization that is:

12 (A) Organized under the laws of this state, another state,
13 or the United States; and

14 (B) Subject to regulation by the State Bank Department,
15 the State Credit Union Supervisor, the National Credit Union Administration,
16 the Office of the Comptroller of the Currency, the Federal Deposit Insurance
17 Corporation, the Board of Governors of the Federal Reserve System, the Office
18 of Thrift Supervision, or their successors;

19 (4) "Interest" means a charge or fee for the borrowing of
20 currency or money between a willing lender and a willing borrower; and

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

24 (b) It is unlawful for any person to knowingly charge a rate of
25 interest greater than seventeen percent (17%) per annum in a transaction
26 involving a consumer loan, as prohibited by Arkansas Constitution, Article
27 19, § 13.

28 (c)(1) Any person violating subsection (b) of this section is guilty
29 of a violation and upon conviction shall be fined three hundred dollars
30 (\$300).

31 (2) Each transaction involving an unlawful consumer loan is a
32 separate offense.

33 (d) A consumer loan is exempt from subsection (b) of this section if
34 the consumer loan is made by a financial institution.

35
36 SECTION 2. Arkansas Code § 23-52-104 is amended to read as follows:

1 23-52-104. Permissible check-casher fees.

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

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

6 (2) Photographing the person signing the check;

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

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

10 (5) Maintaining required capital and liquidity; and

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

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

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

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

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

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

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

31 ~~(3) In addition to the foregoing fees, a check-casher may charge~~
32 ~~a fee of no more than five dollars (\$5.00) to set up an initial customer~~
33 ~~account and issue an optional identification card for providing check-cashing~~
34 ~~services. A replacement optional identification card may be issued at a cost~~
35 ~~not to exceed five dollars (\$5.00) seventeen percent (17%) per annum of the~~
36 ~~face amount of the check.~~

