

**DEFERRED DEPOSIT LENDING
INFORMATION AND REPORTING**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Check Cashing Registration Act.

Highlighted Provisions:

This bill:

- ▶ requires a check casher that extends a deferred deposit loan to file an operations statement to renew a registration;
- ▶ requires reporting by the commissioner; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-23-103, as last amended by Laws of Utah 2007, Chapter 87

7-23-108, as last amended by Laws of Utah 2007, Chapter 87

ENACTS:

7-23-111, Utah Code Annotated 1953



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **7-23-103** is amended to read:

30 **7-23-103. Registration -- Rulemaking.**

31 (1) (a) It is unlawful for a person to engage in the business of a check casher in Utah or
32 with a Utah resident unless the person:

33 (i) registers with the department in accordance with this chapter; and

34 (ii) maintains a valid registration.

35 (b) It is unlawful for a person to operate a mobile facility in this state to engage in the
36 business of a check casher.

37 (2) (a) A registration and a renewal of a registration expires on April 30 of each year
38 unless on or before that date the person renews the registration.

39 (b) To register under this section, a person shall:

40 (i) pay an original registration fee established under Subsection 7-1-401(8); and

41 (ii) submit a registration statement containing the information described in Subsection

42 (2)(d).

43 (c) To renew a registration under this section, a person shall:

44 (i) pay the annual fee established under Subsection 7-1-401(5); [~~and~~]

45 (ii) submit a renewal statement containing the information described in Subsection

46 (2)(d)[~~]; and~~

47 (iii) if the person extends a deferred deposit loan in the immediate preceding calendar
48 year, submit an operations statement containing the information described in Subsection (2)(e).

49 (d) A registration or renewal statement shall state:

50 (i) the name of the person;

51 (ii) the name in which the business will be transacted if different from that required in

52 Subsection (2)(d)(i);

53 (iii) the address of the person's principal business office, which may be outside this

54 state;

55 (iv) the addresses of all offices in this state at which the person conducts the business
56 of a check casher;

57 (v) if the person conducts the business of a check casher in this state but does not

58 maintain an office in this state, a brief description of the manner in which the business is

59 conducted;

60 (vi) the name and address in this state of a designated agent upon whom service of
61 process may be made;

62 (vii) disclosure of any injunction, judgment, administrative order, or conviction of any
63 crime involving moral turpitude with respect to that person or any officer, director, manager,
64 operator, or principal of that person; and

65 (viii) any other information required by the rules of the department.

66 (e) An operations statement required under Subsection (2)(c)(iii) to renew a
67 registration shall state for the immediately preceding calendar year:

68 (i) (A) the total number and the total amount of deferred deposit loans, extended,
69 arranged, or taken by assignment by the check casher;

70 (B) of the number and amount listed under Subsection (2)(e)(i)(A), the total number
71 and the total amount of deferred deposit loans where the amount financed is equal to or less
72 than \$250; and

73 (C) of the number and amount listed under Subsection (2)(e)(i)(A), the total number
74 and the total amount of deferred deposit loans where the amount financed is greater than \$250;

75 (ii) the total number and the total amount of deferred deposit loans extended by the
76 check casher that are outstanding as of December 31 including refinances or rollovers;

77 (iii) the maximum deferred deposit loan amount extended by the check casher;

78 (iv) the interest and fees for the maximum deferred deposit loan amount extended by
79 the check casher;

80 (v) the average deferred deposit loan amount extended by the check casher;

81 (vi) the interest and fees for the average deferred deposit loan amount extended by the
82 check casher;

83 (vii) the average annual percentage rate on a deferred deposit loan extended by the
84 check casher;

85 (viii) the average number of days a deferred deposit loan is extended by the check
86 cashier before the deferred deposit loan is paid in full;

87 (ix) (A) the total number and the total amount of deferred deposit loans on which there
88 is a default in the calendar year;

89 (B) of the amount listed under Subsection (2)(e)(ix)(A), the total number and the total

90 amount of deferred deposit loans that are recovered; and

91 (C) of the amount listed under Subsection (2)(e)(ix)(A), the total number and the total
92 amount of deferred deposit loans that are charged off;

93 (x) the total number and the total amount of deferred loans rescinded by the check
94 casher at the request of a customer pursuant to Subsection 7-23-105(3)(b);

95 (xi) the total number and the total amount of deferred deposit loans extended by the
96 check casher that are refinanced or rolled over in the calendar year; and

97 (xii) (A) the total number of individual customers to whom a deferred deposit loan is
98 extended by the check casher;

99 (B) of the number listed in Subsection (2)(e)(xii)(A), the number of customers to
100 whom the check casher extends six or less loans;

101 (C) of the number listed in Subsection (2)(e)(xii)(A), the number of customers to
102 whom the check casher extends seven or more loans, but less than 13 loans; and

103 (D) of the number listed in Subsection (2)(e)(xii)(A), the number of customers to
104 whom the check casher extends 13 or more loans.

105 (3) Information provided by a deferred deposit lender under Subsection (2)(e) is:

106 (a) confidential in accordance with Section 7-1-802; and

107 (b) not subject to Title 63, Chapter 2, Government Records Access and Management
108 Act.

109 ~~[(e)(i)]~~ (4) (a) The commissioner may impose an administrative fine determined under
110 Subsection ~~[(2)(e)(ii)]~~ (4)(b) on a person if:

111 ~~[(A)]~~ (i) the person is required to be registered under this chapter;

112 ~~[(B)]~~ (ii) the person fails to register or renew a registration in accordance with this
113 chapter;

114 ~~[(C)]~~ (iii) the department notifies the person that the person is in violation of this
115 chapter for failure to be registered; and

116 ~~[(D)]~~ (iv) the person fails to register within 30 days after the day on which the person
117 receives the notice described in Subsection ~~[(2)(e)(i)(C)]~~ (4)(a)(iii).

118 ~~[(ii)]~~ (b) Subject to Subsection ~~[(2)(e)(iii)]~~ (4)(c), the administrative fine imposed
119 under this section is:

120 ~~[(A)]~~ (i) \$500 if the person:

121 ~~[(A)]~~ (A) has no office in this state at which the person conducts the business of a check
122 cashier; or

123 ~~[(B)]~~ (B) has one office in this state at which the person conducts the business of a
124 check cashier; or

125 ~~[(ii)]~~ (ii) if the person has two or more offices in this state at which the person
126 conducts the business of a check cashier, \$500 for each office at which the person conducts the
127 business of a check cashier.

128 ~~[(c)]~~ (c) The commissioner may reduce or waive a fine imposed under this Subsection
129 ~~[(4)]~~ (4) if the person shows good cause.

130 ~~[(5)]~~ (5) If the information in a registration ~~[or]~~, renewal, or operations statement
131 required under Subsection (2) becomes inaccurate after filing, a person is not required to notify
132 the department until:

133 (a) that person is required to renew the registration; or

134 (b) the department specifically requests earlier notification.

135 ~~[(6)]~~ (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
136 Act, the department may make rules consistent with this section providing for:

137 (a) the form, content, and filing of a registration and renewal statement described in
138 Subsection (2)(d); and

139 (b) the form and filing of an operations statement described in Subsection (2)(e).

140 Section 2. Section **7-23-108** is amended to read:

141 **7-23-108. Penalties.**

142 (1) A person who violates this chapter or who files materially false information with a
143 registration or renewal under Section 7-23-103 is:

144 (a) guilty of a class B misdemeanor, except for a violation of:

145 (i) Subsection 7-23-105(1)(f)(i), (ii), or (iii); or

146 (ii) rules made under Subsection 7-23-106(2)(b); and

147 (b) subject to revocation of a person's registration under this chapter.

148 (2) Subject to Title 63, Chapter 46b, Administrative Procedures Act, if the department
149 determines that a person is engaging in the business of cashing checks in violation of this
150 chapter, the department may:

151 (a) revoke that person's registration under this chapter;

- 152 (b) issue a cease and desist order from committing any further violations;
- 153 (c) prohibit the person from continuing to engage in the business of a check casher;
- 154 (d) impose an administrative fine not to exceed \$1,000 per violation, except that:
- 155 (i) a fine imposed under Subsection 7-23-103[~~(2)(e)~~](4) shall comply with Subsection
- 156 7-23-103[~~(2)(e)~~](4); and
- 157 (ii) the aggregate total of fines imposed under this chapter against a person in a
- 158 calendar year may not exceed \$30,000 for that calendar year; or
- 159 (e) take any combination of actions listed under this Subsection (2).

160 Section 3. Section **7-23-111** is enacted to read:

161 **7-23-111. Reporting by commissioner.**

162 (1) Subject to Subsection (2), as part of the commissioner's annual report to the
163 governor and Legislature under Section 7-1-211, the commissioner shall report to the governor
164 and Legislature on the operations on an aggregate basis of check cashers who:

- 165 (a) operate in the state; and
- 166 (b) extend a deferred deposit loan.

167 (2) In preparing the report required by Subsection (1), the commissioner:

- 168 (a) shall include in the report for the immediately preceding calendar year aggregate
169 information from the one or more operations statements filed under Subsection 7-23-103(2)(e)
170 for that calendar year; and

- 171 (b) may not include in the report information from an operations statement filed with
172 the department that could identify a specific check casher.

Legislative Review Note
as of 2-5-08 10:17 AM

Office of Legislative Research and General Counsel

S.B. 216 - Deferred Deposit Lending Information and Reporting

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses may be impacted due to changes in statute.
