

**PAYDAY LENDING**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ty McCartney**

**This act modifies the Check Cashing Registration Act by requiring deferred deposit lenders to allow borrowers to make partial payments or to rescind the loan by the next business day. The act prohibits a deferred deposit lender from threatening to use or using the criminal process to collect a loan, and requires the Department of Financial Institutions to examine every check casher at least once every three years.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**7-23-105**, as enacted by Chapter 144, Laws of Utah 1999

**7-23-107**, as enacted by Chapter 144, Laws of Utah 1999

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

Section 1. Section **7-23-105** is amended to read:

**7-23-105. Operational requirements for deferred deposit loans.**

(1) If a check casher extends a deferred deposit loan, the check casher shall:

(a) post in a conspicuous location on its premises that can be viewed by a person seeking a deferred deposit loan:

(i) a complete schedule of any interest or fees charged for a deferred deposit loan that states the interest and fees using dollar amounts; and

(ii) a number the person can call to make a complaint to the department regarding the deferred deposit loan;

(b) enter into a written contract for the deferred deposit loan;

(c) provide the person seeking the deferred deposit loan a copy of the deferred deposit contract;

(d) orally review with the person seeking the deferred deposit loan the terms of the



28 deferred deposit loan including:

- 29 (i) the amount of any interest rate or fee; and  
 30 (ii) the date on which the full amount of the deferred deposit loan is due; and

31 (e) comply with:

- 32 (i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et. seq.;  
 33 (ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691; and  
 34 (iii) Title 70C, Utah Consumer Credit Code.

35 (2) A check casher that engages in a deferred deposit loan [~~may not~~] shall permit a  
 36 person receiving a deferred deposit loan to:

37 (a) make partial payments on the deferred deposit loan at any time without incurring  
 38 additional charges; and

39 (b) rescind the deferred deposit loan without incurring any charges by returning the  
 40 deferred deposit loan amount to the check casher on or before 5 p.m. the next business day  
 41 following the loan transaction.

42 (3) A check casher that engages in a deferred deposit loan may not:

43 (a) rollover a deferred deposit loan if the rollover requires a person to pay the amount  
 44 owed by the person under a deferred deposit loan in whole or in part more than 12 weeks from  
 45 the day on which the deferred deposit loan is first executed[-]; or

46 (b) threaten to use or use the criminal process in any state to collect on the deferred  
 47 deposit loan.

48 (4) Notwithstanding Subsection (3)(b), a check casher that is the holder of a check,  
 49 draft, order, or other instrument that has been dishonored may use the notice procedures  
 50 provided in Title 7, Chapter 15, Dishonored Instruments.

51 Section 2. Section **7-23-107** is amended to read:

52 **7-23-107. Examination of books, accounts, and records by the department.**

53 (1) [~~The department may~~] At least <sup>h</sup> ~~[once every three years]~~ **ANNUALLY** <sup>h</sup> the department  
 53a shall, for each  
 54 premise engaging in the business of a check casher:

55 (a) examine the books, accounts, and records [~~of a check casher~~]; and [~~may~~]

56 (b) make investigations to determine compliance with this chapter.

57 (2) In accordance with Section 7-1-401, the [~~department may charge fees~~] check casher  
 58 shall pay a fee for an examination conducted under Subsection (1).

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**Legislative Review Note**  
as of 7-18-02 1:24 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0166**

**Payday Lending**

*08-Jan-03*

*11:36 AM*

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**State Impact**

No fiscal impact. (Current practice is to examine these businesses annually.)

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**Individual and Business Impact**

Consumers may avoid some check cashing fees which would reduce lender revenues.

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**Office of the Legislative Fiscal Analyst**