

REGULATIONS OF CHECK CASHERS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Ed P. Mayne

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, applying certain provisions to deferred deposit loans extended through the Internet, and requiring additional disclosures. 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 year. The act makes technical changes.

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

AMENDS:

7-23-103, as enacted by Chapter 144, Laws of Utah 1999

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

7-23-106, 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 **7-23-103** is amended to read:

7-23-103. Registration -- Rulemaking.

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

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

(ii) maintains a valid registration.

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

(c) Notwithstanding Subsection (1)(a), a person that is engaged in the business of a



28 check casher in this state on May 3, 1999, is not required to be registered under this section
29 until July 1, 1999.

30 (2) (a) A registration and a renewal of a registration expires on [~~January 31~~] April 30 of
31 each year unless on or before that date the person renews the registration.

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

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

34 (ii) submit a registration statement containing the information described in Subsection
35 (2)(d).

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

37 (i) pay the annual fee established under Subsection 7-1-401(5); and

38 (ii) submit a renewal statement containing the information described in Subsection
39 (2)(d).

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

41 (i) the name of the person;

42 (ii) the name in which the business will be transacted if different from that required in
43 Subsection (2)(d)(i);

44 (iii) the address of the person's principal business office, which may be outside this
45 state;

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

48 (v) if the person conducts the business of a check casher in this state but does not
49 maintain an office in this state, a brief description of the manner in which the business is
50 conducted;

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

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

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

57 (3) If the information in a registration or renewal statement required under Subsection
58 (2) becomes inaccurate after filing, a person is not required to notify the department until:

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

60 (b) the department specifically requests earlier notification.

61 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
62 department may make rules consistent with this section providing for the form, content, and
63 filing of a registration and renewal statement.

64 Section 2. Section **7-23-105** is amended to read:

65 **7-23-105. Operational requirements for deferred deposit loans.**

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

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

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

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

73 (iii) a list of states where the check casher is registered or authorized to offer deferred
74 deposit loans through the Internet or other electronic means;

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

76 (c) conspicuously disclose in the written contract that, under Subsection (4)(b), the
77 deferred deposit loan may not be rolled over beyond 12 weeks after the day on which the
78 deferred deposit loan is executed;

79 [~~(d)~~] (d) provide the person seeking the deferred deposit loan a copy of the deferred
80 deposit contract;

81 [~~(e)~~] (e) orally review with the person seeking the deferred deposit loan the terms of
82 the deferred deposit loan including:

83 (i) the amount of any interest rate or fee; [~~and~~]

84 (ii) the date on which the full amount of the deferred deposit loan is due; and

85 (iii) the fact that the deferred deposit loan may not be rolled over beyond 12 weeks
86 after the day on which the deferred deposit loan is executed; and

87 [~~(f)~~] (f) comply with:

88 (i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et. seq.;

89 (ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691; and

90 (iii) Title 70C, Utah Consumer Credit Code.

91 (2) If a check casher extends a deferred deposit loan through the Internet or other
92 electronic means, the check casher shall provide the information described in Subsection (1)(a)
93 to the person receiving the deferred deposit loan in a conspicuous manner prior to the
94 completion of the deferred deposit loan.

95 [~~2~~] (3) A check casher that engages in a deferred deposit loan [~~may not~~] shall permit
96 a person receiving a deferred deposit loan to:

97 (a) make partial payments in increments of at least \$5 on the principal owned on the
98 deferred deposit loan at any time without incurring additional charges above the charges
99 provided in the written contract; and

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

103 (4) A check casher that engages in a deferred deposit loan may not:

104 (a) collect interest on a deferred deposit loan with an outstanding principal balance 12
105 weeks after the day on which the deferred deposit loan is executed;

106 (b) rollover a deferred deposit loan if the rollover requires a person to pay the amount
107 owed by the person under a deferred deposit loan in whole or in part more than 12 weeks from
108 the day on which the deferred deposit loan is first executed[.]; or

109 (c) threaten to use or use the criminal process in any state to collect on the deferred
110 deposit loan.

111 (5) Notwithstanding Subsection (4)(c), a check casher that is the holder of a check,
112 draft, order, or other instrument that has been dishonored may use the notice procedures
113 provided in Title 7, Chapter 15, Dishonored Instruments.

114 Section 3. Section **7-23-106** is amended to read:

115 **7-23-106. Enforcement by department -- Rulemaking.**

116 Subject to the requirements of Title 63, Chapter 46b, Administrative Procedures Act,
117 the department may:

118 (1) (a) receive and act on complaints;

119 (b) take action designed to obtain voluntary compliance with this chapter; [~~or~~]

120 (c) commence administrative or judicial proceedings on its own initiative to enforce

- 121 compliance with this chapter; or
- 122 (d) take action against any check casher that fails to:
- 123 (i) respond to the department, in writing within 30 days, to a complaint; or
- 124 (ii) submit information as requested by the department;
- 125 (2) counsel persons and groups on their rights and duties under this chapter;
- 126 (3) make rules to:
- 127 (a) restrict or prohibit lending or servicing practices that are misleading, unfair, or
- 128 abusive;
- 129 (b) promote or assure fair and full disclosure of the terms and conditions of agreements
- 130 and communications between check cashers and customers; or
- 131 (c) promote or assure uniform application of or to resolve ambiguities in applicable
- 132 state or federal laws or federal regulations; and
- 133 (4) employ hearing examiners, clerks, and other employees and agents as necessary to
- 134 perform its duties under this chapter.

135 Section 4. Section **7-23-107** is amended to read:

136 **7-23-107. Examination of books, accounts, and records by the department.**

137 (1) ~~[The department may]~~ At least once every calendar year the department shall, for

138 each premise engaging in the business of a check casher:

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

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

141 (2) In accordance with Section 7-1-401, the ~~[department may charge fees]~~ check casher

142 shall pay a fee for an examination conducted under Subsection (1).

Legislative Review Note
as of 8-28-02 11:12 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0130

Regulations of Check Cashiers

29-Jan-03

10:50 AM

State Impact

No fiscal impact

Individual and Business Impact

No significant impact on businesses.

Office of the Legislative Fiscal Analyst