

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO FINANCIAL INSTITUTIONS -- CHECK CASHING

Introduced By: Senators Pichardo, Miller, Perry, and C Levesque

Date Introduced: February 15, 2007

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 19-14-1 of the General Laws in Chapter 19-14 entitled "Licensed  
2    Activitie s" is hereby amended to read as follows:

3           **19-14-1. Definitions. [Effective March 31, 2007.]** -- For purposes of this chapter and  
4    chapters 14.1, 14.2, 14.3, 14.4, 14.6 and 14.7 of this title:

5           (1) "Check" means any check, draft, money order, personal money order, or other  
6    instrument for the transmission or payment of money. For the purposes of check cashing,  
7    travelers checks or foreign denomination instruments shall not be considered checks. "Check  
8    cashing" means providing currency for checks;

9           (2) "Deliver" means to deliver a check to the first person who in payment for the check  
10   makes or purports to make a remittance of or against the face amount of the check, whether or not  
11   the deliverer also charges a fee in addition to the face amount, and whether or not the deliverer  
12   signs the check;

13          (3) "Electronic money transfer" means receiving money for transmission within the  
14   United States or to locations abroad by any means including, but not limited to, wire, facsimile or  
15   other electronic transfer system;

16          (4) (i) "Lender" means any person who makes or funds a loan within this state with the  
17   person's own funds, regardless of whether the person is the nominal mortgagee or creditor on the  
18   instrument evidencing the loan;

19          (ii) A loan is made or funded within this state if any of the following conditions exist:

1 (A) The loan is secured by real property located in this state;

2 (B) An application for a loan is taken by an employee, agent, or representative of the  
3 lender within this state;

4 (C) The loan closes within this state; or

5 (D) The loan solicitation is done by an individual with a physical presence in this state.

6 (iii) The term "lender" shall also include any person engaged in a transaction whereby  
7 the person makes or funds a loan within this state using the proceeds of an advance under a line  
8 of credit over which proceeds the person has dominion and control and for the repayment of  
9 which the person is unconditionally liable. This transaction is not a table funding transaction. A  
10 person is deemed to have dominion and control over the proceeds of an advance under a line of  
11 credit used to fund a loan regardless of whether:

12 (A) The person may, contemporaneously with or shortly following the funding of the  
13 loan, assign or deliver to the line of credit lender one or more loans funded by the proceeds of an  
14 advance to the person under the line of credit;

15 (B) The proceeds of an advance are delivered directly to the settlement agent by the line  
16 of credit lender, unless the settlement agent is the agent of the line of credit lender;

17 (C) One or more loans funded by the proceeds of an advance under the line of credit is  
18 purchased by the line of credit lender; or

19 (D) Under the circumstances as set forth in regulations adopted by the director or the  
20 director's designee pursuant to this chapter;

21 (5) "Licensee" means an entity licensed under this chapter;

22 (6) "Loan" means any advance of money or credit including, but not limited to:

23 (i) Loans secured by mortgages;

24 (ii) Insurance premium finance agreements;

25 (iii) The purchase or acquisition of retail installment contracts or advances to the holders  
26 of those contracts;

27 (iv) Educational loans;

28 (v) Any other advance of money; or

29 ~~(vi) Any transaction such as those commonly known as "pay day loans," "pay day~~  
30 ~~advances," or "deferred presentment loans," in which a cash advance is made to a customer in~~  
31 ~~exchange for the customer's personal check, or in exchange for the customer's authorization to~~  
32 ~~debit the customer's deposit account, and where the parties agree either that the check will not be~~  
33 ~~cashed or deposited, or that customer's deposit account will not be debited, until a designated~~  
34 ~~future date.~~

1 (7) "Loan broker" means any person who, for compensation or gain, or in the expectation  
2 of compensation or gain, either directly or indirectly, solicits, processes, negotiates, places or sells  
3 a loan within this state for others in the primary market, or offers to do so. A loan broker shall  
4 also mean any person who is the nominal mortgagee or creditor in a table funding transaction. A  
5 loan is brokered within this state if any of the following conditions exist:

6 (i) The loan is secured by real property located in this state;

7 (ii) An application for a loan is taken by an employee, agent or representative of the loan  
8 broker within this state;

9 (iii) The loan closes within this state; or

10 (iv) The loan solicitation is done by an individual with a physical presence in this state.

11 (8) "Personal money order" means any instrument for the transmission or payment of  
12 money in relation to which the purchaser or remitter appoints or purports to appoint the seller as  
13 his or her agent for the receipt, transmission, or handling of money, whether the instrument is  
14 signed by the seller or by the purchaser or remitter or some other person;

15 (9) "Primary market" means the market in which loans are made to borrowers by lenders,  
16 whether or not through a loan broker or other conduit;

17 (10) "Principal owner" means any person who owns, controls, votes or has a beneficial  
18 interest in, directly or indirectly, ten percent (10%) or more of the outstanding capital stock of a  
19 licensee;

20 (11) "Sell" means to sell, to issue, or to deliver a check;

21 (12) "Small loan" means a loan of less than five thousand dollars (\$5,000), not secured  
22 by real estate, made pursuant to the provisions of chapter 14.2 of this title;

23 (13) "Small loan lender" means a lender engaged in the business of making small loans  
24 within this state;

25 (14) "Table funding transaction" means a transaction in which there is a  
26 contemporaneous advance of funds by a lender and an assignment by the mortgagee or creditor of  
27 the loan to the lender;

28 (15) "Check casher" means a person or entity that, for compensation, engages, in whole  
29 or in part, in the business of cashing checks;

30 ~~(16) "Deferred deposit transaction" means any transaction such as those commonly~~  
31 ~~known as "pay day loans," "pay day advances," or "deferred presentment loans" in which a cash~~  
32 ~~advance is made to a customer in exchange for the customer's personal check or in exchange for~~  
33 ~~the customer's authorization to debit the customer's deposit account and where the parties agree~~  
34 ~~either that the check will not be cashed or deposited, or that the customer's deposit account will~~

1 ~~not be debited until a designated future date;~~

2 ~~(17)~~ (16) "Insurance premium finance agreement" means an agreement by which an  
3 insured, or prospective insured, promises to pay to an insurance premium finance company the  
4 amount advanced or to be advanced, under the agreement to an insurer or to an insurance  
5 producer, in payment of a premium or premiums on an insurance contract or contracts, together  
6 with interest and a service charge, as authorized and limited by this title;

7 ~~(18)~~ (17) "Insurance premium finance company" means a person engaged in the business  
8 of making insurance premium finance agreements or acquiring insurance premium finance  
9 agreements from other insurance premium finance companies;

10 ~~(19)~~ (18) "Simple interest" means interest computed on the principal balance outstanding  
11 immediately prior to a payment for the actual number of days between payments made on a loan  
12 over the life of a loan;

13 ~~(20)~~ (19) "Nonprofit organization" means a corporation qualifying as a 26 U.S.C. section  
14 501(c)(3) nonprofit organization, in the operation of which no member, director, officer, partner,  
15 employee, agent, or other affiliated person profits financially other than receiving reasonable  
16 salaries if applicable.

17 SECTION 2. Section 19-14.1-10 of the General Laws in Chapter 19-14.1 entitled  
18 "Lenders and Loan Brokers" is hereby amended to read as follows:

19 **19-14.1-10. Special exemptions.** – (a) The licensing provisions of chapter 14 of this title  
20 shall not apply to:

21 (1) Nonprofit charitable, educational, or religious corporations or associations;

22 (2) Any person who makes less than six (6) loans in this state in any consecutive twelve  
23 (12) month period; there is no similar exemption from licensing for loan brokers for brokering  
24 loans or acting as a loan broker;

25 (3) Person(s) acting as an agent for a licensee for the purpose of conducting closings at a  
26 location other than that stipulated in the license;

27 (4) Regulated institutions and banks or credit unions organized under the laws of the  
28 United States, or subject to written notice with a designated Rhode Island agent for service of  
29 process in the form prescribed by the director or the director's designee, of any other state within  
30 the United States if the laws of the other state in which such bank or credit union is organized  
31 authorizes under conditions not substantially more restrictive than those imposed by the laws of  
32 this state, as determined by the director or the director's designee, a financial institution or credit  
33 union to engage in the business of originating or brokering loans in the other state; no bank or  
34 credit union duly organized under the laws of any other state within the United States may receive

1 deposits, pay checks or lend money from any location within this state unless such bank or credit  
2 union has received approval from the director or the director's designee for the establishment of  
3 an interstate branch office pursuant to chapter 7 of title 19 of the general laws; or

4 (5) Any natural person employee who is employed by a licensee when acting on the  
5 licensee's behalf.

6 (b) The provisions of this chapter and chapter 14 of this title shall not apply to:

7 (1) Loans to corporations, joint ventures, partnerships, limited liability companies or  
8 other business entities;

9 (2) Loans over twenty-five thousand dollars (\$25,000) in amount to individuals for  
10 business or commercial, as opposed to personal, family or household purposes;

11 (3) Loans principally secured by accounts receivable and/or business inventory;

12 (4) Loans made by a life insurance company wholly secured by the cash surrender value  
13 of a life insurance policy;

14 (5) Education-purpose loans made by the Rhode Island health and educational building  
15 corporation as vested in chapter 38.1 of title 45 of the Rhode Island student loan authority as  
16 vested in chapter 62 of title 16;

17 (6) The acquisition of retail or loan installment contracts by an entity whose sole  
18 business in this state is acquiring them from federal banks receivers or liquidators;

19 (7) Notes evidencing the indebtedness of a retail buyer to a retail seller of goods,  
20 services or insurance for a part or all of the purchase price; or

21 (8) Any state or federal agency which makes, brokers, or funds loans or acts as a lender  
22 or a loan broker. This exemption includes exclusive agents or exclusive contractors of the agency  
23 specifically designated by the agency to perform those functions on behalf of the agency and  
24 which has notified the director, in writing, of the exclusive agency or contract.

25 ~~(c) No license to make or fund loans, or to act as a lender or small loan lender shall be~~  
26 ~~required of any person who engages in deferred deposit transactions (commonly known as "pay-~~  
27 ~~day advance") while holding a valid license to cash checks pursuant to chapter 14 of this title.~~

28 SECTION 3. Section 19-14.4-4 and 19-14.4-5 of the General Laws in Chapter 19-14.4  
29 entitled "Check Cashing" are hereby amended to read as follows:

30 **19-14.4-4. Fees for services.** -- No licensee shall:

31 (1) Charge check-cashing fees in excess of three percent (3%) of the face amount of the  
32 check, or five dollars (\$5.00), whichever is greater, if the check is the payment of any kind of  
33 state public assistance or federal social security benefit;

34 (2) Charge check-cashing fees for personal checks in excess of ten percent (10%) of the

face amount of the personal check or five dollars (\$5.00), whichever is greater; or

(3) Charge check-cashing fees in excess of five percent (5%) of the face amount of the check or five dollars (\$5.00), whichever is greater, for all other checks.

~~(4) Charge deferred deposit transaction fees in excess of fifteen percent (15%) of the amount of funds advanced.~~

**19-14.4-5. Posting of charges -- Endorsement -- Receipt.** -- (a) In every location licensed pursuant to this chapter, there shall be at all times posted in a conspicuous place within the licensed premises a complete and unambiguous schedule of all fees for cashing checks, ~~deferred deposit transactions expressed as both a dollar amount and an annual percentage rate,~~ and the initial issuance of any identification card.

(b) Before a licensee shall deposit, with any regulated institution or other insured-deposit-taking institution organized under the laws of the United States, a check cashed by the licensee, the check must be endorsed with the name under which the licensee is doing business and must include the words "licensed check cashing services".

(c) The licensee shall provide a receipt for each transaction for the benefit of a customer.

(d) Each check casher shall also post a list of valid identification which is acceptable in lieu of identification provided by the check casher. The information required by this section shall be clear, legible, and in letters not less than one-half (1/2) inch in height. The information shall be posted in a conspicuous location in the unobstructed view of the public within the check cashers' premises. Failure to post information as required by this section, or the imposition of fees or identification requirements contrary to the information posted, shall constitute a deceptive trade practice under chapter 13.1 of title 6.

SECTION 4. Section 19-14.1-10 of the General Laws in Chapter 19-14.1 entitled "Lenders and Loan Brokers" is hereby repealed.

**19-14.1-10. Special exemptions.** -- ~~(a) The licensing provisions of chapter 14 of this title shall not apply to:~~

~~(1) Nonprofit charitable, educational, or religious corporations or associations;~~

~~(2) Any person who makes less than six (6) loans in this state in any consecutive twelve (12) month period; there is no similar exemption from licensing for loan brokers for brokering loans or acting as a loan broker;~~

~~(3) Person(s) acting as an agent for a licensee for the purpose of conducting closings at a location other than that stipulated in the license;~~

~~(4) Regulated institutions and banks or credit unions organized under the laws of the United States, or subject to written notice with a designated Rhode Island agent for service of~~

~~process in the form prescribed by the director or the director's designee, of any other state within the United States if the laws of the other state in which such bank or credit union is organized authorizes under conditions not substantially more restrictive than those imposed by the laws of this state, as determined by the director or the director's designee, a financial institution or credit union to engage in the business of originating or brokering loans in the other state; no bank or credit union duly organized under the laws of any other state within the United States may receive deposits, pay checks or lend money from any location within this state unless such bank or credit union has received approval from the director or the director's designee for the establishment of an interstate branch office pursuant to chapter 7 of title 19 of the general laws; or~~

~~(5) Any natural person employee who is employed by a licensee when acting on the licensee's behalf.~~

~~(b) The provisions of this chapter and chapter 14 of this title shall not apply to:~~

~~(1) Loans to corporations, joint ventures, partnerships, limited liability companies or other business entities;~~

~~(2) Loans over twenty five thousand dollars (\$25,000) in amount to individuals for business or commercial, as opposed to personal, family or household purposes;~~

~~(3) Loans principally secured by accounts receivable and/or business inventory;~~

~~(4) Loans made by a life insurance company wholly secured by the cash surrender value of a life insurance policy;~~

~~(5) Education purpose loans made by the Rhode Island health and educational building corporation as vested in chapter 38.1 of title 45 of the Rhode Island student loan authority as vested in chapter 62 of title 16;~~

~~(6) The acquisition of retail or loan installment contracts by an entity whose sole business in this state is acquiring them from federal banks receivers or liquidators;~~

~~(7) Notes evidencing the indebtedness of a retail buyer to a retail seller of goods, services or insurance for a part or all of the purchase price; or~~

~~(8) Any state or federal agency which makes, brokers, or funds loans or acts as a lender or a loan broker. This exemption includes exclusive agents or exclusive contractors of the agency specifically designated by the agency to perform those functions on behalf of the agency and which has notified the director, in writing, of the exclusive agency or contract.~~

~~(c) No license to make or fund loans, or to act as a lender or small ban lender shall be required of any person who engages in deferred deposit transactions (commonly known as "pay-day advance") while holding a valid license to cash checks pursuant to chapter 14 of this title.~~

1           SECTION 5. This act shall take effect upon passage.

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LC01524  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FINANCIAL INSTITUTIONS -- CHECK CASHING

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- 1           This act would eliminate certain restrictions and limitations placed upon deferred deposit  
2 transactions which are currently governed by Title 19.  
3           This act would take effect upon passage.

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