

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Act 54, Session Laws  
2 of Hawaii 2021 (Act 54), created protections for elders and  
3 vulnerable adults by mandating that certain individuals, such as  
4 investment advisers, brokers, and agents, report suspected  
5 financial exploitation of elders and vulnerable people in  
6 relation to securities. The financial exploitation of elders is  
7 an increasingly common form of elder abuse and can result in  
8 devastating consequences for its victims.

9           The legislature further finds that elders and vulnerable  
10 adults can also be financially exploited in check cashing and  
11 money order schemes, and extending protections similar to Act 54  
12 to check cashing and money orders will further enable the State  
13 and private financial sectors to work together to prevent and  
14 combat cases of financial abuse to elders and vulnerable adults.  
15 Accordingly, the purpose of this Act is to:





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1           (2) Any act or omission by a person, including through the  
2           use of a power of attorney, guardianship, or  
3           conservatorship of an elder or a vulnerable adult, to:

4           (A) Obtain control through deception, intimidation,  
5           or undue influence over the elder's or vulnerable  
6           adult's money, assets, or property to deprive the  
7           elder or vulnerable adult of the ownership, use,  
8           benefit, or possession of the elder's or  
9           vulnerable adult's money, assets, or property; or

10          (B) Convert money, assets, or property of the elder  
11          or vulnerable adult to deprive the elder or  
12          vulnerable adult of the ownership, use, benefit,  
13          or possession of the elder's or vulnerable  
14          adult's money, assets, or property.

15          "Reasonably associated individual" means any person known  
16          to the check casher to be reasonably associated with the elder,  
17          vulnerable adult, or account.

18          "Vulnerable adult" means a person eighteen years of age or  
19          older who, because of mental, developmental, or physical  
20          impairment, is unable to:



- 1 (1) Communicate or make responsible decisions to manage
- 2 the person's own care or resources;
- 3 (2) Carry out or arrange for essential activities of daily
- 4 living; or
- 5 (3) Protect oneself from abuse.

6 **§480F-B Governmental disclosures.** If a check casher  
7 reasonably believes that financial exploitation of an elder or a  
8 vulnerable adult may have occurred, may have been attempted, or  
9 is being attempted, the check casher shall promptly notify the  
10 director.

11 **§480F-C Immunity for governmental disclosures.** A check  
12 casher who, in good faith and exercising reasonable care, makes  
13 a disclosure of information pursuant to section 480F-B shall be  
14 immune from administrative or civil liability that might  
15 otherwise arise from the disclosure or for any failure to notify  
16 the director of the disclosure.

17 **§480F-D Third-party disclosures.** If a check casher  
18 reasonably believes that financial exploitation of an elder or a  
19 vulnerable adult may have occurred, may have been attempted, or  
20 is being attempted, a check casher may notify a reasonably  
21 associated individual or any third party previously designated



1 by the elder or vulnerable adult. Disclosure shall not be made  
2 to any reasonably associated individual or previously designated  
3 third party who is suspected of financial exploitation or other  
4 abuse of the elder or vulnerable adult.

5 **§480F-E Immunity for third-party disclosures.** A check  
6 casher who, in good faith and exercising reasonable care, makes  
7 a disclosure of information pursuant to section 480F-D shall be  
8 immune from any administrative or civil liability that might  
9 otherwise arise from the disclosure.

10 **§480F-F Refusing to cash checks.** A check casher may  
11 refuse to cash a check of an elder or a vulnerable adult if the  
12 check casher reasonably believes that the requested check  
13 cashing may result in financial exploitation of the elder or  
14 vulnerable adult.

15 **§480F-G Immunity for refusing to cash checks.** A check  
16 casher who, in good faith and exercising reasonable care,  
17 complies with section 480F-F shall be immune from any  
18 administrative or civil liability that might otherwise arise  
19 from a refusal to cash a check in accordance with that section.

20 **§480F-H Records.** A check casher shall provide access to  
21 or copies of records that are relevant to the suspected or



1 attempted financial exploitation of an elder or a vulnerable  
2 adult to the director or law enforcement, either as part of a  
3 referral to the director or law enforcement, or upon request of  
4 the director or law enforcement pursuant to an investigation.  
5 The records may include historical records as well as records  
6 relating to the most recent transaction or transactions that may  
7 comprise financial exploitation of an elder or a vulnerable  
8 adult. All records made available under this section shall be  
9 exempt from disclosure under chapter 92F.

10 Nothing in this section shall limit or otherwise impede the  
11 authority of the director to access or examine the books and  
12 records of a check casher as otherwise provided by law.

13 **§480F-I Multiple duties to report.** Compliance with this  
14 part shall not discharge the duty to report suspected abuse  
15 under any other law."

16 SECTION 3. Section 480F-5, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "[+] §480F-5 [+] **Exemptions.** This chapter shall not apply  
19 to:

20 (1) Any person who is principally engaged in the bona fide  
21 retail sale of goods or services, and who, either as



1 incident to or independent of the retail sale or  
2 service, from time to time cashes items for a fee or  
3 other consideration, where not more than \$2, or two  
4 per cent of the amount of the check, whichever is  
5 greater, is charged for the service; or

6 (2) Any person authorized to engage in business as a bank,  
7 trust company, savings bank, savings and loan  
8 association, financial services loan company, or  
9 credit union under the laws of the United States, any  
10 state or territory of the United States, or the  
11 District of Columbia[-];

12 provided that this section shall not exempt any person from the  
13 requirements of part of this chapter."

14 SECTION 4. In codifying the new sections added by section  
15 2 of this Act, the revisor of statutes shall substitute  
16 appropriate section numbers for the letters used in designating  
17 the new sections in this Act.

18 SECTION 5. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



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1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: *Karl Rhoad*



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**Report Title:**

Check Cashers; Elder; Vulnerable Adult; Financial Exploitation

**Description:**

Requires check cashers to report suspected financial exploitation of elders and vulnerable adults in relation to check cashing. Provides immunity for good faith reporting. Authorizes a check casher to refuse to cash a check in situations of suspected financial exploitation.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

