STAND. COM. REP. NO. 696

Honolulu, Hawaii

MAR 03 2017

RE: S.B. No. 286
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health, to which was referred S.B. No. 286 entitled:

"A BILL FOR AN ACT RELATING TO CHECK CASHING,"

begs leave to report as follows:

The purpose and intent of this measure is to increase certain consumer protection aspects of the deferred deposit loan industry, including:

(1) Specifying that a customer has the right to rescind a deferred deposit if certain conditions are met;

(2) Permitting customers to convert a deferred deposit into an installment loan plan in certain circumstances and specifying requirements for the installment loan plan;

(3) Protecting against harmful collection practices;

(4) Defining annual percentage rate;

(5) Requiring a check casher to provide a written agreement to a customer, which clearly discloses specific information associated with the deferred deposit;

(6) Capping the annual percentage rate at thirty-six percent for deferred deposit of a personal check; and

(7) Permitting prepayment of deferred deposit agreements with no additional fees.

Your Committee received testimony in support of this measure from the Department of Commerce and Consumer Affairs, Office of Consumer Protection; Office of Hawaiian Affairs; FACE Hawaii; Consumers Union; Hawaiʻi Alliance for Community-Based Economic Development; Hawaiʻi Appleseed Center for Law and Economic Justice; and Hawaiian Community Assets. Your Committee received testimony in opposition to this measure from the Money Service Centers of Hawaii, Inc.; Dollar Financial Group, Inc.; and Maui Loan, Inc.

Your Committee finds that deferred deposit agreements, commonly referred to as payday loans, are small, short term, unsecured loans that borrowers commit to repay from their next paycheck or a regular income payment. Although alternative financial services can be important vehicles for providing credit to low-income individuals, research from the National Consumer Law Center has shown that regulation is essential to ensure that households using alternative financial services for basic necessities are not further trapped in cycles of debt and poverty. According to testimony received by your Committee, research by the Center for Responsible Lending shows that only two percent of borrowers were able to pay off a payday loan the first time and the average payday loan borrower remains in debt for double the length of time recommended by the Federal Deposit Insurance Corporation. Furthermore, the Consumer Financial Protection Bureau found that four out of five payday loans are rolled over or renewed and, due to high rates and frequent rollovers, three out of five payday loans are made to borrowers whose fees exceed the original amount borrowed.

Your Committee further finds that there is a growing trend around the country to provide more consumer protections for deferred deposit loans. Accordingly, this measure provides a number of critical protections for consumers who take out deferred deposit agreements, including a right to rescind, a right to convert a deferred deposit agreement to an installment loan, protection against harmful collection practices, improved loan disclosures, and prohibitions on prepayment penalties.

This measure also caps the annual percentage rate of deferred deposit agreements at thirty-six percent. According to testimony received by your Committee, in the past few years, eighteen jurisdictions have either capped deferred deposit agreements at thirty-six percent or banned these types of loans completely. The thirty-six percent cap also follows precedent established by the federal government, who in 2006 made it illegal to charge more than a thirty-six percent annual percentage rate on payday loans to active-duty service members and their families. Your Committee additionally finds that there are a number of safe, regulated, small dollar loans with interest rates far below the rates currently charged for deferred deposit agreements. Furthermore, research from the Federal Deposit Insurance Corporation has indicated that small dollar lenders can safely lend at an annual percentage rate of thirty-six percent or less.

Your Committee has amended this measure by:

(1) Clarifying that the loan payment terms for loan installment plan agreements shall be:

(A) A period of at least ninety days, but no more than one hundred eighty days, for a loan amount of $400 or less; and

(B) A period of no more than one hundred eighty days for a loan amount over $400;

(2) Requiring a check casher to post a notice informing customers that additional options may be available for safe, regulated, lower-cost, small dollar loans; and

(3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 286, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 286, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,

Rosalyn H Baker

ROSALYN H. BAKER, Chair

The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:*	Committee Referral:	Date:
SB 286	CPH	2/27/17

☐ The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: ____________

The Recommendation is:

☐ Pass, unamended 2312 ☑ Pass, with amendments 2311 ☐ Hold 2310 ☐ Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
NISHIHARA, Clarence K. (VC)	✓			
CHANG, Stanley	✓			
ESPERO, Will	✓			
IHARA, Jr., Les	✓			
KIDANI, Michelle N.				✓
RUDERMAN, Russell E.				✓
TOTAL	5			2

Recommendation: ☑ Adopted ☐ Not Adopted

Chair's or Designee's Signature: Clarence K. Nishihara

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*Only one measure per Record of Votes

Revised: 12/2/16