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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 adults 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:



- 1 (1) Require check cashers to report suspected financial
- 2 exploitation of elders and vulnerable adults in
- 3 relation to check cashing;
- 4 (2) Provide immunity for good faith reporting;
- 5 (3) Authorize a check casher to refuse to cash a check in
- 6 situations of suspected financial exploitation; and
- 7 (4) Clarify that all entities that are within the
- 8 definition of "check casher" are subject to the
- 9 requirements for reporting financial exploitation.

10 SECTION 2. Chapter 480F, Hawaii Revised Statutes, is  
 11 amended by adding a new part to be appropriately designated and  
 12 to read as follows:

13 **"PART . PROTECTION OF ELDERS AND VULNERABLE ADULTS FROM**  
 14 **FINANCIAL EXPLOITATION**

15 **§480F-A Definitions.** As used in this part, unless the  
 16 context otherwise requires:

17 "Director" means the director of the office of consumer  
 18 protection.

19 "Elder" means an individual sixty-two years of age or  
 20 older.

21 "Financial exploitation" means:



1 (1) The wrongful or unauthorized taking, withholding,  
2 appropriation, or use of money, assets, or property of  
3 an elder or a vulnerable adult; or

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

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

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

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.** (a) 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 (b) As used in this section, "reasonably associated  
6 individual" means any person known to the check casher to be  
7 reasonably associated with the elder or vulnerable adult.

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

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

18 **§480F-G Immunity for refusing to cash checks.** A check  
19 casher who, in good faith and exercising reasonable care,  
20 complies with section 480F-F shall be immune from any



1 administrative or civil liability that might otherwise arise  
2 from a refusal to cash a check in accordance with that section.

3       **§480F-H Records.** A check casher shall provide access to  
4 or copies of records that are relevant to the suspected or  
5 attempted financial exploitation of an elder or a vulnerable  
6 adult to the director or law enforcement, either as part of a  
7 referral to the director or law enforcement, or upon request of  
8 the director or law enforcement pursuant to an investigation.  
9 The records may include historical records as well as records  
10 relating to the most recent transaction or transactions that may  
11 comprise financial exploitation of an elder or a vulnerable  
12 adult. All records made available under this section shall be  
13 exempt from disclosure under chapter 92F.

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

17       **§480F-I Multiple duties to report.** Compliance with this  
18 part shall not discharge the duty to report suspected abuse  
19 under any other law.

20       **§480F-J Exemptions.** This part shall not apply to any  
21 person authorized to engage in business as a bank, trust



1 company, savings bank, savings and loan association, financial  
2 services loan company, or credit union under the laws of the  
3 United States, any state or territory of the United States, or  
4 the District of Columbia."

5 SECTION 3. Chapter 480F, Hawaii Revised Statutes, is  
6 amended by designating sections 480F-1 to 480F-7 as part I and  
7 inserting a title before section 480F-1 to read as follows:

8 **"PART I. GENERAL PROVISIONS"**

9 SECTION 4. Section 480F-5, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "[+]§480F-5[+] **Exemptions.** This [~~chapter~~] part shall not  
12 apply to[+] any person:

13 (1) [~~Any person who~~] Who is principally engaged in the  
14 bona fide retail sale of goods or services, and who,  
15 either as incident to or independent of the retail  
16 sale or service, from time to time cashes items for a  
17 fee or other consideration, where [~~not~~] no more than  
18 \$2, or two per cent of the amount of the check,  
19 whichever is greater, is charged for the service; or

20 (2) [~~Any person authorized~~] Authorized to engage in  
21 business as a bank, trust company, savings bank,



1 savings and loan association, financial services loan  
2 company, or credit union under the laws of the United  
3 States, any state or territory of the United States,  
4 or the District of Columbia."

5 SECTION 5. In codifying the new sections added by section  
6 2 of this Act, the revisor of statutes shall substitute  
7 appropriate section numbers for the letters used in designating  
8 the new sections in this Act.

9 SECTION 6. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect on June 30, 3000.

12



**Report Title:**

Check Cashers; Elder; Vulnerable Adult; Financial Exploitation;  
Exemptions

**Description:**

Requires check cashers to report suspected financial exploitation of elders and vulnerable adults in relation to check cashing. Authorizes a check casher to refuse to cash a check in situations of suspected financial exploitation. Provides immunity for check cashers acting in good faith. Effective 6/30/3000. (HD2)

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