
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 "Reasonably associated individual" means any person known
19 to the check casher to be reasonably associated with the elder
20 or vulnerable adult.



1 "Vulnerable adult" means a person eighteen years of age or
2 older who, because of mental, developmental, or physical
3 impairment, is unable to:

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

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

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

20 **§480F-D Third-party disclosures.** If a check cashier
21 reasonably believes that financial exploitation of an elder or a



1 vulnerable adult may have occurred, may have been attempted, or
2 is being attempted, a check casher may notify a reasonably
3 associated individual or any third party previously designated
4 by the elder or vulnerable adult. Disclosure shall not be made
5 to any reasonably associated individual or previously designated
6 third party who is suspected of financial exploitation or other
7 abuse of 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."



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

4 **"PART I. GENERAL PROVISIONS"**

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

7 "[+]§480F-5[+] **Exemptions.** This [~~chapter~~] part shall not
8 apply to:

- 9 (1) Any person who is principally engaged in the bona fide
10 retail sale of goods or services, and who, either as
11 incident to or independent of the retail sale or
12 service, from time to time cashes items for a fee or
13 other consideration, where not more than \$2, or two
14 per cent of the amount of the check, whichever is
15 greater, is charged for the service; or
- 16 (2) Any person authorized to engage in business as a bank,
17 trust company, savings bank, savings and loan
18 association, financial services loan company, or
19 credit union under the laws of the United States, any
20 state or territory of the United States, or the
21 District of Columbia."



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

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

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

8



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. Clarifies that all entities that are within the definition of "check casher" are subject to the requirements for reporting financial exploitation. Effective 6/30/3000. (HD1)

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

