

House Bill 3443

Sponsored by Representative SHEEHAN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits check-cashing business from commencing action as holder in due course against maker of payment instrument if maker is consumer and payee is business entity or person that has registered assumed business name.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to check-cashing businesses; creating new provisions; amending ORS 697.520; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 697.520 is amended to read:

697.520. (1) A check-cashing business may not charge or collect, directly or indirectly, an excessive fee, service charge or other consideration for cashing a payment instrument. A fee, service charge or other consideration is excessive if the total amount [*charged*] **the check-cashing business charges** is more than the following amounts:

(a) For a payment instrument issued by the federal government or an agency of the federal government, by this state or an agency of this state or by the government of the municipality in which a person [*is cashing*] **cashes** the payment instrument:

(A) \$5 or two percent of the face value of the payment instrument, whichever is greater, if the person [*cashing*] **that cashes** the payment instrument provides valid and current government-issued photo identification; or

(B) \$5 or 2-1/2 percent of the face value of the payment instrument, whichever is greater, if the person [*cashing*] **that cashes** the payment instrument does not provide valid and current government-issued photo identification.

(b) For a payment instrument issued by [*any other*] **another** state or a political subdivision [*thereof*] **of another state** or for a payment instrument that is a payroll check:

(A) \$5 or three percent of the face value of the payment instrument, whichever is greater, if the person [*cashing*] **that cashes** the payment instrument provides valid and current government-issued photo identification; or

(B) \$5 or 3-1/2 percent of the face value of the payment instrument, whichever is greater, if the person [*cashing*] **that cashes** the payment instrument does not provide valid and current government-issued photo identification.

(c) For any other payment instrument, \$5 or 10 percent of the face value of the payment instrument, whichever is greater.

(2) Notwithstanding the provisions of subsection (1) of this section, a fee, service charge or other consideration is excessive if the total amount charged is more than \$100.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) Except as provided in subsection (4) of this section, this section does not affect fees,
2 statutory damages or other charges a person may collect under ORS 30.701 in connection with dis-
3 honored payment instruments.

4 (4)(a) Notwithstanding provisions of law that otherwise may entitle a check-cashing
5 business to have rights as a holder in due course, as defined in ORS 73.0302, a check-cashing
6 business may not commence an action as a holder in due course to enforce a payment in-
7 strument against the maker of the payment instrument if the maker is a consumer and the
8 payee of the payment instrument is a business entity, as defined in ORS 60.470, or a person
9 that has registered an assumed business name under ORS 648.010.

10 (b) As used in this subsection, "consumer" means an individual who gives a payment in-
11 strument in exchange for goods or services that the individual uses primarily for personal,
12 family or household purposes.

13 SECTION 2. The amendments to ORS 697.520 by section 1 of this 2011 Act apply to
14 actions that a check-cashing business commences on or after the effective date of this 2011
15 Act.

16 SECTION 3. This 2011 Act being necessary for the immediate preservation of the public
17 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
18 on its passage.

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