

House File 288 - Introduced

HOUSE FILE _____
BY SMITH

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act modifying provisions applicable to the regulation of
2 delayed deposit services businesses and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1931HH 83
5 rn/sc/5

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1 1 Section 1. Section 533D.9, subsections 1 and 2, Code 2009,
1 2 are amended to read as follows:
1 3 1. A licensee shall not charge ~~a fee in excess of fifteen~~
1 4 ~~dollars on the first one hundred dollars on the face amount of~~
1 5 ~~a check or more than ten dollars on subsequent one hundred~~
1 6 ~~dollar increments on the face amount of the check for services~~
1 7 ~~provided by the licensee, or pro rata for any portion of one~~
1 8 ~~hundred dollars face value any interest, penalties, fees, or~~
1 9 ~~other charges which when combined exceed an annual percentage~~
1 10 ~~rate of thirty=six percent of the amount loaned, as computed~~
1 11 ~~pursuant to the federal Truth in Lending Act.~~

1 12 2. A licensee shall give to the maker of the check, at the
1 13 time any delayed deposit service transaction is made, or if
1 14 there are two or more makers, to one of them, notice written
1 15 in clear, understandable language disclosing all of the
1 16 following:

1 17 a. The fee to be charged for the transaction.
1 18 b. The annual percentage rate of the sum of any interest,
1 19 penalties, fees, or other charges, as computed pursuant to the
1 20 federal Truth in Lending Act.

1 21 c. The date on which the check will be deposited or
1 22 presented for negotiation.

1 23 ~~d. Any penalty, not to exceed fifteen dollars, which the~~
1 24 ~~licensee will charge if the check is not negotiable on the~~
1 25 ~~date agreed upon. A penalty to be charged pursuant to this~~
1 26 ~~section shall only be collected by the licensee once on a~~
1 27 ~~check no matter how long the check remains unpaid. A penalty~~
1 28 ~~to be charged pursuant to this section is a licensee's~~
1 29 ~~exclusive remedy and if a licensee charges a penalty pursuant~~
1 30 ~~to this section no other penalties under this chapter or any~~
1 31 ~~other provision apply.~~

1 32 Sec. 2. Section 533D.10, subsection 1, Code 2009, is
1 33 amended to read as follows:

1 34 1. A licensee shall not do any of the following:
1 35 a. Hold from any one maker more than two checks at any one
2 1 time.

2 2 b. Hold from any one maker a check or checks in an
2 3 aggregate face amount of more than five hundred dollars at any
2 4 one time.

2 5 ~~c. Hold or agree to hold a check for more than thirty=one~~
2 6 ~~days.~~

2 7 ~~d. c.~~ Require the maker to receive payment by a method
2 8 which causes the maker to pay additional or further fees and
2 9 charges to the licensee or another person.

2 10 ~~e. d.~~ Repay, refinance, or otherwise consolidate a
2 11 postdated check transaction with the proceeds of another
2 12 postdated check transaction ~~made by the same licensee.~~

2 13 ~~f. e.~~ Receive any other charges or fees in addition to
2 14 the fees listed in section 533D.9, ~~subsections 1 and 2~~
2 15 subsection 1.

2 16 Sec. 3. Section 533D.15, Code 2009, is amended to read as
2 17 follows:

2 18 533D.15 CRIMINAL VIOLATION == ~~OPERATION OF BUSINESS~~
2 19 ~~WITHOUT LICENSE~~ == INJUNCTION.

2 20 A person required to be licensed under this chapter who

2 21 operates a delayed deposit services business in this state
2 22 without first obtaining a license under this chapter or while
2 23 such license is suspended or revoked by the superintendent, or
2 24 who otherwise violates any provision of this chapter, is
2 25 guilty of a serious misdemeanor. In addition to the criminal
2 26 penalty provided for in this section, the superintendent may
2 27 also commence an action to enjoin the operation of the
2 28 business.

2 29 EXPLANATION

2 30 This bill modifies provisions applicable to the regulation
2 31 of delayed deposit services businesses licensed pursuant to
2 32 Code chapter 533D.

2 33 The bill provides that the combined interest, penalties,
2 34 fees, or other charges imposed by a licensee upon a maker of a
2 35 check shall not exceed an annual percentage rate of 36 percent
3 1 as computed pursuant to the federal Truth in Lending Act. The
3 2 bill modifies a provision requiring disclosure of the annual
3 3 percentage rate to specify that it is based on the sum of
3 4 interest, penalties, fees, or other charges. The bill deletes
3 5 current restrictions on the amount of fees which may be
3 6 charged per \$100 loan increment by a licensee and deletes a
3 7 provision establishing a penalty not to exceed \$15 which may
3 8 be imposed upon the maker of a check if the check proves not
3 9 negotiable, to correspond with the inclusion of any interest,
3 10 fees, charges, and penalties within the 36 percent annual
3 11 percentage rate maximum.

3 12 The bill additionally deletes a current provision that
3 13 prohibits a licensee from holding or agreeing to hold a check
3 14 for longer than 31 days. The bill also modifies a restriction
3 15 that prohibits the repayment, refinancing, or consolidation of
3 16 a postdated check transaction with the proceeds of another
3 17 postdated check transaction made by the same licensee to
3 18 provide that repayment, refinancing, or consolidation of a
3 19 postdated check transaction with the proceeds of another
3 20 postdated check transaction made by any licensee would
3 21 constitute a prohibited act.

3 22 The bill expands the current criminal penalty of a serious
3 23 misdemeanor for operation of a delayed deposit services
3 24 business without a license to apply to any violation of Code
3 25 chapter 533D. A serious misdemeanor is punishable by
3 26 confinement for no more than one year and a fine of at least
3 27 \$315 but not more than \$1,875. The bill also expands
3 28 injunction from operation of a business to be applicable to
3 29 any violation of the Code chapter.

3 30 LSB 1931HH 83

3 31 rn/sc/5