

# Senate Study Bill 1307

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON BOLKCOM)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act modifying provisions relating to the regulation of delayed  
2 deposit service businesses, making penalties applicable, and  
3 providing an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2690XC 83  
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1 1 Section 1. Section 533D.3, subsection 3, paragraph a, Code  
1 2 2009, is amended to read as follows:

1 3 a. An application fee of one hundred ~~twenty~~=five dollars.

1 4 Sec. 2. Section 533D.9, subsection 2, Code 2009, is  
1 5 amended by adding the following new paragraph:

1 6 NEW PARAGRAPH. e. That the licensee cannot initiate debt  
1 7 collection procedures, civil court proceedings, or arbitration  
1 8 to collect an unpaid check unless the licensee has provided  
1 9 the maker of the check the opportunity to repay the obligation  
1 10 without any additional charges, other than the penalty  
1 11 provided in paragraph "d" of this subsection, in biweekly  
1 12 payments of not more than ten percent of the face of the check  
1 13 until the debt is paid in full. Additionally, that during  
1 14 this repayment period the licensee may not transfer or sell  
1 15 the debt owing on the unpaid check and may not report the  
1 16 account or the maker of the check to any credit reporting  
1 17 agency. Further, that the maker of the check's failure to  
1 18 make a biweekly payment under this paragraph shall place the  
1 19 loan in default and the licensee may, after proper notice,  
1 20 exercise rights against the maker under the law.

1 21 Sec. 3. Section 533D.10, subsection 1, Code 2009, is  
1 22 amended to read as follows:

1 23 1. A licensee shall not do any of the following:

1 24 a. Hold from any one maker more than two checks at any one  
1 25 time.

1 26 b. Hold from any one maker a check or checks in an  
1 27 aggregate face amount of more than five hundred dollars at any  
1 28 one time.

1 29 c. Hold or agree to hold a check for ~~more~~ less than  
1 30 ~~thirty-one~~ fourteen days.

1 31 d. Require the maker to receive payment by a method which  
1 32 causes the maker to pay additional or further fees and charges  
1 33 to the licensee or another person.

1 34 e. Repay, refinance, or otherwise consolidate a postdated  
1 35 check transaction with the proceeds of another postdated check  
2 1 transaction made by the same licensee. A licensee may not

2 2 enter into another transaction with the maker of a check if  
2 3 the licensee presently has a transaction outstanding with the  
2 4 maker or if the maker had a previous transaction with the  
2 5 licensee within two days of the new transaction, unless the  
2 6 licensee has provided the following notice both verbally and  
2 7 in writing, and the maker has acknowledged receipt of the  
2 8 notice with a signature and date:

2 9 Notice to Borrower

2 10 1. The licensee may not repay, refinance, or otherwise  
2 11 consolidate a postdated check transaction with the proceeds of  
2 12 another postdated check transaction made by the same licensee.

2 13 2. While a licensee may charge a penalty if a check is not  
2 14 negotiable on the date agreed upon, the penalty shall not  
2 15 exceed fifteen dollars. This penalty shall only be collected  
2 16 by the licensee once on a check no matter how long that check  
2 17 remains unpaid. This penalty is the only additional charge a

2 18 lender may charge you (the borrower) when a check is not  
2 19 negotiable on the date agreed upon.  
2 20 3. If your check is not negotiable on the date agreed  
2 21 upon, the licensee must provide you (the borrower) the  
2 22 opportunity to repay the obligation without any additional  
2 23 charges, other than the penalty described above, in biweekly  
2 24 payments of not more than ten percent of the face of the check  
2 25 until the debt is paid in full.

2 26 By signing and dating this notice, you acknowledge the  
2 27 statements above, but yet still desire to obtain another loan  
2 28 with the licensee.

2 29 Borrower(s) signature: \_\_\_\_\_ Date: \_\_\_\_\_  
2 30 Borrower(s) signature: \_\_\_\_\_ Date: \_\_\_\_\_

2 31 f. Receive any other charges or fees in addition to the  
2 32 fees listed in section 533D.9, subsections 1 and 2.

2 33 g. Initiate debt collection procedures, civil court  
2 34 proceedings, or civil or private arbitration proceedings to  
2 35 collect an unpaid check unless the licensee has provided the  
3 1 maker the opportunity to repay the obligation without any  
3 2 additional charges, other than the penalty provided in section  
3 3 533D.9, paragraph "d", in biweekly payments of not more than  
3 4 ten percent of the face of the check until the debt is paid in  
3 5 full. During this repayment period the licensee may not  
3 6 transfer or sell the debt owing on the unpaid check and may  
3 7 not report the account or the maker of the check to any credit  
3 8 reporting agency. The failure of the maker of the check to  
3 9 make a biweekly payment as required shall place the loan in  
3 10 default and the licensee may, after proper notice, exercise  
3 11 rights against the maker under the law.

3 12 Sec. 4. Section 533D.10, subsection 1, Code 2009, is  
3 13 amended by adding the following new paragraph:  
3 14 **NEW PARAGRAPH.** h. Enter into a delayed deposit service  
3 15 transaction which will cause the maker of the check, when all  
3 16 other delayed deposit service transactions entered into with  
3 17 any licensee involving the maker of the check are accounted  
3 18 for, and when the term of the transaction is aggregated with  
3 19 the other transactions, to be indebted for a period exceeding  
3 20 ninety days during the preceding twelve-month period. For  
3 21 purposes of this paragraph, if the maker of the check has  
3 22 entered into more than one delayed deposit service transaction  
3 23 with the same or another licensee, and the periods during  
3 24 which the transactions are outstanding overlap, each day of  
3 25 each respective transaction shall be counted in satisfying the  
3 26 ninety-day restriction. For purposes of this paragraph, if a  
3 27 maker of a check is making biweekly payments during a  
3 28 repayment period as provided in section 533D.9, subsection 2,  
3 29 paragraph "e", the repayment period shall not be counted in  
3 30 satisfying the ninety-day restriction.

3 31 Sec. 5. **NEW SECTION.** 533D.10A ELECTRONIC DATABASE.  
3 32 1. Each licensee shall, by October 1, 2009, subscribe to,  
3 33 report to, and utilize an electronic database tracking  
3 34 service, to be developed or selected pursuant to rules adopted  
3 35 by the banking division of the department of commerce, that  
4 1 permits the licensee to determine whether a maker of a check  
4 2 has an outstanding unpaid check or debit authorization that  
4 3 is, or reasonably appears to be, connected to a delayed  
4 4 deposit service transaction. Each licensee shall require a  
4 5 maker of a check to sign a written declaration confirming  
4 6 that, pursuant to section 533D.10, subsection 1, paragraph  
4 7 "h", the maker of the check is eligible to enter into a  
4 8 delayed deposit service transaction.

4 9 2. a. Records of a licensee and the electronic database  
4 10 tracking service shall be subject to review and examination by  
4 11 the division to determine whether the licensee is in  
4 12 compliance with this section and other applicable provisions  
4 13 of this chapter.

4 14 b. Information, records, and documents obtained in the  
4 15 performance of the review and examination, including the  
4 16 amount of any outstanding unpaid check or debit authorization  
4 17 and the identity of the maker of the check, are confidential  
4 18 and shall not be disclosed by the division and are not subject  
4 19 to subpoena. Such information, records, and documents do not  
4 20 constitute a public record under chapter 22. The  
4 21 superintendent may disclose such information to  
4 22 representatives of other state or federal regulatory  
4 23 authorities and may release summary complaint information so  
4 24 long as the information does not specifically identify the  
4 25 complainant. The superintendent may also provide this  
4 26 information to the attorney general for purposes of enforcing  
4 27 this chapter.

4 28 Sec. 6. **EFFECTIVE DATE.** The section of this Act enacting

4 29 section 533D.10, subsection 1, paragraph "h", takes effect  
4 30 October 1, 2009.

4 31 EXPLANATION

4 32 This bill relates to specified aspects of the regulation of  
4 33 delayed deposit service businesses.

4 34 The bill increases the amount which is required to be  
4 35 submitted by a person applying to operate a delayed deposit  
5 1 service business from \$100 to \$125.

5 2 The bill provides that a licensee must disclose to the  
5 3 maker of a check that the licensee cannot initiate debt  
5 4 collection procedures, civil court proceedings, or arbitration  
5 5 to collect an unpaid check unless the licensee has provided  
5 6 the maker of a check the opportunity to repay the obligation  
5 7 without any charges, other than the current \$15 penalty, in  
5 8 biweekly payments of not more than 10 percent of the face of  
5 9 the check until the debt is paid in full. The bill adds that  
5 10 during this repayment period the licensee cannot sell or  
5 11 transfer the debt owing on the unpaid check or report the  
5 12 account or the maker of the check to a credit reporting  
5 13 agency. If the maker of the check fails to honor the  
5 14 repayment obligation, the bill provides that the loan shall be  
5 15 placed in default. The bill makes the failure to conform with  
5 16 these provisions a prohibited act on the part of the licensee,  
5 17 which could subject the licensee to disciplinary action as  
5 18 specified in Code section 533D.12.

5 19 Additionally, the bill changes a current provision that  
5 20 prohibits a licensee from holding or agreeing to hold a check  
5 21 for more than 31 days to a modified provision that the  
5 22 licensee cannot hold or agree to hold a check for less than 14  
5 23 days. The bill also prohibits a licensee from entering into  
5 24 another transaction with the maker of a check who already has  
5 25 a transaction outstanding with the licensee or from entering  
5 26 into a new transaction within two days of the conclusion of  
5 27 the previous transaction, unless the maker acknowledges in  
5 28 writing specified restrictions relating to successive  
5 29 transactions, applicable penalties, and the opportunity to  
5 30 repay the obligation in installments in the event the check is  
5 31 not negotiable.

5 32 The bill also prohibits a licensee from entering into a  
5 33 transaction that results in the maker of the check being  
5 34 indebted to the licensee, or when aggregated with other  
5 35 delayed deposit service business licensees, for longer than a  
6 1 90-day period during the preceding 12 months. This section of  
6 2 the bill takes effect October 1, 2009.

6 3 The bill requires a licensee, by October 1, 2009, to  
6 4 subscribe to, report to, and utilize an electronic database  
6 5 tracking service developed or selected by the banking division  
6 6 of the department of commerce to monitor the number of  
6 7 transactions entered into by a maker of a check for purposes  
6 8 of complying with this provision. The bill states that  
6 9 licensee records and the database shall be subject to review  
6 10 and examination by the division, and provides that  
6 11 information, records, and documents obtained by the division  
6 12 in the performance of such a review or examination shall be  
6 13 considered confidential.

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