

House Study Bill 138 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to delayed deposit services by requiring a
2 delayed deposit repayment option and prohibiting certain
3 acts of licensees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 533D.9, subsection 2, paragraph d, Code
2 2015, is amended to read as follows:

3 *d.* Any penalty, not to exceed fifteen dollars, which the
4 licensee will charge if the check is not negotiable on the
5 date agreed upon. A penalty to be charged pursuant to this
6 section shall only be collected by the licensee once on a check
7 no matter how long the check remains unpaid. A penalty to be
8 charged pursuant to this section is a licensee's exclusive
9 remedy, except a penalty charged pursuant to section 533D.9A,
10 subsection 7, and if a licensee charges a penalty pursuant to
11 this section no other penalties under this chapter or any other
12 provision apply.

13 Sec. 2. Section 533D.9, subsection 2, Code 2015, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. *e.* That the licensee must provide the
16 maker of the check the option to enter into a repayment plan
17 agreement pursuant to section 533D.9A before the licensee
18 can initiate debt collection, civil court proceedings, or
19 arbitration to collect on an unpaid check.

20 Sec. 3. NEW SECTION. **533D.9A Repayment plans —**
21 **requirements — agreement — penalty.**

22 1. If the check is not negotiable on the date agreed upon,
23 the licensee shall provide the maker of the check with the
24 option to enter into a repayment plan agreement pursuant to
25 this section prior to initiating debt collection, as defined
26 by section 537.7102, civil court proceedings, or arbitration
27 to collect on the unpaid check.

28 2. *a.* A licensee shall enter into a repayment plan
29 agreement with the maker of the unpaid check at the maker's
30 request. The maker may request a repayment plan through
31 written notice or orally.

32 *b.* A licensee shall not assess any other fee, interest
33 charge, or other charge on the maker as a result of entering
34 into a repayment plan agreement concerning the unpaid check
35 obligation.

1 3. *a.* The maker of the check shall pay the total unpaid
2 check obligation to be charged in equal installments over a
3 period of a minimum of ninety days. A repayment plan agreement
4 shall contain a schedule for the payment of the total unpaid
5 check obligation.

6 *b.* The repayment plan agreement shall be in writing and
7 signed by both the maker and the licensee.

8 *c.* The maker may make early payments on a repayment plan or
9 may pay a larger amount in an installment at any time without
10 penalty, fee, or charge.

11 4. Upon entering into a repayment plan agreement, the
12 licensee shall return any postdated check that the maker
13 has given to the licensee for the delayed deposit service
14 transaction.

15 5. During the duration of the repayment plan agreement, the
16 licensee shall not transfer or sell the obligation owing on the
17 unpaid check.

18 6. During the duration of the repayment plan agreement, the
19 obligation the maker owes on the unpaid check is not delinquent
20 and the licensee shall not charge a penalty pursuant to section
21 533D.9, subsection 2.

22 7. *a.* If the maker fails to make a payment scheduled
23 pursuant to the repayment plan agreement, the licensee may
24 charge a penalty of twenty-five dollars. A licensee shall
25 only collect this penalty once even if the payment remains
26 unpaid or the maker fails to make another scheduled payment.
27 If a licensee charges a penalty pursuant to this subsection,
28 no other penalties under this chapter or any other provision
29 apply, including a penalty imposed pursuant to section 533D.9,
30 subsection 2.

31 *b.* Upon the maker's failure to make a scheduled payment,
32 the licensee may initiate debt collection as defined in section
33 537.7102, civil court proceedings, or arbitration to collect on
34 the unpaid check.

35 Sec. 4. Section 533D.10, subsection 1, paragraph f, Code

1 2015, is amended to read as follows:

2 *f.* Receive any other charges or fees in addition to the
3 fees listed in section 533D.9, subsections 1 and 2, or section
4 533D.9A, subsection 7.

5 Sec. 5. Section 533D.10, subsection 1, Code 2015, is amended
6 by adding the following new paragraphs:

7 NEW PARAGRAPH. *g.* Hold from any one maker a check if the
8 licensee currently has a check from the maker that is not
9 negotiable on the date agreed upon or if the licensee has had a
10 check from the maker that was not negotiable on the date agreed
11 upon in the previous year.

12 NEW PARAGRAPH. *h.* Hold from any one maker a check if the
13 maker is currently paying an unpaid check obligation pursuant
14 to a repayment plan agreement entered into under section
15 533D.9A.

16 NEW PARAGRAPH. *i.* Hold from any one maker a check within
17 one hundred eighty days following the date the maker paid
18 or otherwise satisfied in full an obligation pursuant to a
19 repayment plan agreement entered into pursuant to section
20 533D.9A.

21 NEW PARAGRAPH. *j.* Engage in fraud, deceit,
22 misrepresentation, or other acts with the intent to evade the
23 requirements of this chapter.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to delayed deposit services by requiring
28 the option of a repayment plan and prohibiting certain acts by
29 licensees.

30 The bill states that if the check is not negotiable on the
31 date agreed upon, the licensee shall offer the maker of the
32 check the option to enter into a repayment plan agreement prior
33 to initiating debt collection actions, civil court proceedings,
34 or arbitration to collect on the unpaid check. The bill
35 provides that if the maker of the check requests a repayment

1 plan, either orally or in writing, the licensee must enter into
2 a repayment plan agreement with the maker of the check and may
3 not assess a fee, interest charge, or other charge to enter
4 into that repayment plan agreement.

5 Pursuant to the bill, a repayment plan agreement shall
6 include the schedule for payment of the total unpaid check
7 obligation. Under this schedule, the maker of the check shall
8 pay the total unpaid check obligation in equal installments
9 over a period of at least 90 days. The repayment plan
10 agreement must be in writing and signed by the licensee and the
11 maker of the check. The maker may make early payments or may
12 pay in larger amounts in an installment without penalty, fee,
13 or charge.

14 The bill requires the licensee to return the postdated check
15 at issue in the repayment plan agreement upon entering into a
16 repayment plan agreement.

17 The bill prohibits the licensee from transferring or selling
18 the obligation the maker owes on the unpaid check during the
19 duration of the repayment plan agreement. The bill states that
20 during the time the repayment plan agreement is in effect, the
21 obligation owed on the unpaid check is not delinquent or past
22 due and the licensee shall not charge the \$15 penalty under
23 Code section 533D.9, subsection 2.

24 The bill states that if the maker fails to make a scheduled
25 payment under the repayment plan agreement, the licensee may
26 charge a one-time penalty of \$25. If the licensee charges the
27 \$25 penalty, the licensee may not charge any other penalty.
28 The bill makes conforming changes. The bill also allows
29 the licensee to proceed with debt collection, civil court
30 proceedings, or arbitration to collect on the unpaid debt if
31 the maker fails to make a scheduled payment.

32 The bill also adds provisions to the prohibited acts Code
33 section. The bill prohibits licensees from holding a check
34 from any one maker if the licensee has a check from that maker
35 that is not negotiable on the date agreed upon or has had a

1 check from that maker that was not negotiable on the date
2 agreed upon in the previous year. The bill prohibits licensees
3 from holding a check for any maker if the maker is currently
4 paying an unpaid check obligation pursuant to a repayment
5 plan agreement entered into pursuant to the bill. The bill
6 prohibits licensees from holding a check for a maker within 180
7 days following the date the maker paid or otherwise satisfied a
8 debt under a repayment plan agreement entered into pursuant to
9 the bill. The bill prohibits licensees from engaging in fraud,
10 deceit, misrepresentation, or other acts with the intent to
11 evade the requirements of Code chapter 533D relating to delayed
12 deposit services.

13 A violation of the bill could result in an administrative
14 fine of not more than \$5,000 for each violation and the cost of
15 investigation.