

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1095

To establish a State system of licensing or registering persons engaged in a business which regularly and primarily charges fees for cashing checks, and to provide for insured financial depository institutions to cash checks issued by States or the United States.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 1995

Mr. FIELDS of Louisiana introduced the following bill; which was referred to the Committee on Banking and Financial Services

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## A BILL

To establish a State system of licensing or registering persons engaged in a business which regularly and primarily charges fees for cashing checks, and to provide for insured financial depository institutions to cash checks issued by States or the United States.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Check Cashing Act  
5 of 1995”.

1 **SEC. 2. STATE LICENSE OR REGISTRATION REQUIRED FOR**  
2 **CHECK CASHING BUSINESSES.**

3 (a) IN GENERAL.—A person, other than a depository  
4 institution, shall not engage in business in a State as a  
5 check cashing business unless—

6 (1) the State has established a system for li-  
7 censing or registering check cashing businesses that  
8 is approved by the Commission in accordance with  
9 section 3;

10 (2) the person is licensed by or registered with  
11 the State under that approved State system, as ap-  
12 plicable; and

13 (3) the person engages in that business in ac-  
14 cordance with the requirements under that system  
15 for licensing or registration, as applicable.

16 (b) PENALTY.—Any person that violates subsection  
17 (a) shall be subject to a civil penalty of not more than  
18 \$5,000, which may be assessed by Commission.

19 (c) EFFECTIVE DATE.—Subsections (a) and (b) shall  
20 take effect on the date that is 2 years after the date of  
21 the enactment of this Act.

22 (d) LIMITATION ON APPLICATION TO EXISTING  
23 BUSINESSES.—Subsections (a) and (b) shall not apply to  
24 engagement by a person in business in a State as a check  
25 cashing business in the 1-year period beginning on the  
26 date of approval of a check cashing business licensing or

1 registration system of the State under section 3, if the  
2 person engaged in that business in the State on the date  
3 of the enactment of this Act.

4 **SEC. 3. APPROVAL OF STATE CHECK CASHING BUSINESS**  
5 **LICENSING OR REGISTRATION SYSTEM.**

6 (a) IN GENERAL.—Any State may apply to the Com-  
7 mission in accordance with this section for approval of a  
8 State check cashing business licensing or registration sys-  
9 tem.

10 (b) REQUIREMENTS FOR APPROVAL.—The Commis-  
11 sion may approve a State check cashing business licensing  
12 or registration system under this section if the Commis-  
13 sion finds that the system consists of State laws that—

14 (1) prohibit any person from engaging in busi-  
15 ness in the State as a check cashing business, unless  
16 the person—

17 (A) holds a license issued under the sys-  
18 tem, or

19 (B) in the case of a registration system, is  
20 registered with the State under the system;

21 (2) prohibit the issuance of a check cashing  
22 business license to a person or the registration of a  
23 person as such a business, as applicable, unless the  
24 person—

25 (A) identifies to the State—

1 (i) all persons that are officers of the  
2 business; and

3 (ii) all persons that own or control  
4 more than 5 percent of the total ownership  
5 interest in the business;

6 (B) complies with bonding or minimum  
7 capital requirements established by the State;

8 (3) require that any person that engages in  
9 business in the State as a check cashing business  
10 shall—

11 (A) post a schedule of all fees charged for  
12 providing check cashing services, in a manner  
13 that is conspicuous to the public;

14 (B) issue a receipt for each check cashing  
15 service provided, that shows the amount of the  
16 check or other instrument with respect to which  
17 the service is provided, the fee charged for the  
18 service, and the date the service is provided;  
19 and

20 (C) post the name and address of the  
21 State agency responsible under State law for  
22 administering the system, in a manner that is  
23 conspicuous to the public;

24 (4) prohibit any person from charging any fee  
25 for providing a check cashing service, that is greater

1 than the amount of fee authorized for that service  
2 by the State;

3 (5) establish a centralized system for filing of  
4 check cashing business licensing or registration doc-  
5 uments, as applicable;

6 (6) establish criteria for refusal, suspension,  
7 and revocation of check cashing business licenses or  
8 registrations, as applicable;

9 (7) establish criminal or civil penalties (or both)  
10 for violations of the State laws;

11 (8) ensure the submission to the Commission of  
12 any changes in the State laws described in this sub-  
13 section; and

14 (9) comply with such additional requirements as  
15 may be established by the Commission in regulations  
16 issued under subsection (f).

17 (c) LIMITATION ON APPROVAL OF SYSTEMS PROVID-  
18 ING RECIPROCITY.—The Commission may not approve a  
19 State check cashing business licensing or registration sys-  
20 tem under this section if the laws of the State authorize  
21 the licensing or registration of a person under the system,  
22 as applicable, on the basis of the person having been li-  
23 censed or registered under the laws of another State and  
24 without having to comply with all requirements applicable  
25 under the laws of the State that comprise the system.

1 (d) SUBMISSION, REVIEW, AND APPROVAL OF STATE  
2 APPLICATIONS.—

3 (1) SUBMISSION OF APPLICATION.—A State  
4 may submit an application to the Commission for  
5 approval of a State check cashing business licensing  
6 or registration system under this section—

7 (A) in the 1-year period beginning on the  
8 date of the issuance of regulations under sub-  
9 section (f), in the case of a State which on the  
10 date of the enactment of this Act does not pro-  
11 hibit, and has in effect laws that establish re-  
12 quirements for, the operation of a check cash-  
13 ing business;

14 (B) in the 2-year period beginning on that  
15 date of issuance in the case of a State which on  
16 that date of enactment does not prohibit, and  
17 does not have in effect laws that establish re-  
18 quirements for, the operation of a check cash-  
19 ing business; or

20 (C) in the 60-day period beginning on the  
21 date of the enactment by the State of any law  
22 that repeals a prohibition on the operation of  
23 check cashing businesses, in the case of a State  
24 which on the date of the enactment of this Act

1           has in effect laws that prohibit the operation of  
2           all check cashing businesses.

3           (2) REVIEW AND APPROVAL BY COMMISSION.—

4           The Commission shall, by not later than 1 year after  
5           the date of submittal of an application by a State  
6           under this subsection—

7                   (A) approve the State system if the system  
8                   complies with the requirements for approval  
9                   under subsection (b); or

10                   (B) disapprove the State system, rec-  
11                   ommend to the State such changes in the sys-  
12                   tem as are necessary for approval, and provide  
13                   the State one additional year to make changes  
14                   in State law to effect those changes.

15           (e) REVIEW OF CHANGES IN APPROVED STATE SYS-  
16           TEMS.—

17                   (1) GENERAL.—Not later than 1 year after the  
18                   date of submission to the Commission of any change  
19                   in the laws described in subsection (b) of a State  
20                   that has an approved State system, the Commission  
21                   shall—

22                           (A) review the change to determine wheth-  
23                           er the change is in accordance with the require-  
24                           ments for approval of the system under sub-  
25                           section (b);

1 (B) approve the change as being in accord-  
2 ance with those requirements, or disapprove the  
3 change as not being in accordance with those  
4 requirements; and

5 (C) notify the State of that approval or  
6 disapproval, including with any notification of  
7 disapproval a description of such modifications  
8 to State law as are necessary for the system to  
9 continue to be an approved State system.

10 (2) SUBSEQUENT REVIEW; REVOCATION OF AP-  
11 PROVAL.—After notifying a State under paragraph  
12 (1)(B) that the Commission disapproves a change in  
13 the approved State system of the State, the Commis-  
14 sion shall—

15 (A) review any further modifications in the  
16 laws of the State that have been enacted; and

17 (B)(i) approve the change and modifica-  
18 tions if they are in accordance with the require-  
19 ments for approval under subsection (b); or

20 (ii) revoke the Commission's approval of  
21 the State system if they are not in accordance  
22 with those requirements.

23 (f) REGULATIONS AND GUIDELINES.—

24 (1) IN GENERAL.—Not later than 60 days after  
25 the date of the enactment of this Act, the Commis-

1 sion shall issue regulations and guidelines for the  
2 submission of applications and approval of State  
3 check cashing business licensing and registration  
4 systems under this section.

5 (2) ADDITIONAL REQUIREMENTS.—Regulations  
6 issued under this subsection may include require-  
7 ments for approval of such systems in addition to  
8 the requirements under this section as the Commis-  
9 sion considers necessary to protect persons who pro-  
10 vide check cashing services, ensure the free flow of  
11 commerce, or protect the monetary system of the  
12 United States.

13 (g) RULE OF CONSTRUCTION.—This Act shall not be  
14 construed to prohibit a State from establishing, assessing,  
15 collecting, and using fees in the administration of a check  
16 cashing business licensing or registration system under  
17 this Act.

18 **SEC. 4. PROHIBITION ON REFUSAL BY INSURED DEPOSI-**  
19 **TORY INSTITUTION TO CASH GOVERNMENT**  
20 **CHECKS.**

21 (a) PROHIBITION.—An insured depository institution  
22 shall not refuse to cash a government check, and an in-  
23 sured credit union shall not refuse to cash a government  
24 check presented by a member of the insured credit union,  
25 if—

1           (1) the check is presented for cashing by an in-  
2           dividual who is the payee of the check, and is prop-  
3           erly endorsed by each individual who is a payee of  
4           the check;

5           (2) the individual who presents the check for  
6           cashing provides sufficient identification;

7           (3) the check and the identification documents  
8           required under paragraph (2) do not bear evidence  
9           of forgery, fraud, counterfeiting, alteration, or other  
10          tampering; and

11          (4) the face value of the check is less than  
12          \$2500.

13          (b) PENALTY.—An insured depository institution or  
14          insured credit union that violates subsection (a) shall be  
15          liable for a civil penalty of not more than \$500 for each  
16          violation, which may be assessed by—

17                 (1) the State agency having primary respon-  
18                 sibility under State law for administering an ap-  
19                 proved State system;

20                 (2) the State agency having primary respon-  
21                 sibility under State law for administering laws regu-  
22                 lating banking, in the case of a violation in a State  
23                 that does not have an approved State system; or

1           (3) the person having responsibility under sub-  
2           section (c) for enforcing this section with respect to  
3           the depository institution.

4           (c) ENFORCEMENT.—The requirements of this sec-  
5           tion shall be enforced—

6           (1) under section 8 of the Federal Deposit In-  
7           surance Act (12 U.S.C. 1818) by the Office of the  
8           Comptroller of the Currency, with respect to na-  
9           tional banks, and Federal branches and Federal  
10          agencies of foreign banks;

11          (2) under section 8 of that Act by the Board  
12          of Governors of the Federal Reserve, with respect to  
13          member banks of the Federal Reserve System (other  
14          than national banks), branches and agencies of for-  
15          eign banks (other than Federal branches, Federal  
16          agencies, and insured State branches of foreign  
17          banks), commercial lending companies owned or con-  
18          trolled by foreign banks, and organizations operating  
19          under section 25 or 25(a) of the Federal Reserve  
20          Act;

21          (3) under section 8 of that Act by the Board  
22          of Directors of the Federal Deposit Insurance Cor-  
23          poration, with respect to banks insured by the Fed-  
24          eral Deposit Insurance Corporation (other than

1 members of the Federal Reserve System) and in-  
2 sured State branches of foreign banks;

3 (4) under section 8 of that Act by the Director  
4 of the Office of Thrift Supervision, with respect to  
5 any savings association the deposits of which are in-  
6 sured by the Federal Deposit Insurance Corporation;

7 (5) under the Federal Credit Union Act (12  
8 U.S.C. 1752 et seq.) by the Administrator of the  
9 National Credit Union Administration, with respect  
10 to any insured credit union; and

11 (6) under the Farm Credit Act of 1971 (12  
12 U.S.C. 2001 et seq.) by the Farm Credit Adminis-  
13 tration, with respect to any Federal land bank, Fed-  
14 eral land bank association, Federal intermediate  
15 credit bank, or production credit association.

16 (d) RULES OF CONSTRUCTION.—This section shall  
17 not be construed to—

18 (1) prohibit an insured depository institution  
19 from charging fees to cash Government checks; or

20 (2) prohibit or preempt a State from establish-  
21 ing requirements or limitations with respect to the  
22 charging of fees by insured depository institutions  
23 for check cashing services, that are different than  
24 State requirements or limitations that apply to per-  
25 sons that are not insured depository institutions.

1 **SEC. 5. DISPENSING OF FEDERAL AND STATE GOVERN-**  
2 **MENT BENEFITS BY COMMUNITY DEVELOP-**  
3 **MENT CREDIT UNIONS.**

4 (a) LIMITATION ON AUTHORITY OF NATIONAL CRED-  
5 IT UNION ADMINISTRATION.—The National Credit Union  
6 Administration Board may not prohibit any Federally  
7 chartered credit union from dispensing benefits under any  
8 Federal or State assistance program (including benefits  
9 under the Aid to Families with Dependent Children pro-  
10 gram under title IV of the Social Security Act (42 U.S.C.  
11 601 et seq.)) that are authorized to be dispensed by a  
12 check cashing service.

13 (b) STUDY.—After the date that is 2 years after the  
14 date of the enactment of this Act, and not later than 3  
15 years after that date of enactment, the Comptroller Gen-  
16 eral of the United States shall conduct a study and submit  
17 a report to the Congress on the effectiveness and efficiency  
18 of the dispensation of benefits under Federal and State  
19 assistance programs (including benefits under the aid to  
20 families with dependent children program under title IV  
21 of the Social Security Act (42 U.S.C. 601 et seq.) through  
22 federally chartered credit unions.

23 **SEC. 6. STUDY OF DEBIT CARD SYSTEMS OF BENEFIT PAY-**  
24 **MENTS AND BENEFIT CHECK DELIVERY.**

25 Not later than 9 months after the date of the enact-  
26 ment of this Act, the Comptroller General of the United

1 States shall conduct a study and submit a report to the  
2 Congress on—

3 (1) the effects of requiring the use of a debit  
4 card system for making all benefit payments by the  
5 Federal Government; and

6 (2) other innovative ways to enhance and up-  
7 grade the current methods by which the Federal  
8 Government delivers benefit payment checks.

9 **SEC. 7. DEFINITIONS.**

10 (a) IN GENERAL.—As used in this Act—

11 (1) the term “approved State system” means a  
12 State check cashing business license or registration  
13 system that is approved by the Commission under  
14 section 3;

15 (2) the term “check cashing business” means a  
16 person that regularly and primarily engages in the  
17 business of providing any check cashing service for  
18 a fee and not in exchange for goods or services;

19 (3) the term “check cashing service” means—

20 (A) the issuance, redemption, or cashing of  
21 a 2-party or multi-party check or similar nego-  
22 tiable instrument;

23 (B) the sale, redemption, or cashing of a  
24 travelers check, money order, or similar nego-

1           tiable instrument by an agent of the issuer of  
2           the instrument that is authorized to do so; or

3           (C) the transmittal of money by wire, in  
4           any form or by any method or manner;

5           (4) the term “Commission” means the Federal  
6           Trade Commission;

7           (5) the term “depository institution” has the  
8           meaning given that term in section 3 of the Federal  
9           Deposit Insurance Act (12 U.S.C. 1813(c));

10          (6) the term “Federally chartered credit union”  
11          means a credit union having an organization certifi-  
12          cate approved by the National Credit Union Board  
13          under section 102 of the Federal Credit Union Act  
14          (123 U.S.C. 1752a);

15          (7) the term “government check” means any  
16          check issued by the United States or any agency of  
17          the United States;

18          (8) the term “insured depository institution”  
19          has the meaning given that term in section 3(c) of  
20          the Federal Deposit Insurance Act (12 U.S.C.  
21          1813(c));

22          (9) the term “insured credit union” has the  
23          meaning given that term in section 101(7) of the  
24          Federal Credit Union Act (12 U.S.C. 1752(7));

1           (10) the term “State” means the 50 States, the  
2           District of Columbia, and the territories and posses-  
3           sions of the United States; and

4           (11) the term “sufficient identification”  
5           means—

6                   (A) a valid driver’s license that bears the  
7                   name and address of the person providing the  
8                   license as identification;

9                   (B) a valid photo-identification card issued  
10                  by a State or Federal agency; or

11                  (C) a valid United States passport.

12           (b) TERMS RELATING TO ENFORCEMENT OF SEC-  
13           TION 4.—A term used in section 4 that is not defined in  
14           this Act shall have the meaning given that term by—

15                   (1) section 3(s) of the Federal Deposit Insur-  
16                   ance Act (12 U.S.C. 1813(s)); or

17                   (2) in the case of a term not defined in the Act  
18                   referred to in paragraph (1), section 1(b) of the  
19                   International Banking Act of 1978 (12 U.S.C.  
20                   3101).

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