

SUMMARY ANALYSIS OF AMENDED BILL

Author: Assembly Rev & Tax Committee Analyst: Deborah Barrett Bill Number: AB 1747
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: April 25, 2007
 Attorney: Tommy Leung Sponsor: _____

SUBJECT: Check Cashier Reporting Requirements Not Applicable to Incidental Cashers/Use of Last Known Address/TBOR Change Due Date Of Report To Legislature

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED March 22, 2007, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would make three changes to the Revenue and Taxation Code:

- Revise check cashier reporting requirements to not apply to incidental cashers, as defined,
- Define the term "last known address" for legal notices, and
- Change the date that the annual Taxpayers' Bill of Rights Report is due to the Legislature.

The provisions that would define the term "last known address" and would change the due date of the annual Taxpayers' Bill of Rights Report are Franchise Tax Board (FTB) sponsored provisions.

SUMMARY OF AMENDMENTS

The April 25, 2007, amendments would remove the incidental check cashier, as defined, from the requirements to report certain transactions. In addition, the amendments would provide an exception to the reporting requirements for payroll and government checks, as defined. The check cashier provisions are discussed in this analysis. The remainder of the department's analysis of the bill as introduced on March 22, 2007, still applies.

Board Position:	Legislative Director	Date
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PURPOSE OF THE BILL

According to committee staff, the purpose of this provision of the bill is to reduce the burden of reporting for incidental check cashers and remove duplicative reporting requirements related to government checks.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2008, and be operative for information returns due on or after that date.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal law lacks reporting requirements for check cashers similar to those in place for California. Federal law requires financial institutions to report each deposit, withdrawal, exchange of currency, or other payment or transfer that involves a transaction in currency of more than \$10,000. Financial institutions are also required to file a suspicious activity report if the institution detects or suspects certain activities conducted through the institution involve money laundering, criminal violations, or illegal activities.

Under state law, any check casher engaged in the business of cashing checks that, in the course of that business cashes, in one or more transactions in a year, an amount totaling over \$10,000 for the same person, must provide an annual information return to FTB reporting those transactions. Failure to file the required return could result in fines or imprisonment.

THIS BILL

This bill would exclude any person identified as a check casher under the Civil Code, whose check cashing business is incidental to their principal business, from the information return reporting requirements. Incidental is defined to mean that not more than 10% of the business' revenues are derived from check cashing activities.

The bill would also exclude from reportable transactions payroll checks and government checks, as defined. Government checks are defined as checks issued by a federal, state, or local entity. Payroll checks are defined as checks subject to withholding under the Unemployment Insurance Code and subject to certain fee restrictions under the Civil Code.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concern. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

The bill would provide a definition that an incidental check casher is one for whom not more than 10% of the revenue of the business is derived from cashing checks, but does not include a definition for “revenue.” The absence of a definition to clarify this term could lead to disputes with check cashers and would complicate the administration of this provision.

TECHNICAL CONSIDERATIONS

It is recommended the following technical changes be made to correct grammatical errors.

- On page 4, line 20, after “revenue” strikeout “or” and insert “of”.
- On page 4, line 21, strikeout “the”.
- On page 4, line 26, after “local”, insert “government”.

LEGISLATIVE HISTORY

AB 139 (Committee on Budget, Stats. 2005, Ch. 74) enacted the requirement for check cashers to provide information returns on transactions that total over \$10,000 in a year for the same person.

FISCAL IMPACT

Implementing the check casher provisions of this bill would not significantly impact department costs.

ECONOMIC IMPACT

Based on data and assumptions discussed below, this provision would result in the following revenue losses.

Estimated Revenue Impact of AB 1747 Effective for Tax Years BOA 1/1/2008 Assumed Enactment Date After 7/30/07		
2007/08	2008/09	2009/10
<\$150,000 loss	<\$150,000 loss	<\$150,000 loss

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Tax Revenue Estimate

Because taxpayers with incidental check cashing activities are anticipated to represent a small portion of all check cashers, the revenue impact for this bill is likely to be insignificant.

LEGISLATIVE STAFF CONTACT

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