

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3998

To protect the consumers of check cashing services by encouraging States to establish uniform laws on the regulation of check cashing services and to require the Secretary of the Treasury to study the effectiveness of State efforts with respect to such regulation and make appropriate recommendations to the Congress on such efforts.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1994

Mr. FOGLIETTA introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

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## A BILL

To protect the consumers of check cashing services by encouraging States to establish uniform laws on the regulation of check cashing services and to require the Secretary of the Treasury to study the effectiveness of State efforts with respect to such regulation and make appropriate recommendations to the Congress on such efforts.

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  
5 Consumer Protection Act of 1994”.

1 **SEC. 2. UNIFORM STATE LICENSING AND REGULATION OF**  
2 **CHECK CASHING SERVICES.**

3 (a) UNIFORM LAWS AND ENFORCEMENT.—For pur-  
4 poses of protecting the consumers of check cashing serv-  
5 ices from fraud and abuse, it is the sense of the Congress  
6 that the several States should—

7 (1) establish uniform laws for licensing and reg-  
8 ulating businesses which—

9 (A) provide check cashing services, trans-  
10 mit money, or issue or redeem money orders,  
11 travelers' checks, and other similar instruments;  
12 and

13 (B) are not depository institutions (as de-  
14 fined in section 19(b)(1)(A) of the Federal Re-  
15 serve Act); and

16 (2) provide sufficient resources to the appro-  
17 priate State agency to enforce such laws and regula-  
18 tions prescribed pursuant to such laws.

19 (b) MODEL STATUTE.—It is the sense of the Con-  
20 gress that the several States should develop, through the  
21 auspices of the National Conference of Commissioners on  
22 Uniform State Laws, the American Law Institute, or such  
23 other forum as the States may determine to be appro-  
24 priate, a model statute to carry out the goals described  
25 in subsection (a) which would include the following:

1           (1) LICENSING REQUIREMENTS.—A require-  
2           ment that any issuer, redeemer, or cashier of travel-  
3           ers' checks, checks, money orders, or similar instru-  
4           ments, and any transmitter of money, other than a  
5           depository institution (as defined in section  
6           19(b)(1)(A) of the Federal Reserve Act), be licensed  
7           and regulated by an appropriate State agency in  
8           order to engage in any such activity within the  
9           State.

10          (2) LICENSING STANDARDS.—A requirement  
11          that—

12                 (A) in order for any issuer, redeemer, or  
13                 cashier of travelers' checks, checks, money or-  
14                 ders, or similar instruments, and any transmit-  
15                 ter of money to be licensed in the State, the ap-  
16                 propriate State agency shall review and ap-  
17                 prove—

18                         (i) the business record and the capital  
19                         adequacy of the business seeking the li-  
20                         cense; and

21                         (ii) the competence, experience, integ-  
22                         rity, and financial ability of any individual  
23                         who—

24                                 (I) is a director, officer, or super-  
25                                 visory employee of such business; or

1 (II) owns or controls such busi-  
2 ness;

3 (B) as a condition for the issuance and  
4 continued validity of the license the business  
5 may not impose, charge, or collect any fee for  
6 cashing or redeeming any travelers' check,  
7 check, money order or similar instrument in ex-  
8 cess of the amount which is equal to the greater  
9 of—

10 (i) an amount equal to 1.5 per-  
11 cent of the face amount of such check  
12 or money order (not to exceed \$8); or

13 (ii) 50 cents; and

14 (C) any record, on the part of any business  
15 seeking the license or any person referred to in  
16 subparagraph (A)(ii), of—

17 (i) any criminal activity;

18 (ii) any fraud or other act of personal  
19 dishonesty;

20 (iii) any act, omission, or practice  
21 which constitutes a breach of a fiduciary  
22 duty; or

23 (iv) any suspension or removal, by any  
24 agency or department of the United States  
25 or any State, from participation in the con-

1           duct of any federally or State licensed or  
2           regulated business,  
3           be grounds for the denial of any such license by  
4           the appropriate State agency.

5           (3) PROCEDURES TO ENSURE COMPLIANCE  
6           WITH FEDERAL CASH TRANSACTION REPORTING RE-  
7           QUIREMENTS.—A civil or criminal penalty for oper-  
8           ating any business referred to in paragraph (1)  
9           without establishing and complying with appropriate  
10          procedures to ensure compliance with subchapter II  
11          of chapter 53 of title 31, United States Code (relat-  
12          ing to records and reports on monetary instruments  
13          transactions).

14          (4) CRIMINAL PENALTIES FOR OPERATION OF  
15          BUSINESS WITHOUT A LICENSE.—A criminal penalty  
16          for operating, within the State, any business re-  
17          ferred to in paragraph (1) after the effective date of  
18          the model statute without a license issued by the  
19          State.

20          (c) STUDY REQUIRED.—The Secretary of the Treas-  
21          ury shall conduct a study of—

22                  (1) the progress made by the several States in  
23                  developing and enacting a model statute which—

24                          (A) meets the requirements of subsection

25                          (b); and

1 (B) furthers the goals of—

2 (i) preventing money laundering by  
3 businesses which are required to be li-  
4 censed under any such statute; and

5 (ii) protecting the payment system, in-  
6 cluding the receipt, payment, collection,  
7 and clearing of checks, from fraud and  
8 abuse by such businesses; and

9 (2) the adequacy of—

10 (A) the activity of the several States in en-  
11 forcing the requirements of such statute; and

12 (B) the resources made available to the ap-  
13 propriate State agencies for such enforcement  
14 activity.

15 (d) REPORT REQUIRED.—Before the end of the 3-  
16 year period beginning on the date of the enactment of this  
17 Act and by the end of each 1-year period beginning after  
18 the end of such period, the Secretary of the Treasury shall  
19 submit a report to the Congress containing the findings  
20 and recommendations of the Secretary in connection with  
21 the study under subsection (c), together with such rec-  
22 ommendations for legislative and administrative action as  
23 the Secretary may determine to be appropriate, including  
24 any recommendation pursuant to subsection (e).

1           (e) RECOMMENDATIONS FOR INCENTIVES OR SANC-  
2 TIONS IN CASES OF INADEQUATE REGULATION AND EN-  
3 FORCEMENT BY STATES.—If the Secretary of the Treas-  
4 ury determines that any State has failed—

5           (1) to enact a statute which meets the require-  
6 ments described in subsection (b);

7           (2) to undertake adequate activity to enforce  
8 such statute; or

9           (3) to make adequate resources available to the  
10 appropriate State agency for such enforcement activ-  
11 ity,

12 the report submitted pursuant to subsection (d) shall con-  
13 tain recommendations for legislation establishing incen-  
14 tives which may be provided or sanctions which may be  
15 imposed to remedy such failure.

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