

# Payday Loan/Deferred Deposit in California



CALIFORNIA FINANCIAL SERVICE PROVIDERS ASSOCIATION  
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# Payday Loan/Deferred Deposit in California

## A Competitive Choice for Short-Term Credit

**Deferred deposit customers** have many short-term credit options, but a deferred deposit transaction is often the most economical and convenient. It is a simple 'advance' on the next paycheck, paid back within just days or weeks.

### Consumers are protected.

- Deferred deposits are regulated by the CA Department of Corporations.
- State law limits transactions to \$300 with a maximum fee of \$45 and no accumulating interest.
- Consumers cannot 'rollover' loans; under law they must repay an outstanding loan before another is taken.
- Collection practices and consumer liability are strictly limited by law.

### Deferred deposits are convenient and require no collateral.

- Terms are clear, simple and easily understood by customers.
- Transactions must comply with Truth-in-Lending laws.

### Deferred deposit often costs less than other 15-day credit options.

#### Types of Short-Term Credit

##### \$100 bank deferred deposit

*\*Fee quoted by US Bank on customer material copyrighted in 2005.*

##### \$100 deferred deposit/payday loan

*Maximum fee charged for a \$100 loan according to California state law.*

##### \$100 credit card balance

*Credit card fees are national, Consumer Action News, "Annual Credit Card Survey 2003"*

##### \$100 overdraft protection

*\*Alex Berenson, NY Times, "Banks Encourage Overdrafts, Reaping Profits," 1.22.03.*

##### \$100 bounced check

*\*Avg. fees according to industry survey conducted in 2003 of 2,243 banks in 858 cities.*

#### Fee

\$10 fee\*

\$17.65 fee\*

\$27 late fee\*

\$35 fee\*

\$51 total fees\*

#### APR

243.33% APR

429.48% APR

657.00% APR

851.67% APR

1,241.00% APR

### Deferred deposit customers in California closely reflect the overall state population. To conduct a deferred deposit transaction they must have:

- A job or other steady source of income; and
- A bank or credit union checking account.

In general, research shows California deferred deposit customers are educated and responsible with credit cards, home mortgages and retirement accounts.

California Financial Service Providers (CFSP) is a state trade association that serves and represents companies that offer deferred deposits, check cashing and other retail financial services in the state of California.





# Deferred Deposit Transaction: Step-By-Step

## PAYDAY LOAN 101

- Step 1** — Customer enters store, sees clearly posted sign that lays out fee structure and requirements.
- Step 2** — Customer fills out form with required information and presents to agent.
- Step 3** — Agent reviews application with customer.
- Step 4** — Customer **must** also present:
- Identification, and
  - Paystub or other reliable documentation of employment or steady income, and
  - A valid personal check from a current account, which will be held – uncashed – by store until repayment is made.
- Step 5** — Customer's check and documentation are verified and records checked for outstanding deferred deposit transactions.
- Step 6** — If approved, agent reviews terms with customer and customer signs transaction forms.
- Step 7** — Agent gives customer check or cash for the face amount of the customer's personal check less transaction fee.







# Check Cashing Services in California

## State Regulated and Registered

### Offering convenient, important financial services in California communities

**Check cashers are regulated** by the State of California and the US Treasury, and must follow Bank Secrecy Laws just like other financial institutions such as banks and mortgage lenders. In some communities, they provide an essential financial service because similar services are either not available or inaccessible.

**Check cashers are required to have permits issued by the California Attorney General and Department of Justice.**

- They operate under a strict set of state guidelines covering fees and practices.
- There are approximately 8600 retailers operating check cashing businesses with permits from the CA Attorney General, ranging from leading supermarkets and department stores like Albertsons and Sears to smaller independent businesses.

**For many communities, the check cashing service is essential because banks and other financial institutions either no longer provide the service or do so only for their own account holders.**

- For many consumers, check cashers operating in safe and regulated environments, are their best and sometimes only means of completing these basic financial transactions.
- Many check cashers also offer related, important services such as money transfers, money orders and bill payments.
- As part of the community, check cashers offer extended business hours that suit their customers' needs, often seven days per week.

**Under state regulations, check cashing fees are capped at 3.0 to 3.5 percent for payroll and government checks, with ID required.**

- There are no interest charges imposed on a cashed check.
- Fees for cashing personal checks (a very small percentage of overall transactions) may not exceed 12% under law.





## Fee Schedule

**In-store Signage:** Licensees are required to post a complete, detailed, and unambiguous schedule of fees in a conspicuous location in the unobstructed view of the public within the licensee's location.

### Fee Schedule - Sample

Amount Provided (Amount Financed)	Fee (Finance Charge)	Amount of Check (Total of Payments)	14-Day APR*	30-Day APR*
\$100.00	\$ 17.65	\$117.65	460.16%	214.74%
\$150.00	\$ 26.47	\$176.47	460.07%	214.70%
\$200.00	\$ 35.30	\$235.30	460.16%	214.74%
\$255.00	\$ 45.00	\$300.00	460.08%	214.71%

**APR:** The APR is the cost of your loan expressed as a yearly rate. The APRs are based on example loan terms of one payment (the total amount shown above) due in 14 and 30 days. The APR will increase if the actual loan term is shorter than those examples.

**Terms of Repayment:** A single payment for the total amount is due at the end of the term. The term varies, and can be a maximum of 31 days. A loan must be paid in full before a subsequent loan can be made. Proceeds of a new deferred deposit transaction may not be used to pay off an existing deferred deposit transaction from the same licensee.

**Advertising:** In all advertising, licensees must disclose that they are licensed by the Department of Corporations.

**Default Fees:** A single fee not to exceed \$15 may be charged for a returned check. No additional fees may be added for late payments or returned checks.

**Collection Terms:** A customer cannot be criminally prosecuted or threatened with criminal prosecution to collect a delinquent account. No person shall be required to pay treble damages if the check does not clear. The customer may not be required to pay court costs or filing fees as a result of a licensee's collection activities. Licensees are subject to the California Fair Debt Collection Practices Act.

\*Annual Percentage Rate







# California Financial Service Providers Association

## Best Practices for the Financial Service Industry

- 1) **Licensing.** To provide check cashing services, a member will hold an active check cashers permit issued by the Department of Justice. To provide deferred deposit loans either directly or as an agent in the state of California, a member will hold an active license issued by the Department of Corporations.
- 2) **Compliance.** A member will comply with all applicable state and federal laws governing money services businesses and offering financial products.
- 3) **Privacy.** A member will take reasonable steps to protect its customers' non-public personal information.
- 4) **Truthful advertising.** A member will not advertise any service in a false, misleading, or deceptive manner.
- 5) **Disclosure of fees.** A member will post its fees in a conspicuous manner and in compliance with state law, and provide every customer with a printed receipt showing the transaction details.
- 6) **Appropriate collection practices.** A member will collect past due accounts in a professional and fair manner in compliance with accepted collection standards and laws. A member will not use threats, intimidation, or unlawful harassment to collect accounts.
- 7) **Self-policing of the industry.** A member will participate in self-policing of the industry by reporting violations.
- 8) **Consumer Hotline.** A member will maintain and post its own consumer hotline number in each of its branches.
- 9) **Deferred Deposit Loan (Payday Loan/Payday Advance/Cash Advance).**
  - a) **Encourage consumer responsibility.** A member will promote only the responsible use of deferred deposit transactions. In promotional or marketing materials, a member will inform consumers of the intended use of deferred deposits, including notifying consumers that this type of loan is a short-term cash flow tool not designed as a solution for long term financing.
  - b) **Full disclosure.** A member will comply with all applicable state and federal disclosure requirements. A contract between a member and the customer must fully outline the material terms of the transaction, including disclosure of the cost of the service fee both as a dollar amount and as an annual percentage rate (APR).
  - c) **Compliance.** A member will not charge a fee nor engage in any practice that has the effect of imposing a fee when such fee is not authorized by state law.
  - d) **Right to rescind.** A member will give its customers the right to rescind, at no cost, a deferred deposit loan on or before the close of the following business day.
  - e) **Prohibit roll-overs.** A member will require customers to repay a deferred deposit loan in full prior to making another loan to the same customer.
  - f) **No criminal action.** A member will not threaten or pursue criminal actions against a customer as a result of a default on a deferred deposit loan.
  - g) **Treble damages.** A member will not collect treble damages for a returned deferred deposit loan check in compliance with state law.
  - h) **Repayment arrangements.** A member will accept and enter into reasonable repayment arrangements with customers in default. Upon acceptance of a repayment arrangement negotiated through a third party credit counselor, a member will honor the terms of repayment arrangement.
  - i) **Military borrowers.** A member will defer collections of deferred deposit loans made to military borrowers during periods of deployment, will not garnish military wages and will refrain from contacting a military borrower's chain of command for collection assistance. A member will provide information to each military borrower about repayment plans and other special rights granted to military borrowers.





## Fee Scheduled for Deferred Deposit Transactions

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Types of Short-Term Credit	Fee	APR
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\$100 deferred deposit/payday loan <i>Maximum fee charged for a \$100 loan according to California state law.</i>	\$17.65 fee	429.48% APR
\$100 credit card balance <i>Credit card fees are national, Consumer Action News, "Annual Credit Card Survey 2003"</i>	\$27 late fee	657.00% APR
\$100 overdraft protection <i>"Alex Berenson, NY Times, "Banks Encourage Overdrafts, Reaping Profits" 1.22.03</i>	\$35 fee	851.67% APR
\$100 bounced check <i>Avg. fees according to industry survey conducted in 2003 of 2,243 banks in 858 cities.</i>	\$51 total fees	1,241.00% APR

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  - For many consumers, check cashers operating in safe and regulated environments, are their best and sometimes only means of completing these basic financial transactions.
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Secure, regulated check-cashing services provide essential financial services in many communities, especially those that are underserved by more traditional financial institutions like banks.