
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 56

Session of
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ADOLPH, JANUARY 27, 1993

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 21, 1993

AN ACT

1 Regulating the check-cashing industry; providing for the
2 licensing of check cashers, for additional duties of the
3 Department of Banking and for certain terms and conditions of
4 the business of check cashing; establishing the Check Cashing
5 Industry Recovery Fund; and providing penalties.

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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 CHAPTER 1

17 GENERAL PROVISIONS

18 Section 101. Short title.

19 This act shall be known and may be cited as the Check Cashing
20 Licensing Act.

21 Section 102. Purpose.

22 The General Assembly hereby finds and declares that check
23 cashers which engage in the business of cashing checks, drafts
24 or money orders provide vital banking services which some
25 citizens of this Commonwealth find unavailable or inconvenient
26 to obtain from traditional banking institutions. Some customers,
27 however, have been charged unreasonable rates by some check
28 cashers for these services. Therefore, it is in the public
29 interest, convenience and welfare to have the Commonwealth set
30 check cashing rates and to regulate the manner in which these

1 services are provided.

2 Section 103. Definitions.

3 The following words and phrases when used in this act shall
4 have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Check." A type of negotiable instrument as defined in 13
7 Pa.C.S. § 3104 (relating to form of negotiable instrument).

8 "Check casher." Any person, partnership, association or
9 corporation engaging in the business of cashing checks, drafts
10 or money orders for a fee.

11 "Department." The Department of Banking of the Commonwealth.

12 "Draft." A type of negotiable instrument as defined in 13
13 Pa.C.S. § 3104 (relating to form of negotiable instrument).

14 "Fund" or "recovery fund." The Check Cashing Industry
15 Recovery Fund.

16 "Licensee." A check casher licensed by the Department of
17 Banking to engage in the business of cashing checks, drafts or
18 money orders.

19 "Money order." As defined in the act of September 2, 1965
20 (P.L.490, No.249), referred to as the Money Transmission
21 Business Licensing Law.

22 "Secretary." The Secretary of Banking of the Commonwealth.
23 Section 104. Authority of department.

24 The department shall have the authority to:

25 (1) Issue rules, regulations and orders as may be
26 necessary for the administration and enforcement of this act
27 and the proper conduct of the business of check cashing.

28 (2) Examine any instrument, document, account, book,
29 record or file of a check casher, any employee or any other
30 person, or make such other investigation as may be necessary

1 to administer this act.

2 (3) Conduct administrative hearings of any matter
3 pertaining to this act, issue subpoenas to compel the
4 attendance of witnesses and the production of instruments,
5 documents, accounts, books and records at any such hearing,
6 which may be retained by the department until the completion
7 of all proceedings in connection with which they were
8 produced, and administer oaths and affirmations to any person
9 whose testimony is required. In the event a person fails to
10 comply with a subpoena issued by the department or to testify
11 on any matter concerning which that person may be lawfully
12 interrogated, on application by the department, the
13 Commonwealth Court may issue an order requiring the
14 attendance of such person, the production of instruments,
15 documents, accounts, books or records or the giving of
16 testimony or may institute contempt of court penalties.

17 (4) Employ three additional staff to administer and
18 enforce this act.

19 CHAPTER 3

20 LICENSING PROVISIONS

21 Section 301. License requirement and form.

22 (a) Licensing required.--No person, partnership, association
23 or corporation shall engage in the business of cashing checks,
24 drafts or money orders for a consideration without first
25 obtaining a license under this act.

26 (b) Form of application.--Application for a license shall be
27 in writing, under oath, shall be in the form prescribed by the
28 department and shall contain the following:

29 (1) The applicant's name and address of residence.

30 (2) If the applicant is a partnership or association,

1 the name and address of every member and, if a corporation,
2 of each officer and director.

3 (3) The name and address of the business, if the
4 business will be conducted at a specific address.

5 (4) Evidence of a lease, mortgage or agreement of sale
6 for the business location.

7 (5) Evidence that the applicant has complied with all
8 municipal and county requirements for doing business.

9 (6) Evidence that the applicant has no outstanding debts
10 to the Commonwealth or evidence that a payoff agreement is in
11 place.

12 (c) Additional information.--The department may request any
13 additional information which it deems necessary to the licensing
14 procedure.

15 Section 302. License terms and fees.

16 Applicants for a license to conduct business shall remit to
17 the department for each location:

18 (1) An investigation fee in an amount equal to the
19 actual cost of the investigation with a cap to be determined
20 by departmental regulations.

21 (2) A license fee of \$350. No abatement of any license
22 fee shall be made if the license is issued for less than one
23 year.

24 Section 303. Duration of license.

25 On or before January 1 of each year, a licensee shall pay a
26 license renewal fee of \$350. Every licensee shall, 60 days prior
27 to the date of expiration, apply for license renewal on a form
28 provided by the department. The department shall renew the
29 license if, after considering any relevant factors and the
30 comments and complaints of the public and consumers, if any, the

1 license renewal applicant is in compliance with the provisions
2 of this act. Any license renewal applicant requesting a change
3 of address shall pay to the department a fee in an amount equal
4 to the cost of investigation of the new address with a cap on
5 the fee to be determined by departmental regulations.

6 Section 304. Check Cashing Industry Recovery Fund.

7 (a) Payments into fund.--Each check casher shall pay prior
8 to the issuance of its license, in addition to the applicable
9 licensing and investigation fees, a further fee of \$1,000 which
10 shall be paid and credited to the Check Cashing Industry
11 Recovery Fund, which is hereby established as a separate account
12 in the State Treasury. Each check casher shall pay this fee only
13 upon issuance of its first license. The department may assess an
14 additional fee at renewal or at such time deemed necessary by
15 the department, not to exceed \$1,000, if it finds that the
16 initial fund balance is insufficient to address the losses of
17 aggrieved parties. All fees shall be paid into the State
18 Treasury and credited to the fund. The deposits shall be
19 allotted solely for the purpose of the fund as prescribed in
20 this act. The fund shall be invested and interest and dividends
21 shall accrue to the fund.

22 (b) Application for recovery from fund.--

23 (1) When an aggrieved person obtains a final judgment in
24 a court of competent jurisdiction against a check casher ~~upon~~ <—
25 ~~grounds of fraud, misrepresentation or deceit~~ with reference
26 to a transaction for which a license is required under this
27 act, the aggrieved person may, upon termination of all
28 proceedings, including reviews and appeals, file an
29 application in the court in which the judgment was entered
30 for an order directing payment out of the fund of the amount

1 unpaid upon the judgment.

2 (2) The aggrieved person shall be required to show the
3 following:

4 (i) He is not a spouse of the payor or the personal
5 representative of the spouse.

6 (ii) He has obtained a final judgment as set out in
7 this section.

8 (iii) All reasonable personal acts, rights of
9 discovery and such other remedies at law and in equity as
10 exist have been exhausted in the collection thereof.

11 (iv) He is making the application no more than one
12 year after the termination of the proceedings, including
13 reviews and appeals in connection with the judgment.

14 (3) Should the court direct payment from the fund, the
15 license of that check casher shall automatically suspend upon
16 the effective date of the payment from the fund. No such
17 check casher shall be granted reinstatement until it has
18 repaid in full, plus interest at the rate of 10% a year, the
19 amount paid from the fund.

20 Section 305. Conditions for licensing.

21 (a) Conditions for license.--The department shall execute a
22 license to permit the cashing of checks, drafts and money
23 orders, in accordance with this act at the location specified in
24 the application for license if the department finds that the
25 financial responsibility, experience and general fitness of the
26 applicant, and of the members thereof if the applicant is a
27 partnership or association, and of the officers and directors
28 thereof if the applicant is a corporation, warrants a belief
29 that the business will be operated honestly and fairly within
30 the purposes of this act.

1 (b) Procedure for public comment.--To determine the
2 financial responsibility, experience, character and general
3 fitness of the applicant, the department shall consider public
4 comment. The procedure for public comment shall be as follows:

5 (1) The applicant shall publish notice, within ten days
6 after being notified by the department, that the application
7 is completed. Notice shall be published in English and
8 Spanish or other language if deemed necessary by the
9 department in a newspaper having general circulation in the
10 community in which the applicant intends to locate.

11 (2) The applicant shall transmit to the department two
12 copies of each notice and each publisher's affidavit of
13 publication.

14 (3) Upon publication, the application and all related
15 communications may be inspected in the department during
16 working hours by any person. This inspection shall be upon
17 written request and by appointment. The department may refuse
18 to disclose information that it deems is confidential.

19 (4) Within 30 days of the date of publication of notice,
20 anyone may file a communication in protest or in favor of the
21 application by submitting two copies to the department.

22 (5) The applicant may file an answer to any protest
23 until ten days after the last date for filing of
24 communication by submitting two copies to the department.

25 (6) The department shall consider all such communication
26 in its evaluation of the application.

27 (c) Felony conviction.--The department shall not issue a
28 license if it finds that the applicant, or any person who is a
29 director, officer, partner, agent, employee or substantial
30 stockholder of the applicant, has been convicted of a felony in

1 any jurisdiction or of a crime which, if committed within this
2 Commonwealth, would constitute a felony.

3 (d) Acts constituting conviction.--For the purpose of this
4 act, a person shall be deemed to have been convicted of a crime
5 if that person pleaded guilty to a charge thereof before a court
6 or magistrate, or has been found guilty thereof by the decision
7 or judgment of a court or magistrate or by the verdict of a
8 jury, irrespective of the pronouncement of sentence or the
9 suspension thereof, unless the plea of guilty, or the decision,
10 judgment or verdict, has been set aside, reversed or otherwise
11 abrogated by lawful judicial process or unless the person
12 convicted of the crime has received a pardon from the President
13 of the United States or the Governor or other pardoning
14 authority in the jurisdiction where the conviction occurred, or
15 shall have received a certificate of good conduct granted by the
16 Pennsylvania Board of Probation and Parole to remove the
17 disability under this act because of such conviction.

18 (e) Notification of denial.--If the department finds that
19 the applicant fails to meet any of the conditions set forth in
20 this section, the license shall not be issued and the department
21 shall notify the applicant of the denial. If an application is
22 denied or withdrawn, the department shall retain the
23 investigation fee and shall return the license fee to the
24 applicant.

25 (f) Information on license.--The license issued pursuant to
26 this section shall state:

27 (1) The name of the licensee.

28 (2) If the license is a partnership or association, the
29 names of the members thereof.

30 (3) The name and address of the business.

1 records required by this act or as prescribed by the
2 department.

3 (7) The licensee has falsified any records required by
4 this act to be maintained of the business contemplated by
5 this act.

6 (8) The licensee has failed to file any report with the
7 department within the time stipulated in this act.

8 (9) The licensee has used unfair or deceptive practices.

9 (10) Any fact or condition exists or is discovered
10 which, if it had existed or had been discovered at the time
11 of filing of the application for the license, would have been
12 grounds for the department to refuse to issue such license.

13 (11) The licensee has failed to report to the department
14 any change in ownership at least ten days prior to the
15 effective date of the ownership change.

16 (b) Particular license subject.--The department may revoke
17 or suspend only the particular license with respect to which
18 grounds for revocation may occur or exist, but if it finds that
19 grounds for revocation are of general application to all places
20 of business or to more than one place of business operated by a
21 licensee, it may revoke all of the licenses issued to such
22 licensee or those licenses to which grounds for revocation
23 apply, as the case may be.

24 (c) Issuance of another license.--Whenever a license has
25 been revoked, the department shall not issue another license
26 until the expiration of at least five years from the effective
27 date of revocation of such license and shall never issue a
28 license if such licensee or an owner, partner, member, officer,
29 director, employee, agent or spouse of the licensee shall have
30 pleaded guilty, entered a plea of nolo contendere, or has been

1 found guilty by a judge or a jury of a second offense violation
2 of this act.

3 (d) Appeals.--Appeals may be taken from the action of the
4 department in suspending and revoking licenses in accordance
5 with the procedures of 2 Pa.C.S. (relating to administrative law
6 and procedure).

7 Section 502. Change of location.

8 A licensee may make a written application to the department
9 to change the business address, stating the reasons for the
10 proposed change. If the department approves the application, a
11 new license shall be issued in accordance with Chapter 3,
12 stating the new location of the licensed business.

13 Section 503. Fees and charges.

14 (a) Allowable fees.--The licensee shall not charge or
15 collect, in fees, charges or otherwise, for cashing a check or
16 draft drawn on a bank or other financial institution an amount
17 in excess of the following percentages of the face amount of the
18 check or draft:

19 (1) ~~One percent~~ THE GREATER OF 1% OF THE FACE AMOUNT OF <—
20 THE CHECK OR \$20 for entitlement checks from Federal or State
21 government programs, including, but not limited to, Aid to
22 Families with Dependent Children (AFDC), General Assistance,
23 Social Security, Railroad Retirement, government and
24 veterans' disability payments and government pensions.

25 (2) ~~Two percent~~ THE GREATER OF 2% OF THE FACE AMOUNT OF <—
26 THE CHECK OR \$20 for non-entitlement checks.

27 (3) ~~Five percent~~ THE GREATER OF 5% OF THE FACE AMOUNT OF <—
28 THE CHECK OR \$20 for personal checks.

29 (b) Fee schedule.--In every check casher location there
30 shall be conspicuously posted and at all times displayed a

1 schedule of fees and charges based on a model form to be
2 published by the department in the Pennsylvania Bulletin. The
3 schedule shall state the maximum fees or charges and shall
4 include a table of amounts and corresponding maximum fees along
5 with the telephone number of the Consumer Services Division of
6 the Department of Banking. Where the department determines it
7 desirable, the schedule shall also be posted in languages other
8 than English.

9 (c) Receipt.--Based on the model form to be published by the
10 department in the Pennsylvania Bulletin, the licensee shall
11 provide a receipt to each consumer for each transaction. The
12 receipt shall include the name and address of the licensee, the
13 total amount of the check cashed, the fee charged, the remaining
14 balance, a statement in English and Spanish or other language
15 determined to be desirable by the department of the maximum fee
16 permitted under this act, and the telephone number of the
17 Consumer Services Division of the Department of Banking.

18 (d) Other goods and services.--The check casher shall not
19 require consumers to purchase other goods or services in order
20 to cash checks, drafts or money orders. A licensee shall not
21 discount normal check cashing fees or charges for cashing
22 checks, drafts or money orders upon the purchase of other goods
23 or services.

24 (e) Natural person payee.--No licensee shall cash a check,
25 draft or money order which is not made out to a natural person.
26 Section 504. Endorsement of checks, drafts or money orders
27 cashed.

28 Before a check casher deposits with any banking institution a
29 check, draft or money order cashed by the check casher, the same
30 must be endorsed with the actual name under which such check

1 casher is doing business and must have the words "licensed
2 casher of checks" legibly written or stamped immediately after
3 or below such name.

4 Section 505. Restrictions on business of licensee.

5 (a) Advancement of moneys.--No check casher shall at any
6 time cash or advance any money on a postdated check, draft or
7 money order or engage in the business of transmitting money or
8 receiving money for transmission, unless licensed under the act
9 of September 2, 1965 (P.L.490, No.249), referred to as the Money
10 Transmission Business Licensing Law.

11 (b) Exceptions.--Notwithstanding subsection (a), a licensee
12 may cash a check payable on the first banking business day
13 following the date of cashing if:

14 (1) the check is drawn by the United States, the
15 Commonwealth or any political subdivision of the Commonwealth
16 or by any department, bureau, agency, authority,
17 instrumentality or officer (acting in official capacity) of
18 the United States, or the Commonwealth or any political
19 subdivision of the Commonwealth; or

20 (2) the check is a payroll check drawn by an employer to
21 the order of its employee.

22 Section 506. Books, accounts and records.

23 (a) Keeping and use of information.--Each check casher shall
24 keep and use in the business, in a form satisfactory to the
25 department, such books, accounts and records as will enable the
26 department to determine whether the check casher is complying
27 with the provisions of this act and the rules and regulations
28 adopted under this act. Every check casher shall preserve such
29 books, accounts and records for five years.

30 (b) Filing of information.--Every check casher shall

1 annually, on or before May 1, file a report with the department
2 giving such information as the department may require concerning
3 the business and operations of the licensee during the
4 proceeding calendar year. In addition to the annual report, the
5 department may require such additional regular or special
6 reports deemed necessary to the proper operation and enforcement
7 of this act. These reports shall be made under oath or
8 affirmation and shall be in the form prescribed by the
9 department which shall make and publish annually an analysis of
10 these reports.

11 (c) Examination and cost of information.--The department may
12 examine the affairs, business, records, books, documents,
13 accounts and papers of any licensee. The actual cost of these
14 examinations shall be paid to the department by the licensee
15 examined, and the department may bring an action for the
16 recovery of these costs in any court of competent jurisdiction.
17 Section 507. Criminal penalty.

18 Any person, partnership, association or corporation, and any
19 member, officer, director, agent or employee thereof, who
20 violates any of the provisions of this act commits a misdemeanor
21 and shall, upon conviction, be sentenced to pay a fine of not
22 more than \$500 or to imprisonment for not more than one year, or
23 both.

24 Section 508. Private remedy.

25 (a) Liability.--Any person who fails to comply with any
26 provision of this act with respect to any consumer is liable to
27 the consumer for an amount equal to three times any actual
28 damage sustained by the consumer as a result of the failure or
29 the sum of \$250, whichever is greater.

30 (b) Recovery of costs.--In the case of any successful action

1 to enforce the liability under subsection (a), the consumer
2 shall recover from the licensee the costs of the action,
3 together with a reasonable attorney fee as determined by the
4 court.

5 CHAPTER 11

6 MISCELLANEOUS PROVISIONS

7 Section 1101. Applicability.

8 This act shall not apply to any insured depository
9 institution or affiliate or service corporation of any
10 depository institution supervised or regulated by the Department
11 of Banking, the National Credit Union Administration, the Office
12 of Thrift Supervision, the Federal Deposit Insurance
13 Corporation, THE COMPTROLLER OF THE CURRENCY OR the Board of <—
14 Governors of the Federal Reserve or the Federal Reserve Banks.
15 It also shall not apply to companies licensed by the Department
16 of Banking under the act of April 8, 1937 (P.L.262, No.66),
17 known as the Consumer Discount Company Act, the act of December
18 12, 1980 (P.L.1179, No.219), known as the Secondary Mortgage
19 Loan Act, and the act of December 22, 1989 (P.L.687, No.90),
20 known as the Mortgage Bankers and Brokers Act, in the normal
21 course of business with specific relation to lending
22 transactions.

23 Section 1102. Expiration.

24 This act shall expire two years from the effective date of
25 this act.

26 Section 1103. Effective date.

27 This act shall take effect in 180 days.