

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 653 Session of
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O'DONNELL, ITKIN, MORRIS, NAHILL, COY AND DONATUCCI,
MARCH 6, 1989

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MARCH 6, 1989

AN ACT

1 Regulating the check-cashing industry.

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11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Short title.

14 This act shall be known and may be cited as the Check-cashing
15 Industry Act.

16 Section 2. Definitions.

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

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

21 "Licensed cashier of checks." Any person engaging in the
22 business of cashing checks, drafts or money orders or engaging
23 in the business of selling money orders or cashier's checks
24 pursuant to the provisions of this act.

25 "Licensee." A licensed cashier of checks, drafts or money
26 orders, or seller of money orders or cashier's checks.

27 "Mobile unit." Any vehicle or other movable means from which
28 the business of cashing checks, drafts or money orders or
29 engaging in the business of selling money orders or cashier's
30 checks is conducted.

1 "Secretary." The Secretary of Banking of the Commonwealth.
2 The term includes the secretary's deputy or any salaried
3 employee of the Department of Banking named or appointed to
4 perform any function in the administration of enforcement of
5 this act.

6 Section 3. Authority of secretary.

7 In addition to the other powers and duties vested in the
8 secretary by this act or by any other law, the secretary is
9 authorized and empowered to make reasonable rules and
10 regulations, not inconsistent with the provisions of this act,
11 and to make specific rulings, demands and findings which the
12 secretary may deem necessary for the proper operation of this
13 act. These rules and regulations shall be promulgated pursuant
14 to the act of July 31, 1968 (P.L.769, No.240), referred to as
15 the Commonwealth Documents Law, and shall have the force and
16 effect of law.

17 Section 4. Licensing; form.

18 (a) Licensing required.--No person, partnership, association
19 or corporation shall engage in the business of cashing checks,
20 drafts or money orders or engage in the sale of money orders or
21 cashiers' checks for a consideration without first obtaining a
22 license from the secretary.

23 (b) Form of application.--Application for a license shall be
24 in writing, under oath, shall be in the form prescribed by the
25 secretary and shall contain the following:

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

27 (2) If the applicant is a copartnership or association,
28 the name and address of every member and, if a corporation,
29 of each officer and director.

30 (3) The name and address of the business, if the

1 business will be conducted at a specific address, or, if the
2 applicant intends to operate a mobile unit, the Pennsylvania
3 registration number or other identification of the mobile
4 unit and the area in which the applicant proposes to operate
5 the mobile unit.

6 (c) Additional information.--The secretary may request any
7 additional information as required.

8 Section 5. Licensing; fees, duration, minimum assets and bond
9 requirement.

10 (a) Stationary locations.--Applicants for a license to
11 conduct business from stationary locations shall pay to the
12 secretary, upon application:

13 (1) An investigation fee of \$200.

14 (2) A license fee of \$300.

15 (b) Mobile units.--Applicants for a license to conduct
16 business from a mobile unit shall pay to the secretary, upon
17 application:

18 (1) An investigation fee of \$200.

19 (2) A license fee of \$400.

20 (c) Duration of application.--If the application is filed
21 after June 30 in any year, the payment shall be one-half of the
22 stated license fee. The investigation fee shall not be
23 discounted.

24 (d) Duration of license.--The license shall terminate on the
25 last day of the current calendar year. Every licensee shall, on
26 or before December 15 of each year, pay to the secretary an
27 annual license fee of \$300 for the next succeeding calendar
28 year. Any licensee requesting a change of address shall pay to
29 the secretary a fee of \$100 for investigation of the new
30 address, unless the secretary determines that the investigation

1 fee should be waived.

2 (e) Minimum assets.--Every applicant shall prove, in form
3 satisfactory to the secretary, that the applicant has liquid
4 assets of \$500 continuously available for the operation of his
5 business for each location and for each mobile unit specified in
6 the application.

7 (f) Bond.--Every applicant shall post a \$100,000 bond with
8 the secretary. Such bond shall be used to guarantee payment for
9 any liability to consumers of the applicant's services for
10 violation under this or any other act or law.

11 Section 6. Conditions for license; issuance; public comment;
12 posting license.

13 (a) Conditions for license.--The secretary shall execute a
14 license in duplicate to permit the cashing of checks, drafts and
15 money orders, or the sale of money orders or cashier's checks,
16 in accordance with the provisions of this act at the location or
17 in the area specified in the application for license if the
18 secretary finds:

19 (1) That the financial responsibility, experience and
20 general fitness of the applicant, and of the members thereof
21 if the applicant is a copartnership or association, and of
22 the officers and directors thereof if the applicant is a
23 corporation, commands the confidence of the community and
24 warrants a belief that the business will be operated
25 honestly, fairly and efficiently within the purpose of this
26 act.

27 (2) That granting the application will promote the
28 convenience and advantage of the area where the business is
29 to be conducted.

30 (b) Procedure for public comment.--To determine the

1 financial responsibility, experience, character and general
2 fitness of the applicant, the secretary shall hear and consider
3 public comment. The procedure for public comment shall be as
4 follows:

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

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

13 (3) Upon publication, the application and all related
14 communications may be inspected by any person in the
15 secretary's office during working hours.

16 (4) Within 30 days of the date of publication of notice,
17 anyone may file a communication in protest or in favor of the
18 application by submitting two copies to the secretary.

19 (5) The applicant or any person who has filed a protest
20 may demand a public hearing within the 30-day period.

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

24 (7) Notice of public hearing shall be mailed to the
25 applicant and any person who has filed a communication if
26 demand for public hearing has been made.

27 (c) Refusal to issue license.--The secretary may refuse to
28 issue a license pursuant to this section if the secretary finds
29 that the applicant or any person who is a director, officer,
30 partner, agent, employee or substantial stockholder of the

1 applicant:

2 (1) Has been convicted of a crime in any jurisdiction.

3 (2) Is associating or consorting with any person who has
4 been convicted of a crime or crimes in any jurisdiction.

5 (d) Felony conviction.--The secretary shall not issue a
6 license if the secretary finds that the applicant, or any person
7 who is a director, officer, partner, agent, employee or
8 substantial stockholder of the applicant, has been convicted of
9 a felony in any jurisdiction or of a crime which, if committed
10 within this State, would constitute a felony.

11 (e) Deemed conviction.--For the purposes of this act, a
12 person shall be deemed to have been convicted of a crime if that
13 person pleaded guilty to a charge thereof before a court or
14 magistrate, or has been found guilty thereof by the decision or
15 judgment of a court or magistrate or by the verdict of a jury,
16 irrespective of the pronouncement of sentence or the suspension
17 thereof, unless the plea of guilty, or the decision, judgment or
18 verdict, has been set aside, reversed or otherwise abrogated by
19 lawful judicial process or unless the person convicted of the
20 crime has received a pardon from the President of the United
21 States or the Governor or other pardoning authority in the
22 jurisdiction where the conviction was had, or shall have
23 received a certificate of good conduct granted by the board of
24 parole pursuant to the provisions of the executive law to remove
25 the disability under this act because of such conviction.

26 (f) Notification of denial.--If the secretary finds that the
27 applicant fails to meet any of the conditions set forth in this
28 section, the license shall not be issued, and the secretary
29 shall notify the applicant of the denial. If an application is
30 denied or withdrawn, the secretary shall retain the

1 investigation fee and shall return the license fee to the
2 applicant.

3 (g) Prior revocation.--No license pursuant to this section
4 shall be issued to any applicant to do business at the place
5 specified in the application if, within the 12 months proceeding
6 this application, a license to engage in business pursuant to
7 this act at the same location has been revoked.

8 (h) Information on license.--The license issued by the
9 secretary pursuant to this section shall state:

10 (1) The name of the licensee.

11 (2) If the license is a copartnership or association,
12 the names of the members thereof.

13 (3) The name and address of the business if the business
14 will be conducted at a specific address, and, if the business
15 will be conducted through use of a mobile unit, the
16 Pennsylvania registration number or other identification of
17 the mobile unit and the area where the mobile unit is
18 authorized to do business.

19 (i) Conspicuous posting.--The license shall be kept
20 conspicuously posted in the place of business of the licensee,
21 or, in the case of a mobile unit, upon the mobile unit. The
22 license shall not be transferable or assignable.

23 (j) Affect of license.--The license shall remain in full
24 force and effect until it is surrendered by the licensee or
25 revoked or suspended as provided in this act.

26 Section 7. License suspension or revocation.

27 (a) Written order.--The secretary shall issue a written
28 order whenever a license is suspended or revoked pursuant to
29 this act.

30 (b) Filing and mailing of order.--On the date the order is

1 executed, the secretary shall file one copy with the department
2 and serve a second copy of the license either in person or by
3 mailing the order to the last known address of the licensee.

4 (c) Judicial review.--The order shall be subject to judicial
5 review. However, a special proceeding for review of the order
6 must be commenced within 30 days from the date of the order of
7 suspension or revocation, and no stay shall be granted pending
8 the determination of the matter except on notice to the
9 secretary and for a period not exceeding 30 days.

10 Section 8. Restriction as to place of doing business;

11 establishment of stations; change of location.

12 (a) Restrictions on place of doing business.--No more than
13 one place of business or more than one mobile unit shall be
14 maintained under the same license. However, more than one
15 license may be issued to the same licensee upon compliance with
16 the provisions of this act for each new license.

17 (b) Establishment of stations.--Any licensee may open and
18 maintain, within this Commonwealth one or more limited stations
19 for the purpose of cashing checks, drafts or money orders, or
20 for the sale of money orders or cashier's checks, for the
21 particular group or groups specified in the license authorizing
22 each station. The stations shall be licensed pursuant to and be
23 subject to all the provisions of this act applicable to licensed
24 cashiers of checks.

25 (c) Change of location.--A licensee may make a written
26 application to the secretary to change the business address, or
27 in the case of a mobile unit, the area where the unit is
28 authorized to operate, stating the reasons for the proposed
29 change. If the secretary approves the application, a new license
30 shall be issued in duplicate in accordance with provisions of

1 section 4, stating the new location of the licensed business or,
2 in the case of a mobile unit, the new area where the unit may
3 operate.

4 Section 9. Fees and charges for cashing checks and selling
5 money orders.

6 (a) Amount of sum chargeable.--The licensee shall not charge
7 or collect, in fees, charges or otherwise, for cashing a check,
8 a draft or money order drawn on a bank or other financial
9 institution located in this Commonwealth, a sum or sums
10 exceeding 1% thereof, and shall not charge or collect, in fees,
11 charges or otherwise, for cashing a check, draft or money order
12 drawn on any other bank or financial institution, a sum or sums
13 exceeding 1.5% thereof, or 50¢, whichever is greater; but in no
14 event shall more than \$8 be charged for cashing any check, draft
15 or money order.

16 (b) Fee schedule.--In every location and upon every mobile
17 unit licensed under this act, there shall be conspicuously
18 posted and at all times displayed a schedule of fees and charges
19 in English and Spanish, to be provided by the secretary. The
20 schedule shall state the maximum fees or charges and shall
21 include a table of amounts and corresponding maximum fees, along
22 with the number of the Consumer Complaints Bureau of the
23 Department of Banking.

24 (c) Receipt.--On a form provided by the secretary, the
25 licensee shall provide a receipt to each consumer of services
26 permitted under this act for each transaction. The receipt shall
27 include the name and address of the licensee, the total amount
28 of the check cashed, the fee charged, the remaining balance, a
29 statement in English and Spanish of the maximum fee permitted
30 under this act, and the phone number of the Consumer Complaints

1 Bureau of the Department of Banking.

2 (d) Identity.--The licensee shall verify the identity of
3 persons attempting to cash a check, draft or money order by
4 inspecting some form of identification.

5 (e) Other goods and services.--The licensee shall not
6 require consumers to purchase other goods or services in order
7 to cash checks, drafts or money orders; nor shall the licensee
8 discount normal check cashing fees or charges for cashing
9 checks, drafts or money orders upon the purchase of other goods
10 or services.

11 (f) Natural person payee.--No licensee shall cash a check,
12 draft or money order which is not made out to a natural person.

13 (g) Maximum fee.--No licensee shall sell or charge a fee for
14 issuing a money order or cashier's check in excess of a
15 reasonable maximum fee to be determined by the secretary.

16 Section 10. Endorsement of checks, drafts or money orders
17 cashed.

18 Before a licensee deposits, with any banking institution, a
19 check, draft or money order cashed by the licensee, the same
20 must be endorsed with the actual name under which such licensee
21 is doing business and must have the words "licensed casher of
22 checks" legibly written or stamped immediately after or below
23 such name.

24 Section 11. Restrictions on business of licensee.

25 (a) General rule.--No licensee shall engage in the business
26 of making loans of money, credit or goods, or discounting or
27 buying notes, bills of exchange, checks or other evidence of
28 debt; nor shall a loan business or the negotiation of loans or
29 the discounting or buying of notes, bills of exchange, checks or
30 other evidence of debt be conducted in the same premises where

1 the licensee is conducting business pursuant to the provisions
2 of this act.

3 (b) Advancement of moneys.--No licensee shall at any time
4 cash or advance any money on a postdated check, draft or money
5 order or engage in the business of transmitting money or
6 receiving money for transmission.

7 (c) Exceptions.--Notwithstanding the provisions of
8 subsections (a) and (b), a licensee may cash a check payable on
9 the first banking business day following the date of cashing if:

10 (1) the check is drawn by the United States, the
11 Commonwealth or any political subdivision of the Commonwealth
12 or by any department, bureau, agency, authority,
13 instrumentality or officer (acting in official capacity) of
14 the United States or the Commonwealth or any political
15 subdivision of the Commonwealth; or

16 (2) the check is a payroll check drawn by an employer to
17 the order of its employee in payment for services performed
18 by the employee.

19 (d) Cashing limit.--No licensee shall cash any check, draft
20 or money order if the face amount for which it is drawn is in
21 excess of \$500. This restriction shall not apply to the cashing
22 of checks, drafts or money orders drawn by the United States or
23 any state thereof or any political subdivision of any such
24 state, or by an insurance company, bank or savings and loan
25 association, or to any check which has been certified by the
26 bank, trust company or national bank on which it has been drawn.
27 Section 12. Books, accounts and records.

28 (a) Keeping and use of information.--Each licensee shall
29 keep and use in the business, in a form satisfactory to the
30 secretary, such books, accounts and records as will enable the

1 secretary to determine whether the licensee is complying with
2 the provisions of this act and the rules and regulations made by
3 the secretary under this act. Every licensee shall preserve such
4 books, accounts and records for five years.

5 (b) Filing of information.--Every licensee shall annually,
6 on or before February 1, file a report with the secretary giving
7 such information as the secretary may require concerning the
8 business and operations of the licensee during the proceeding
9 calendar year. In addition to the annual report, the secretary
10 may require such additional regular or special reports as deemed
11 necessary to the proper operation and enforcement of this act.
12 These reports shall be made under oath or affirmation and shall
13 be in the form prescribed by the secretary, who shall make and
14 publish annually an analysis and recapitulation of these
15 reports.

16 (c) Examination and cost of information.--The secretary may
17 cause an examination to be made of the affairs, business,
18 records, books, documents, accounts and papers of any licensee.
19 The actual cost of these examinations shall be paid to the
20 secretary by the licensee examined, and the secretary may
21 maintain an action for the recovery of these costs in any court
22 of competent jurisdiction.

23 Section 13. Criminal penalty.

24 Any person, partnership, association or corporation, and any
25 member, officer, director, agent or employee thereof, who
26 violates any of the provisions of this act commits a misdemeanor
27 and shall, upon conviction, be sentenced to pay a fine of not
28 more than \$500 or to imprisonment for not more than one year, or
29 both

30 Section 14. Private remedy.

1 (a) Liability.--Any person who fails to comply with any
2 provision of this act with respect to any consumer is liable to
3 the consumer for:

4 (1) an amount equal to three times any actual damage
5 sustained by the consumer as a result of the failure; or

6 (2) the sum of \$250.

7 (b) Recovery of costs.--In the case of any successful action
8 to enforce the liability under subsection (a), the consumer
9 shall recover the costs of the action, together with a
10 reasonable attorney fee as determined by the court.

11 Section 15. Unfair or deceptive acts.

12 Any violation of this act shall be considered an unfair or
13 deceptive act or practice, under the act of December 17, 1968
14 (P.L.1224, No.387), known as the Unfair Trade Practices and
15 Consumer Protection Law, and shall be punishable under that act.

16 Section 16. Applicability.

17 The provisions of this act shall not apply to any banking
18 institution or savings and loan association authorized to do
19 business in this Commonwealth.

20 Section 17. Effective date.

21 This act shall take effect immediately.