FISCAL NOTE

HOUSE BILL NO. 2453   **PRINTERS NO**. 3590   **PRIME SPONSOR**: Ellis

COST / (SAVINGS)

FUND	FY 2017/18	FY 2018/19
Banking Fund	$0	$0

SUMMARY: Amends the Check Casher Licensing Act to strengthen enforcement provisions, increase penalties and permit cashing of certain postdated checks. This legislation would take effect in 60 days.

ANALYSIS: This legislation updates the Check Casher Licensing Act (Act 22 of 1998) to modernize it and make it more consistent with the Department of Banking and Securities' (DOBS) more modern licensing statutes.

Authority of the Department of Banking and Securities: DOBS has the authority to:
- Examine any books, accounts, documents or files of a licensee to administer the provisions of the Act. The legislation gives DOBS authority to remove these files outside of the licensee's office. The cost of the examination shall be borne by the licensee.
- Conduct administrative hearings on any matter related to the Act.
- Request and receive information or records of any kind, including federal, state, local or foreign government criminal history records regarding an applicant for licensure. The cost of the reports shall be paid by the licensee.
- Issue regulations that may be necessary for the proper conduct of the check casher business.
- Prohibit or permanently remove persons who violate the Act from working in their current capacity.
- Order a person violating the Act to make restitution for actual damages to consumers.
- Issue cease and desist orders.
- Impose any other conditions which DOBS deems appropriate.

Any person aggrieved by a decision of DOBS may appeal the decision. DOBS may also maintain an action for injunction or other process against a person to restrain and prevent violations of the Act. A decision or an order of DOBS is the final order and shall be enforceable in court.

License Terms and Fees: A license shall be issued for a term of up to 14 months and may be renewed by DOBS each year on a schedule set by DOBS upon application and payment of $350 for each fixed location or mobile unit. (Currently, the fee of $350 is paid by May 1 of each year).

Upon renewal, the licensee must demonstrate that it is conducting the business in accordance with the Act.

Suspension and Revocation of License: DOBS may suspend, revoke or refuse to renew a license if a licensee:
- Made a material misstatement in an application.
- Failed to comply with or violated any provision of the Act.
- Engaged in dishonest, fraudulent or illegal practices.
- Has been convicted or pleaded guilty to a crime of moral turpitude or a felony.
- Becomes the subject of a US Postal Service fraud order.
- Failed to comply with requirements of the Act to keep records, files and financial reports.
- Demonstrates negligence or incompetence under the Act.

Restrictions on Business License: The legislation clarifies that no licensee shall cash or advance any money on a postdated personal check. A licensee may cash a postdated government or government assistance check as long as the date on the check is no more than 5 days later than the date the check is presented to the licensee. The fee charged by the licensee cannot exceed the fees set forth in the Act (a sum not exceeding 1.5% of the face amount of a government check or 0.5% of the face amount of a government assistance check).

Civil Penalties: A person subject to the Act and not licensed by DOBS who violates any provision of the Act may be fined up to $10,000 for each offense. A person licensed under the Act who violates any provision of the Act or any act enforced by DOBS or who commits any action which would lead to suspension or revocation may be fined up to $10,000 for each offense.

FISCAL IMPACT: This legislation would have no adverse fiscal impact on Commonwealth funds.

PREPARED BY: Tim Rodrigo
     House Appropriations Committee (R)

DATE: June 19, 2018

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.