

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 2453

**PRINTER NO.** 3590

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

June 4, 2018

**PRIME SPONSOR**

Representative Ellis

**DESCRIPTION**

House Bill 2453 amends the Check Casher Licensing Act by updating licensing provisions and permitting the cashing of post-dated government, government assistance and payroll checks.

Authority Granted to the Department of Banking and Securities: As outlined in House Bill 2453, the Department of Banking and Securities (department) is permitted to do the following:

- Examine any document, account or files of a licensee. The department may remove any of these materials and analyze them outside of the licensee's office. The licensee is responsible for the cost of the examination;
- Conduct administrative hearings on any matter related to the Check Casher Licensing Act (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 providing said information and reports will be paid for by the applicant or licensee;
- Issue regulations that may be necessary for proper conduct of the check-cashing business;
- Prohibit or permanently remove violators of the act from working in their current capacity;
- Order an individual who violates the act to make restitution for actual damages to consumers;
- Issue cease and desist orders; and
- Impose any other conditions which the department deems appropriate.

Appeals: The legislation grants individuals aggrieved by a decision by the department the right to appeal that decision.

Licensing Changes: House Bill 2453 makes several changes to the licensing process for check-cashing entities:

**Term & Renewal** – Licenses shall be issued for a term up to 14 months. The department is permitted to annually renew licenses based upon a schedule determined by the department. Upon renewal, a licensee must demonstrate that it is conducting business in accordance with the act.

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**Suspension & Revocation** – The department may suspend, revoke or refuse to renew a license if any of the following apply to 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 of or pleaded guilty to a crime of moral turpitude or felony;
- Permanently or temporarily been enjoined by a court from engaging in the check-cashing business;
- Becomes the subject of an order from the department or a United States Postal Service fraud order;
- Failed to comply with the record keeping and financial reporting requirements of the act; and
- Demonstrates negligence or incompetence under the act.

**Change in Status** – A licensee must notify the department of any change in status including an address change and change of directors/owners/officers within ten days of the change in status.

Cashing of Post-dated Checks: House Bill 2453 clarifies that a licensee may not cash or advance any money on a post-dated personal check. However, the legislation allows a licensee to cash a post-dated government, government assistance or payroll check as long as the date on the check is no more than five days later than the date the check is presented to the licensee. The fee a licensee charges to complete the transaction cannot exceed the fee outlined in the Act (a sum not exceeding the face amounts of 1.5% for government, 0.5% for government assistance and 3% for payroll checks).

Civil Penalties: House Bill 2453 authorizes the department to fine any individual subject to the provisions of the act but not licensed by the department up to \$10,000 for any violation of the act. Violations committed by licensees may also result in a fine of up to \$10,000 for each offense.

Report to the General Assembly: The legislation removes language requiring the department to submit a report to the General Assembly detailing consumer complaints received about check-cashing activities.

This act shall take effect in 60 days.

### **FISCAL IMPACT:**

The enactment of House Bill 2453 will have no adverse fiscal impact on Commonwealth funds. Any costs related to updating the check-cashing licensing process can be accommodated within the department's current workload and budget.