

CHECK CASHER LICENSING ACT
Act of Feb. 18, 1998, P.L. 146, No. 22
AN ACT

Cl. 07

Regulating the check-cashing industry; providing for the licensing of check cashers, for additional duties of the Department of Banking and Securities and for certain terms and conditions of the business of check cashing; and providing penalties for money-laundering activities and violations of the act. (Title amended Oct. 24, 2018, P.L.742, No.122)

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

CHAPTER 1
GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Check Casher Licensing Act.

Section 102. Purpose.

The General Assembly hereby finds and declares that check cashers which engage in the business of cashing checks provide vital financial services which some citizens of this Commonwealth find unavailable or inconvenient to obtain from traditional banking institutions and that it is in the public interest, convenience and welfare to:

- (1) Prevent the charging of unconscionable rates.
- (2) Insure the financial stability of the check-cashing industry.
- (3) Regulate the manner of performance of check-cashing service.
- (4) Seek the check-cashing industry's assistance in preventing money-laundering activities.

Section 103. Definitions.

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

"Check." A type of negotiable instrument as defined in 13 Pa.C.S. § 3104 (f), (g) and (h) (relating to negotiable instrument) and domestic postal money orders.

"Check casher." A business entity, whether operating as a proprietorship, partnership, association, limited liability company or corporation, that engages in the cashing of checks for a fee.

"Department." The Department of Banking and Securities of the Commonwealth. (Def. amended June 17, 2016, P.L.339, No.45)

"Licensee." A check casher licensed by the Department of Banking to engage in the business of cashing checks at a fixed location or by means of a mobile unit.

"Mobile unit." A vehicle or other movable means from which a check casher conducts business.

Section 104. Authority of department.

(a) General rule.--The department shall have the authority to:

- (1) Examine any instrument, document, account, book, record or file of a licensee or any person having a connection to the licensee or make other investigation as may be necessary to administer the provisions of this act. The department may remove any instrument, document, account, book, record or file of a licensee to a location outside of the licensee's office. The costs of the examination shall be borne by the licensee or the person subject to the examination.

- (2) Conduct administrative hearings on any matter relating to this act, issue subpoenas to compel the attendance of witnesses and the production of instruments, documents, accounts, books and records at a hearing. The instruments, documents, accounts, books and records may be retained by the department until the completion of all proceedings in connection with which the materials were produced. A department official may administer oaths and affirmations to a person whose testimony is required. In the event a person fails to comply with a subpoena issued by the department or to testify on a matter which the person may be lawfully interrogated, on application by the department, the Commonwealth Court may issue an order requiring the attendance of the person, the production of instruments, documents, accounts, books and records and the giving of testimony.

- (3) Request and receive information or records of any kind, including reports of criminal history record information from any Federal, State, local or foreign

government entity regarding an applicant for a license, licensee or person related to the business of the applicant or licensee, the cost of which shall be paid for by the applicant or licensee.

(4) Issue regulations, statements of policy or orders as may be necessary for the proper conduct of the check casher business by licensees, the issuance and renewal of licenses and the enforcement of this act.

(5) Prohibit or permanently remove a person who violates this act from working in the person's current capacity or in any other capacity of the person related to activities regulated by the department.

(6) Order a person to make restitution for actual damages to consumers caused by any violation of this act.

(7) Issue cease and desist orders that are effective immediately, subject to a hearing as provided under subsection (b) within 14 days of the issuance of the cease and desist order.

(8) Impose such other conditions as the department deems appropriate.

(a.1) Hearings.--A person aggrieved by a decision of the department may appeal the decision to the commission. The appeal shall be conducted under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(a.2) Injunctions.--The department may maintain an action for an injunction or other process against a person to restrain and prevent the person from engaging in an activity violating this act.

(a.3) Final orders.--A decision of the commission or an unappealed order of the department shall be a final order of the department and shall be enforceable in a court of competent jurisdiction. The department may publish final adjudications issued under this section, subject to redaction or modification to preserve confidentiality. The department shall regularly report violations of this act, enforcement actions and other relevant information to the Nationwide Multistate Licensing System and Registry.

(a.4) Appeals.--A person aggrieved by a decision of the commission may appeal the decision under 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(b) Limitation.--The department may not require retail food stores, which must register with the department, to register with the Nationwide Multistate Licensing System and Registry.

(104 amended Oct. 24, 2018, P.L.742, No.122)

CHAPTER 3 LICENSING PROVISIONS

Section 301. License requirement and form.

(a) Licensing required.--No person or business entity shall engage in the business of cashing checks for a fee without first obtaining a license under this act for each fixed location or mobile unit.

(b) Form of application.--Application for a license shall be in a form prescribed by the department and shall contain the following:

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

(2) If the applicant is a partnership or association, the name and address of every member. If the applicant is a corporation or limited liability company, the application shall contain the name and address of each officer and director.

(3) The name and address of the business or, if the applicant intends to operate a mobile unit, the Pennsylvania registration number or other identification of the mobile unit, the area in which the applicant proposes to operate the mobile unit and a stationary physical location where records shall be maintained.

(4) A signed statement by the applicant that the applicant has complied with all applicable municipal and county ordinances or requirements for doing business.

(5) A signed statement by the applicant that the applicant has no outstanding debts to the Commonwealth or evidence that a payment agreement is in place.

(6) For applicants doing business on the effective date of this act, the length of time the applicant has been a check casher at the location specified in the application or any other location.

(c) Additional information.--The department may request any additional information deemed necessary for licensure, including information from other states or the Federal Government, which may be evaluated for licensure purposes.
Section 302. License terms and fees.

(a) Application fees.--An applicant for a check-casher license under this act shall be subject to an initial application fee of \$500 for each fixed location or mobile unit.

(b) Term and renewal.--A license shall be issued for a term not to exceed 14 months and may be renewed by the department each year on a schedule set by the department upon application by the licensee and the payment of \$350 for each fixed location or mobile unit. The licensee shall demonstrate to the department that it is conducting the check casher business in accordance with the requirements of this act and that the licensee or directors, officers, partners, employees, agents and ultimate equitable owners of 10% or more of the licensee continue to meet all of the initial requirements for licensure required by this act, unless otherwise determined by the department. ((b) amended Oct. 24, 2018, P.L.742, No.122)

(c) Single application.--The department shall provide for the filing of a single application for all applicants who conduct business at multiple locations. A single application shall indicate the principal office of the business and a specific address for each fixed location or mobile unit covered under the application. The principal office shall have available all pertinent records and information related to the businesses licensed. A license shall be issued for each location or mobile unit. The department may accept the filing of an application electronically or in computer format.

(d) Recovery of costs.--No abatement of any license fee shall be made if the license is issued for a period of less than one year.

(e) Adjustment of fee.--In the event that application and renewal fees exceed the amount needed to administer this act, the department may reduce the fee by regulation.

Section 303. Issuance of license.

(a) Time limit.--Except as provided in section 1104(a), within 60 days after the receipt of a complete application, the department shall issue a license or refuse to issue or renew a license as provided for by section 501. Upon receipt of an application for license, the department shall conduct such investigation as it deems necessary to determine that the applicant and its officers and principals meet the requirements of section 304.

(b) Appeal of denial.--If the department refuses to issue or renew a license, it shall notify the applicant, in writing, of the denial and the reason therefor and of the applicant's right to appeal the denial in accordance with 2 Pa.C.S. (relating to administrative law and procedure).
Section 304. Conditions for licensing.

(a) Conditions for license.--

(1) Except as provided in subsection (b), if the department finds that the financial responsibility, experience, character and general fitness of the applicant warrants the conclusion that the business will be operated honestly and fairly within the purpose of the act, the department shall issue a check-casher license in accordance with this act.

(2) A license shall be issued for the business location specified in the application only and for mobile units to the site or sites specified.

(3) Check cashers shall post a notice of exact fees and charges, which shall be within the maximum prescribed in this act. The notice shall be posted in plain view and in a location readily apparent to a consumer transacting business at each business location or site specified in the application.

((a) amended June 17, 2016, P.L.339, No.45)

(b) New location or new licensees.--For all new locations or new licensees, to determine the financial responsibility, experience, character and general fitness of the applicant pursuant to subsection (a), the department shall consider public comment. The procedure for public comment shall be as follows:

(1) The applicant shall publish notice, within ten days after being notified by the department, that the application is completed. Notice shall be published in a newspaper having general circulation in the community in which the applicant intends to locate.

(2) The applicant shall transmit to the department a copy of the notice and the publisher's affidavit of publication.

(3) Upon publication, the application and all related communications may be inspected in the department during working hours. The department may refuse to disclose information that it deems confidential. The department shall not be liable for disclosure of information deemed confidential by the applicant.

(4) Within 30 days of the date of publication of notice, any person may file a notice in protest or in favor of the application by submitting two copies to the department.

(5) The applicant may request a copy of the notice and may file an answer to any protest within ten days from the last date for filing a notice under paragraph (4) by submitting two copies to the department.

(6) The department shall consider all such public comment in its evaluation of the application.

(c) Factors affecting licensing.--Prior to the granting of a license, the department shall consider the following factors:

(1) For purposes of the initial application only, whether the applicant has been engaged in the check-cashing business at the location specified in the application for a period of at least one year prior to the effective date of this act.

(2) Whether the applicant has made a substantial legal or financial commitment, in the form of a lease, option to

lease or purchase of property covering the location to be licensed prior to the effective date of this act.

(3) Whether the applicant is operating in compliance with all local zoning laws and laws pertaining to the operation of a business in this Commonwealth.

(4) Whether the applicant has sufficient business experience to qualify the applicant to act or operate as a check casher.

(d) Number of licenses.--One license shall be issued for each place of business or mobile unit. More than one license may be issued to the same licensee upon compliance with this act for each location or mobile unit.

(e) Felony conviction.--The department may decline to issue a license if it finds that the applicant has been convicted of or pled guilty or nolo contendere to a felony which would warrant such a denial. The department shall consider the year of the conviction, the nature of the offense and the potential impact on the check-cashing business or the community prior to declining to issue a license pursuant to this subsection. The department shall make specific written findings regarding its decision to deny within 30 days of the denial.

(f) Information on license.--The license issued under this section shall state:

(1) The name and specific address of the licensee.

(2) The name and specific address of the business and the location of any mobile unit.

(3) Any other information deemed necessary by the department.

(g) License not transferable.--The license shall not be transferable or assignable. Ownership shall not be changed under the existing license.

(h) Posting.--The license shall be conspicuously posted in the place of business of the licensee or, in the case of a mobile unit, upon a window of the mobile unit.

(i) Effect of license.--The license shall remain in full force and effect until it expires, is surrendered by the licensee or is revoked or suspended as provided in this act.

CHAPTER 5 ENFORCEMENT

Section 501. Suspension and revocation of license and civil penalties.

The department may suspend, revoke or refuse to renew a license issued under this act if any fact or condition exists or is discovered which, if it had existed or had been discovered at the time of filing of the application for the license, would have warranted the department to refuse issuance of the license or if a licensee or director, officer, partner, employee, mortgage originator or owner of a licensee has:

(1) Made a material misstatement in an application or any report or submission required by this act or any department regulation, statement of policy or order.

(2) Failed to comply with or violated any provision of this act or any regulation or order promulgated or issued by the department under this act.

(3) Engaged in dishonest, fraudulent or illegal practices or conduct in a business or unfair or unethical practices or conduct in connection with the check casher business.

(4) Been convicted of or pleaded guilty or nolo contendere to a crime of moral turpitude or a felony.

(5) Permanently or temporarily been enjoined by a court of competent jurisdiction from engaging in or continuing conduct or a practice involving an aspect of the check casher business.

(6) Become the subject of an order of the department denying, suspending or revoking a license applied for or issued under this act.

(7) Become the subject of a United States Postal Service fraud order.

(8) Failed to comply with the requirements of this act to make and keep records prescribed by regulation, statement of policy or order of the department, to produce records required by the department or to file financial reports or other information that the department, by regulation, statement of policy or order, may require.

(9) Become the subject of an order of the department denying, suspending or revoking a license under the provisions of any other law administered by the department.

(10) Demonstrated negligence or incompetence in performing an act for which the licensee is required to hold a license under this act.

(11) Become insolvent due to the liabilities of the applicant or licensee exceeding the assets of the applicant or licensee, the applicant or licensee being unable to meet the obligations of the applicant or licensee as they mature or being in a financial condition that the applicant or licensee cannot continue in business with safety to the customers of the applicant or licensee.

(a) (Deleted by amendment).

(b) (Deleted by amendment).

(c) (Deleted by amendment).

(d) (Deleted by amendment).

(e) (Deleted by amendment).

(501 amended Oct. 24, 2018, P.L.742, No.122)

Section 502. Change of status.

A licensee shall send written notice to the department on any change in status including address change, change of directors, owners or officers, including the reason for the proposed change within 10 days of the change of status.

(a) (Deleted by amendment).

(b) (Deleted by amendment).

(502 amended Oct. 24, 2018, P.L.742, No.122)

Section 503. Fees and charges.

(a) Allowable fees.--The licensee or any person subject to any provision of this act may collect the following fees for cashing a check:

(1) 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, provided the payee submits valid identification in the form of a driver's license, an identification card issued by the Department of Transportation or the equivalent.

(2) A sum not exceeding 3% of the face amount of a payroll check.

(3) A sum not exceeding 10% of the face amount of a personal check.

((a) amended June 17, 2016, P.L.339, No.45)

(b) New customer fee.--Notwithstanding anything in this section to the contrary, the licensee or any person subject to any provision of this act may charge an initial fee not to exceed \$10 to a new customer to cover the cost of investigating the customer's credit.

(c) Receipt of transaction.--The licensee or any person subject to any provision of this act shall provide a receipt of the transaction.

(d) Other goods and services.--

(1) The licensee or any person subject to any provision of this act shall not require consumers to purchase other goods or services in order to cash a check.

(2) Nothing in this section shall prevent a licensee or any person subject to this act from offering additional goods and services.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Government assistance check." A check issued by the Federal Government or State government on a continuing periodic basis by a government agency for the payment to the recipient payee of Federal or State assistance, Social Security, workers' compensation, unemployment compensation, railroad retirement benefits, veterans benefits or housing assistance.

"Government check." A check issued by the Federal Government, State government or local government other than a government assistance check.

((e) amended June 17, 2016, P.L.339, No.45)

(503 amended Dec. 9, 2002, P.L.1546, No.200)

Section 504. Endorsement of checks.

Before a check casher deposits a check with any banking institution, the check shall be endorsed with the actual name under which the check casher is doing business and shall have the words "licensed check casher" legibly written or stamped immediately after or below such name.

Section 505. Restrictions on business of licensee.

No licensee shall at any time cash or advance any money on a postdated personal check. A licensee may cash a postdated government check, government assistance check or payroll check so long as the date on the check is no more than five days later than the date the check is presented to the licensee and the fee charged by the licensee for the transaction does not exceed the applicable fee provided in section 503. No check-casher licensee shall engage in the business of transmitting money or receiving money for transmission, unless licensed or operating as an agent of a licensee under the act of September 2, 1965 (P.L.490, No.249), referred to as the Money Transmission Business Licensing Law.

(a) (Deleted by amendment).

(b) (Deleted by amendment).

(505 amended Oct. 24, 2018, P.L.742, No.122)

Section 506. Books, accounts and records.

(a) Maintenance and use of information.--Each check casher shall maintain and use such books, accounts and records as will enable the department to determine whether the check casher is complying with the provisions of this act and the rules and regulations adopted under this act. A check casher shall maintain records in a form prescribed by the department and shall preserve such books, accounts and records for five years.

(b) Examination and cost of information.--The department may examine the affairs, business, records, books, documents, accounts and papers of any licensee. The actual cost of these examinations shall be paid to the department by the licensee examined, and the department may bring an action for the recovery of these costs in any court of competent jurisdiction.

Section 507. Civil penalty.

(a) Persons operating without licenses.--A person subject to the provisions of this act and not licensed by the department who violates a provision of this act or who commits any action which would subject a license to suspension, revocation or nonrenewal under section 501 may be fined by the department up to \$10,000 for each offense.

(b) Violation by licensee.--A person licensed under this act or director, officer, owner, partner, employee or agent of a licensee who violates a provision of this act or any act enforced by the department or who commits any action which would subject the licensee to suspension, revocation or nonrenewal under section 501 may be fined by the department up to \$10,000 for each offense.

(507 amended Oct. 24, 2018, P.L.742, No.122)

Section 508. Criminal penalty.

It shall be a misdemeanor of the third degree for any person to operate as a check casher without obtaining a license under section 304 or to violate section 501(a)(5) or (6) or 503.

Section 509. Private remedy.

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

(b) Recovery of costs.--In the case of any successful action to enforce liability under subsection (a), the consumer shall recover from the licensee or any person subject to this act the costs of the action, together with a reasonable attorney fee as determined by the court.

(509 Dec. 9, 2002, P.L.1546, No.200)

Section 510. Recovery of losses due to theft and fraudulent misrepresentation.

If a check casher sustains financial loss due to:

(1) theft by a customer of a government check or government assistance check as those terms are defined in section 503(e), payroll check or personal check; or

(2) fraudulent misrepresentation by a customer, the customer shall be liable to the check casher for an amount equal to three times any actual face value of the check or three times any actual damage sustained by the check casher as a result of the theft or fraudulent misrepresentation, whichever is greater.

(510 added June 17, 2016, P.L.339, No.45)

CHAPTER 11 MISCELLANEOUS PROVISIONS

Section 1101. Applicability.

This act shall not apply to any insured depository institution or affiliate or service corporation of any depository institution supervised or regulated by the department, the National Credit Union Administration, the Federal Deposit Insurance Corporation, the Comptroller of the Currency or the Board of Governors of the Federal Reserve or the Federal Reserve Banks. It also shall not apply to companies licensed by the department under the act of April 8, 1937 (P.L.262, No.66), known as the Consumer Discount Company Act, the act of September 2, 1965 (P.L.490, No.249), referred to as the Money Transmission Business Licensing Law, unless conducting activities regulated by this act and 7 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and consumer protection), in the normal course of business with specific relation to

lending transactions and when engaged in the activities regulated under these acts. It also shall not apply to a retail food store licensed as a food establishment, as defined in section 2 of the act of July 7, 1994 (P.L.421, No.70), known as the Food Act, or a retail food store licensed as a public eating or drinking place, as defined in section 1 of the act of May 23, 1945 (P.L.926, No.369), referred to as the Public Eating and Drinking Place Law, that receives less than 1% of its annual gross revenue from cashing checks. A retail food store location must register annually with the department, and the provisions of sections 301(b)(4), 304(c)(3), 503, 507 and 509 shall apply to such a business entity. Each retail food store location shall provide the department with the company name, address and telephone number on a form prescribed by the department and a \$100 annual registration fee. Upon request, a retail food store location shall demonstrate to the satisfaction of the department that it receives less than 1% of its annual gross income revenue from cashing checks.

(1101 amended Oct. 24, 2018, P.L.742, No.122)

Compiler's Note: The act of July 7, 1994 (P.L.421, No.70), known as the Food Act, referred to in this section, was repealed by Act 106 of 2010.

The act of May 23, 1945 (P.L.926, No.369), referred to as the Public Eating and Drinking Place Law, referred to in this section, was repealed by Act 106 of 2010.

Section 1102. Report to General Assembly (Repealed).

(1102 repealed Oct. 24, 2018, P.L.742, No.122)

Section 1103. Disposition of funds.

All moneys received by the Treasury Department from the Department of Banking from fees, fines, assessments, charges and penalties, collected or recovered from check cashers pursuant to the provisions of this act shall be deposited in the Banking Department Fund.

Section 1104. Transition provisions.

(a) New license and location.--(a) expired January 1, 1999. See Act 22 of 1998.)

(b) Current operation.--An application for a license by a check casher operating on the effective date of this act shall be filed within one year from the effective date of this act.

Section 1105. Effective date.

This act shall take effect as follows:

(1) Section 1104(a) of this act and this section shall take effect immediately.

(2) The remainder of this act shall take effect in 60 days.