
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2453 Session of
2018

INTRODUCED BY ELLIS, THOMAS AND MILLARD, JUNE 4, 2018

REFERRED TO COMMITTEE ON COMMERCE, JUNE 4, 2018

AN ACT

1 Amending the act of February 18, 1998 (P.L.146, No.22), entitled
2 "An act regulating the check-cashing industry; providing for
3 the licensing of check cashers, for additional duties of the
4 Department of Banking and for certain terms and conditions of
5 the business of check cashing; and providing penalties for
6 money-laundering activities and violations of the act,"
7 amending the title of the act; in general provisions, further
8 providing for authority of the Department of Banking and
9 Securities; in licensing provisions, further providing for
10 license terms and fees; in enforcement, further providing for
11 suspension and revocation of license and civil penalties, for
12 change of status, for restrictions on business of licensee
13 and for civil penalty; and, in miscellaneous provisions,
14 further providing for applicability and repealing provisions
15 relating to report to General Assembly.

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

18 Section 1. The title of the act of February 18, 1998
19 (P.L.146, No.22), known as the Check Casher Licensing Act, is
20 amended to read:

21 AN ACT

22 Regulating the check-cashing industry; providing for the
23 licensing of check cashers, for additional duties of the
24 Department of Banking and Securities and for certain terms
25 and conditions of the business of check cashing; and

1 providing penalties for money-laundering activities and
2 violations of the act.

3 Section 2. Sections 104, 302(b), 501, 502, 505, 507 and 1101
4 of the act are amended to read:

5 Section 104. Authority of department.

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

8 [(1) Issue rules, regulations and orders as may be
9 necessary for the administration and enforcement of this act.

10 (2) Examine any check, document, account, book, record
11 or file relating to a check casher's business or operation
12 during regular business hours at the check casher's principal
13 office or to make such other investigation as may be
14 reasonably necessary to administer and enforce this act.

15 (3) Conduct administrative hearings on any matter
16 pertaining to this act, issue subpoenas to compel the
17 attendance of witnesses and the production of checks,
18 documents, accounts, books and records at any such hearing,
19 which may be retained by the department until the proceedings
20 are completed, and administer oaths and affirmations to any
21 person whose testimony is required. In the event a person
22 fails to comply with a subpoena issued by the department or
23 to testify on any matter concerning which that person may be
24 lawfully interrogated, on application by the department the
25 Commonwealth Court may issue an order requiring the
26 attendance and testimony of such person and requiring the
27 production of checks, documents, accounts, books and records
28 or may institute contempt of court penalties.]

29 (1) Examine any instrument, document, account, book,
30 record or file of a licensee or any person having a

1 connection to the licensee or make other investigation as may
2 be necessary to administer the provisions of this act. The
3 department may remove any instrument, document, account,
4 book, record or file of a licensee to a location outside of
5 the licensee's office. The costs of the examination shall be
6 borne by the licensee or the person subject to the
7 examination.

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

24 (3) Request and receive information or records of any
25 kind, including reports of criminal history record
26 information from any Federal, State, local or foreign
27 government entity regarding an applicant for a license,
28 licensee or person related to the business of the applicant
29 or licensee, the cost of which shall be paid for by the
30 applicant or licensee.

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

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

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

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

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

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

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

25 (a.3) Final orders.--A decision of the commission or an
26 unappealed order of the department shall be a final order of the
27 department and shall be enforceable in a court of competent
28 jurisdiction. The department may publish final adjudications
29 issued under this section, subject to redaction or modification
30 to preserve confidentiality. The department shall regularly

1 report violations of this act, enforcement actions and other
2 relevant information to the Nationwide Multistate Licensing
3 System and Registry.

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

7 (b) Limitation.--The department may not require retail food
8 stores, which must register with the department, to register
9 with the Nationwide Multistate Licensing System and Registry.
10 Section 302. License terms and fees.

11 * * *

12 (b) [License renewal.--On May 1 of each year, upon payment
13 of an annual renewal fee of \$350 for each fixed location or
14 mobile unit, the department shall renew the license if the
15 licensee is in compliance with the provisions of this act.] Term
16 and renewal.--A license shall be issued for a term not to exceed
17 14 months and may be renewed by the department each year on a
18 schedule set by the department upon application by the licensee
19 and the payment of \$350 for each fixed location or mobile unit.
20 The licensee shall demonstrate to the department that it is
21 conducting the check casher business in accordance with the
22 requirements of this act and that the licensee or directors,
23 officers, partners, employees, agents and ultimate equitable
24 owners of 10% or more of the licensee continue to meet all of
25 the initial requirements for licensure required by this act,
26 unless otherwise determined by the department.

27 * * *

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

30 [(a) Acts of licensee.--The department, upon 60 days'

1 written notice to the licensee and consistent with 2 Pa.C.S.
2 (relating to administrative law and procedure), may revoke,
3 suspend or decline to renew a license if it finds that the
4 licensee:

5 (1) has made any material misstatement in the
6 application for license;

7 (2) has violated any provision of this act or any order,
8 rule or regulation of the department issued under this act;

9 (3) has failed to comply with a subpoena issued under
10 authority of this act;

11 (4) has failed to maintain records as required under
12 this act or as prescribed by the department;

13 (5) has falsified a record required under this act or as
14 prescribed by the department;

15 (6) has refused to permit the department or its
16 designated representative to make examinations or
17 investigations authorized under this act;

18 (7) has failed to file a report with the department
19 within the time stipulated in this act;

20 (8) has been convicted of or pled guilty or nolo
21 contendere to, or has otherwise been adjudged in a final
22 judgment by a court of competent jurisdiction to have
23 committed, any of the following acts:

24 (i) a violation of 18 Pa.C.S. (relating to crimes
25 and offenses) regarding theft or fraud involving a
26 customer;

27 (ii) a violation of Federal or State law regarding
28 the reporting of currency transactions, including section
29 21 of the Federal Deposit Insurance Corporation Act (64
30 Stat. 873, 12 U.S.C. § 1829b) and sections 121 through

1 124 of the act of October 26, 1970 (Public Law 91-508, 12
2 U.S.C. §§ 1951 through 1954);

3 (iii) a violation of 18 Pa.C.S. § 5111 (relating to
4 dealing in proceeds of unlawful activities) or any
5 Federal criminal statute related to money laundering or
6 conspiracy to launder money; or

7 (iv) any other felony as determined in accordance
8 with section 304(e); or

9 (9) has committed any act, the fact or condition of
10 which exists or is discovered to exist which, if it had
11 existed or had been discovered to exist at the time of filing
12 of the application for a license, would have been grounds for
13 the department to refuse to issue the license.

14 (b) Noncompliance notice.--The department shall provide to a
15 licensee notice of noncompliance with or a violation of this
16 act. The department shall permit the licensee a reasonable time
17 to comply with this act or to correct the violation. If the
18 licensee fails to comply or correct the violation, the
19 department may order that civil penalties be levied against a
20 licensee.

21 (c) Multiple license suspension or revocation.--The
22 department may revoke, suspend or nonrenew only the particular
23 license for which grounds to do so may occur or exist, but if it
24 finds that such grounds are of general application to all places
25 of business or to more than one place of business operated by a
26 licensee, it may revoke, suspend or nonrenew all or some of the
27 licenses issued to the check casher.

28 (d) Issuance of another license.--Whenever a license has
29 been revoked, the department shall not issue another license
30 until the expiration of at least one year from the effective

1 date of revocation of such license.

2 (e) Appeals.--A licensee may appeal the department's
3 suspension, revocation or nonrenewal of a license in accordance
4 with the procedures of 2 Pa.C.S. (relating to administrative law
5 and procedure).]

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

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

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

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

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

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

29 (6) Become the subject of an order of the department
30 denying, suspending or revoking a license applied for or

1 issued under this act.

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

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

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

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

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

23 Section 502. Change of status.

24 [(a) Notice to department.--]A licensee shall send written
25 notice to the department on any change in status including
26 address change, change of directors, owners or officers,
27 including the reason for the proposed change within 10 days of
28 the change of status.

29 [(b) Approval for sale or transfer of license.--A licensee
30 shall not sell, transfer or assign its check-casher license

1 without the issuance by the department of a new license. In the
2 event a license is terminated, the former licensee shall
3 surrender it to the department.]

4 Section 505. Restrictions on business of licensee.

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

17 [(b) Report of certain transactions.--A licensee shall
18 report to the department each transaction involving a check
19 drawn on the personal account of the maker which is also payable
20 to the maker in accordance with the requirements of 31 United
21 States Code § 5316 (relating to reports on exporting and
22 importing monetary instruments). The report shall be forwarded
23 to the department within ten days of the transaction and shall
24 include the name and address of the person on whose account the
25 check was drawn and the date of the transaction.]

26 Section 507. Civil penalty.

27 [Any person who is subject to the provisions of this act who
28 violates any of the provisions of this act shall be subject to a
29 civil penalty levied by the department of up to \$2,000 for each
30 violation. The civil penalty shall specifically apply to

1 licensed and unlicensed activity under this act. The department
2 may also recover the cost of investigating alleged violations.]

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

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

16 Section 1101. Applicability.

17 This act shall not apply to any insured depository
18 institution or affiliate or service corporation of any
19 depository institution supervised or regulated by the
20 [Department of Banking] department, the National Credit Union
21 Administration, [the Office of Thrift Supervision,] the Federal
22 Deposit Insurance Corporation, the Comptroller of the Currency
23 or the Board of Governors of the Federal Reserve or the Federal
24 Reserve Banks. It also shall not apply to companies licensed by
25 the [Department of Banking] department under the act of April 8,
26 1937 (P.L.262, No.66), known as the Consumer Discount Company
27 Act, the act of September 2, 1965 (P.L.490, No.249), referred to
28 as the Money Transmission Business Licensing Law, unless
29 conducting activities regulated by this act[, the act of
30 December 12, 1980 (P.L.1179, No.219), known as the Secondary

1 Mortgage Loan Act, and the act of December 22, 1989 (P.L.687,
2 No.90), known as the Mortgage Bankers and Brokers Act,] and 7
3 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and
4 consumer protection), in the normal course of business with
5 specific relation to lending transactions and when engaged in
6 the activities regulated under these acts. It also shall not
7 apply to a retail food store licensed as a food establishment,
8 as defined in section 2 of the act of July 7, 1994 (P.L.421,
9 No.70), known as the Food Act, or a retail food store licensed
10 as a public eating or drinking place, as defined in section 1 of
11 the act of May 23, 1945 (P.L.926, No.369), referred to as the
12 Public Eating and Drinking Place Law, that receives less than 1%
13 of its annual gross revenue from cashing checks. A retail food
14 store location must register annually with the department, and
15 the provisions of sections 301(b)(4), 304(c)(3), 503, 507 and
16 509 shall apply to such a business entity. Each retail food
17 store location shall provide the department with the company
18 name, address and telephone number on a form prescribed by the
19 department and a \$100 annual registration fee. Upon request, a
20 retail food store location shall demonstrate to the satisfaction
21 of the department that it receives less than 1% of its annual
22 gross income revenue from cashing checks.

23 Section 3. Section 1102 of the act is repealed:

24 [Section 1102. Report to General Assembly.

25 Three years from the effective date of this act, the
26 department shall provide a written report to the General
27 Assembly summarizing consumer complaints received by the
28 department relating to check-cashing activities and the methods
29 by which the complaints were addressed. The department shall
30 also make recommendations to the General Assembly regarding

1 improvements to this act and the continuance of a licensing
2 program.]

3 Section 4. This act shall take effect in 60 days.