

CHAPTER 252

AN ACT concerning licensed check cashers and amending P.L.1993, c.383.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1993, c.383 (C.17:15A-31) is amended to read as follows:

C.17:15A-31 Definitions.

2. As used in this act:

"Applicant" means a person who has applied or is in the process of applying for a license pursuant to this act.

"Automated cash machine" means an unmanned communications terminal which dispenses cash, traveler's checks or both; does not accept deposits; and through which transactions with banking institutions are consummated.

"Automated check cashing machine" means an unmanned communications terminal which only cashes checks for a fee.

"Check" includes a check, draft, money order, negotiable order of withdrawal and similar types of negotiable instruments.

"Commissioner" means the Commissioner of Banking and Insurance.

"Controlling interest" means ownership, control or interest in 25% or more of the outstanding and issued voting stock of the check cashing business.

"Customer" means any person who seeks to have a check cashed by a licensee but does not include the maker of a check payable to another person.

"Department" means the Department of Banking and Insurance.

"Fee" includes any fee, charge, cost, expense, or other consideration.

"License" means a license issued pursuant to this act and held by a licensee, which license authorizes the licensee to cash checks for a fee as provided pursuant to this act.

"Licensee" means a person who holds, or who should hold, a license pursuant to this act.

"Limited branch office" means a private premises where a licensee maintains and makes available to the particular group specified in the authorization, and to that group only, the facilities for cashing checks, drafts, or money orders on the designated premises for no more than two days of each week as designated in the authorization pursuant to subsection c. of section 12 of this act and also includes the premises where payroll services are provided.

"Mobile office" means any vehicle or other moveable means from which the business of cashing checks is conducted.

"Natural person" does not include a payee identified on the payee line of a check as a partnership, professional association, company, corporation, or other business entity.

"Office" includes a principal office and a full branch office.

"Payroll service" means a service provided, pursuant to a written agreement, by a licensed check casher to an employer in which the employer pays a fixed fee or rate for the on-site delivery of payroll or cashing of payroll checks issued to its employees, at no cost to the employees.

"Person" has the meaning given that word in R.S.1:1-2.

"Substantial stockholder" means any person who beneficially owns or controls more than 10% of the outstanding voting shares of an applicant or a licensee.

2. Section 6 of P.L.1993, c.383 (C.17:15A-35) is amended to read as follows:

C.17:15A-35 Contents of application.

6. The application for a license shall include, but not be limited to, the following:

- a. The name, age, business address, residence and present and previous occupations of each applicant or licensee and of each officer, owner, director, partner, and substantial stockholder of the check cashing business to be licensed;

- b. The name and business address of each manager of each office, mobile office or limited branch office that the applicant proposes to operate;

- c. The address of each stationary site, if the check cashing business, or any portion thereof, is to be conducted from a stationary site or sites;

- d. The New Jersey motor vehicle registration number or other identification of the mobile

office and the exact location or locations, if more than one, at which the applicant proposes to operate the mobile office, if the check cashing business, or any portion thereof, is to be conducted from a mobile office;

e. Any other information that the commissioner may reasonably require;

f. All licensees shall have an affirmative obligation to advise the commissioner in writing within five days of any change in the information required under subsections a., c. and d. of this section; and

g. An applicant's customer information, customer lists, authorizations and customer contracts submitted to or obtained by the department in connection with an application for licensure for a limited branch office shall be confidential and not public records subject to public access, inspection or copying under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records. The applicant's name and address and an application for licensure for a limited branch office shall be public records. Nothing contained in this subsection shall restrict the authority of the department or any other governmental entity to access documents, whether or not deemed public records, submitted in connection with an application for a limited branch office license.

3. Section 8 of P.L.1993, c.383 (C.17:15A-37) is amended to read as follows:

C.17:15A-37 Required capital, net worth, liquid assets.

8. An applicant shall prove, in a manner and form satisfactory to the commissioner, that the applicant has available for the operation of its check cashing business at each office, mobile office or automated check cashing machine location, capital or net worth of at least \$50,000, and has available for the operation of its check cashing business at each office , mobile office or location, liquid assets of at least \$50,000.

4. Section 11 of P.L.1993, c.383 (C.17:15A-40) is amended to read as follows:

C.17:15A-40 Valid license, fee, civil actions.

11. a. A license shall be valid until surrendered by the licensee, or unless revoked or suspended pursuant to this act.

b. Each licensee shall pay to the department a biennial license fee of not more than \$2,000 for each office and mobile office it maintains. There shall not be a biennial license fee for a limited branch office. The fee shall be due on January 1 of each alternate calendar year following the effective date of this act. When the initial license or certificate is issued in the second year of the biennial period, the fee shall be an amount equal to one-half the fee for the biennial period. The initial license fee for a limited branch office shall not exceed \$100.

c. A licensee may bring a civil action in Superior Court against another licensee, or against a depository institution subject to subsection b. of section 21 of P.L.1993, c.383 (C.17:15A-50), as amended, or subsection c. of section 21 of P.L.1993, c.383 (C.17:15A-50), as amended, for violating any of the following provisions, if that violation has an impact on the check cashing business of the licensee bringing the action: (1) section 3 of P.L.1993, c.383 (C.17:15A-32); (2) the requirements set forth in paragraph (6) of subsection d. of section 12 of P.L.1993, c. 383 (C.17:15A-41); (3) subsection e. of section 12 of P.L.1993, c. 383 (C.17:15A-41); (4) subsection f. of section 18 of P.L.1993, c.383 (C.17:15A-47); (5) subsection b. of section 21 of P.L.1993, c.383 (C.17:15A-50); or (6) subsection c. of section 21 of P.L.1993, c.383 (C.17:15A-50). Nothing contained in this subsection shall be construed to restrict, limit or alter in any way the commissioner's authority to enforce the provisions of "The Check Cashers Regulatory Act of 1993," P.L.1993, c.383 (C.17:15A-30 et seq.) or any other law.

d. If a licensee has not provided check cashing services during normal business hours at the location specified in the license for a period of 180 consecutive days or more, and if no application for renewal of the license or relocation of the licensed check casher is or shall have been filed prior to expiration of that 180-day period, the department may, after notice to the licensee and opportunity to be heard, revoke the license or for good cause shown, the department may extend the 180 day period.

5. Section 15 of P.L.1993, c.383 (C.17:15A-44) is amended to read as follows:

C.17:15A-44 Responsibilities of licensee.

15. A licensee shall:

a. Conspicuously display at each office, limited branch office or mobile office it operates the original license, certificate or branch authorization, as appropriate, issued by the commissioner.

b. Conspicuously display all signs and notifications which the commissioner may require.

c. Provide each customer, at the time of a transaction, with a record of each transaction as specified by regulation.

d. Produce a photographic record, on such equipment as the commissioner may prescribe, of all of the checks cashed at the place of business and maintain a true copy of each such record.

e. Endorse each check cashed with the actual name under which the licensee is doing business and legibly write or stamp the words "Licensed Casher of Checks" immediately after or below the licensee's name.

f. Conduct all check cashing business through a bank account or accounts which are used solely for that purpose, and which have been identified as such to the department.

g. Inform the department if any bank account number changes or if any bank account is closed.

h. Maintain adequate records of its check cashing business as prescribed by the commissioner by regulation.

i. Retain for five years essential records, and retain all other records for a shorter period as prescribed by the commissioner by regulation. Such records shall be separate from the records of other businesses in which the licensee may be engaged. Although separate records are required, it is not required that the licensee's check cashing business have a different legal identity from other businesses in which the licensee is engaged.

j. Suspend for at least six months the check cashing privileges of any customer who cashes, in any one calendar year, more than three checks which are returned by the payor bank because of insufficient funds, and notify the department in writing of the name of such customer and the action taken, except that for purposes of this subsection two or more checks of a single maker which are returned because of insufficient funds shall be counted as one check provided they were cashed the same day and deposited in the licensee's bank account on the same banking day.

k. Maintain at all times a capital or net worth of at least \$50,000 for the operation of the licensee's check cashing business at each office, mobile office and automated check cashing machine location, and maintain at all times liquid assets of at least \$50,000 for the operation of the licensee's check cashing business at each office, mobile office and automated check cashing machine location.

l. (1) Maintain on its premises, a record keeping system by which a licensee may track, and provide for inspection at the request of the commissioner, checks which the licensee cashed and which were made payable to a payee other than a natural person and checks which the licensee cashed in the amount of \$2,500.00 or more.

(2) The record keeping system required pursuant to paragraph (1) of this subsection l. shall include, but not be limited to, the following information:

(a) the date of the transaction;

(b) the name of the payee;

(c) the federal tax payer identification number of the payee;

(d) the face amount of the check;

(e) the date of the check;

(f) the name or names of those presenting the check for payment;

(g) the name of the financial institution on which the check is drawn and the financial institution's transit routing number;

(h) the amount of the fee charged; and

(i) a photograph, photostat, duplicate, microfilm, microfiche or any other reproduction of the front and back of the fully endorsed check .

(3) The record keeping system shall be made available to any State or federal law

enforcement agency upon written request and without necessity of subpoena.

m. File with the Attorney General of New Jersey a duplicate copy of any report a licensee is required to file regarding business conducted in this State pursuant to 31 U.S.C.s.5311 et seq. and 31 C.F.R.s.103 et seq.

n. Supervise employees engaged in the operation of the check cashing business to ensure the business is conducted lawfully and pursuant to the provisions of this act and any order, rule or regulation made or issued pursuant to this act.

6. Section 21 of P.L.1993, c.383 (C.17:15A-50) is amended to read as follows:

C.17:15A-50 Compliance of existing licensees; nonapplicability of act.

21. a. Any person holding a license in good standing issued pursuant to "The Check Cashing Law," P.L.1951, c.187 (C.17:15A-1 et seq.), and who wishes to continue to engage in the business of cashing checks, shall, within 90 days of the effective date of this act, submit to the commissioner a written statement certified to be true under penalty of law that the licensee complies with the provisions of this act; this statement shall include the information required by section 6 and section 10 of this act. Upon submission of the aforementioned statement under oath, a licensee's current license shall continue in accordance with the provisions of subsection a. of section 11 of this act. The licensee shall not be required to comply with subsection e. of section 12 or subsection f. of section 18 of this act.

b. This act shall not apply to any federal or State chartered bank, savings bank, savings and loan association, credit union or to any automated cash machine, including an automated cash machines that cashes checks for a fee, or to any automated check cashing machine operated at a principal office or branch location, except that no such entity shall conduct the business of cashing checks for a fee at a separate location, including by means of an automated check cashing machine or operating subsidiary, if that separate location is used primarily by any such entity for the purpose of cashing checks for a fee and is closer than 2,500 feet to an existing licensee. For purposes of this subsection, a separate location used primarily for the purpose of cashing checks for a fee as referred to in the preceding sentence shall not include any location that offers services equivalent to or greater than those provided by automated cash machines.

c. Notwithstanding subsection b. of this section, the provisions of P.L.1993, c.383 (C.17:15A-30 et seq.), including the distance restrictions set forth at subsection e. of section 12 of P.L.1993, c.383 (C.17:15A-41), shall apply to the operation of automated check cashing machines, except that automated check cashing machines shall not be subject to subsection f. of section 18 of P.L.1993, c.383 (C.17:15A-47). No person, partnership, association, corporation or other organization, other than a depository institution as defined in section 2 of P.L.1996, c.157 (C.17:11C-2), shall operate an automated check cashing machine without being duly licensed by the commissioner to engage in that business pursuant to P.L.1993, c.383 (C.17:15A-30 et seq.).

d. Payroll service providers are not subject to the fee limitations provided in section 14 of P.L.1993, c.383 (C.17:15A-43) when providing those services.

e. If any of the provisions of subsection b. or c. of this section are judicially determined to be unenforceable, preempted or inapplicable as applied to non-New Jersey chartered depositories, these restrictions shall be void and shall not be applicable to any depository institution.

7. Section 23 of P.L.1993, c.383 (C.17:15A-52) is amended to read as follows:

C.17:15A-52 Rules, regulations.

23. a. The commissioner shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

b. If the commissioner finds that reasonable grounds exist for requiring additional record keeping and reporting in order to carry out the purposes of this act, the commissioner may:

(1) issue an order requiring any group of licensees in a geographic area to provide

information regarding transactions that involve a total dollar amount or denomination of \$2,500 or more, including the names of the persons participating in those transactions; and

(2) establish by regulation a reasonable fee for filing any report required by this subsection.

8. This act shall take effect immediately. The provisions of this act (P.L.2003, c.252) shall expire on the first day of the first month of the tenth year after the effective date of this act, unless prior to that date the Legislature reauthorizes this act.

Approved January 14, 2004.