

CHAPTER 233

AN ACT concerning licensed check cashers and amending P.L.1993, c.383 and amending P.L.2003, c.252.

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 check" means a check issued by an employer to its employee in payment of salary or wages for services rendered by the employee.

"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 14 of P.L.1993, c.383 (C.17:15A-43) is amended to read as follows:

C.17:15A-43 Fees permitted.

14. No licensee shall charge a fee or receive any other consideration, directly or indirectly, which is greater than the amount permitted pursuant to this section, as follows:

a. For cashing a check drawn on a depository institution or other financial entity located in this or any other State, two percent of the face amount of the check, or \$.90, whichever is greater;

b. For cashing a check payable to a recipient of Temporary Assistance for Needy Families (TANF), one percent of the face amount of the check, or \$.90, whichever is greater;

c. For cashing a check payable to a recipient of supplemental security income pursuant to Subchapter XVI of the Social Security Act, 42 U.S.C. s.1381 et seq., one and one half percent of the face amount of the check, or \$.90, whichever is greater;

d. For cashing a check payable to a recipient of old-age and survivors benefit payments pursuant to Subchapter II of the Social Security Act, 42 U.S.C. s.401 et seq., one and one half percent of the face amount of the check, or \$.90, whichever is greater;

e. On or after the 365th day from the effective date of this act, subsequent increases to the fees which may be charged pursuant to subsection a. of this section by a licensee for cashing a check, draft or money order shall be set by the commissioner by regulation;

f. In setting the fees pursuant to subsection e. of this section, the commissioner shall consider, but not be limited to, the following:

(1) rates charged in the past;

(2) the income, cost and expense of the operation of licensees;

(3) rates charged by licensed check cashers or other similar entities located in other states for the same or similar services and the factors upon which those rates are based;

(4) changes in the population served; and

(5) a reasonable profit for check cashers.

3. 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. Retain for five years a complete copy of any report, including all such reports filed electronically, regarding business conducted in this State pursuant to 31 U.S.C.s.5311 et seq. and 31 C.F.R. Chapter X.

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.

4. Section 18 of P.L.1993, c.383 (C.17:15A-47) is amended to read as follows:

C.17:15A-47 Prohibitions for licensees.

18. No licensee, or any person acting on behalf of a licensee, shall:

a. Cash a check which is made payable to a payee which is other than a natural person unless the licensee has on file a corporate resolution or other appropriate documentation indicating that the corporation, partnership or other entity has authorized the presentment of a check on its behalf and the federal taxpayer identification number of the corporation, partnership or other entity;

b. Cash a check for anyone other than the payee named on the face of the check, except that the commissioner may, by regulation, establish exceptions to this prohibition;

c. Cash or advance any money on a postdated check; except that a licensee may cash a check payable on the first banking business day following the date of cashing, if the check is:

(1) drawn by the United States, the State of New Jersey, or any department, bureau, agency or authority of the United States or the State of New Jersey, or

(2) a payroll check drawn by any employer to the order of its employee in payment for services performed by that employee;

d. Fail to give each customer at the end of each transaction a receipt showing the amount of the check which was cashed, the amount which was charged for cashing the check, and the amount of cash which the customer was given;

e. Engage in the business of making loans of money, credit, goods or things or discounting or buying of notes, bills of exchange, checks or other evidences of debt, or conduct, or allow to be conducted, a loan business or the negotiation of loans or the discounting or buying of notes, bills of exchange, checks or other evidences of debt in the same premises where the licensee is cashing checks. For purposes of this subsection, a licensee shall be deemed to have made a loan if the licensee cashes a check deposited by a customer whose check cashing privileges were required to be suspended under subsection j. of section 15 of this act. Notwithstanding the provisions of this subsection, any person licensed as a pawnbroker in this State shall be eligible to qualify as a licensee under this act, and upon being so licensed, may conduct business as a check casher in the same premises in which that person conducts business as a pawnbroker;

f. Engage in business at an office or mobile office other than a business which primarily provides financial services, except as otherwise provided pursuant to subsection e. of this section;

g. Violate any provision of this act or regulations promulgated pursuant to this act; or

h. Fail to comply with any order of the commissioner.

5. Section 8 of P.L.2003, c.252 is amended to read as follows:

8. This act shall take effect immediately.

6. Sections 1 through 4 of this act shall take effect immediately and section 5 of this act shall be retroactive to January 1, 2014.

Approved January 19, 2016.