HOUSE BILL 516

Unofficial Copy 2000 Regular Session
I2 (0lr0617)

ENROLLED BILL

-- Commerce and Government Matters/Finance --

Introduced by **Delegates Bobo, R. Baker, Benson, Bronrott, DeCarlo, Dobson, Doory, Dypski, Grosfeld, A. Jones, V. Jones, Kopp, Mandel, McIntosh, Marriott, Menes, Moe, Montague, Paige, Pendergrass, Pitkin, Riley, Rosso, Stern, Swain, Valderrama, and Rawlings**

Read and Examined by Proofreaders:

_____
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____M.

_____
Speaker.

CHAPTER 614

AN ACT concerning

Check Cashing Services - Licensing - Maximum Fees

FOR the purpose of prohibiting a person from providing check cashing services unless licensed by the Commissioner of Financial Regulation or exempt from licensure under certain circumstances; exempting certain check cashing services, certain loans, and certain financial institutions from the applicability of the Act; exempting subsidiaries and affiliates of certain financial institutions from certain provisions of this Act under certain circumstances; establishing certain qualifications, procedures, ~~fees, and surety bond requirements~~ and fees for certain applicants for check cashing licenses; providing for the issuance, content, expiration, and posting of check cashing licenses; imposing certain record keeping, check endorsement, and compliance requirements on licensees; authorizing the Commissioner to investigate a licensee under certain circumstances; establishing maximum fees that a licensee may charge for check

cashing services under certain circumstances; authorizing the Commissioner to issue a cease and desist order, suspend or revoke a license, or report an alleged criminal violation under certain circumstances; imposing certain criminal and civil penalties for certain violations; defining certain terms; and generally relating to check cashing services.

BY repealing
Article - Financial Institutions
The subtitle designation "Subtitle 1. Bank Services and Bank Services Corporations" immediately preceding the former Section 12-101
Annotated Code of Maryland
(1998 Replacement Volume and 1999 Supplement)

BY adding to
Article - Financial Institutions
Section 12-101 through 12-127, inclusive, to be under the new subtitle "Subtitle 1. Check Cashing Services"
Annotated Code of Maryland
(1998 Replacement Volume and 1999 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the subtitle designation "Subtitle 1. Bank Services and Bank Services Corporations" immediately preceding the former Section 12-101 of Article - Financial Institutions of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Financial Institutions

SUBTITLE 1. CHECK CASHING SERVICES.

12-101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "EXEMPT ENTITY" MEANS AN ENTITY THAT IS EXEMPT FROM ALL REQUIREMENTS OF LICENSING AS PROVIDED UNDER § 12-103(B) AND (C) OF THIS SUBTITLE.

~~(B)~~ (C) "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A LICENSE ISSUED BY THE COMMISSIONER UNDER THIS SUBTITLE TO PROVIDE CHECK CASHING SERVICES.

(D) "LICENSEE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A PERSON THAT IS LICENSED BY THE COMMISSIONER UNDER THIS SUBTITLE TO PROVIDE CHECK CASHING SERVICES.

~~(C)~~ (E) "MOBILE UNIT" MEANS A MOTOR VEHICLE OR OTHER MOVABLE MEANS FROM WHICH CHECK CASHING SERVICES ARE PROVIDED.

~~(D)~~ (F) (1) "PAYMENT INSTRUMENT" MEANS A CHECK OR A DRAFT ORDERING A PERSON TO PAY MONEY.

(2) "PAYMENT INSTRUMENT" INCLUDES A MONEY ORDER.

~~(E)~~ (G) "PROVIDE CHECK CASHING SERVICES" MEANS TO ACCEPT OR CASH, FOR COMPENSATION, A PAYMENT INSTRUMENT REGARDLESS OF THE DATE OF THE PAYMENT INSTRUMENT.

12-102.

(A) THIS SUBTITLE DOES NOT APPLY TO CHECK CASHING SERVICES:

(1) (I) FOR WHICH A FEE OF ~~$2~~ ~~$4 OR LESS~~ *UP TO 1.5% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT* IS CHARGED PER PAYMENT INSTRUMENT; AND

(II) THAT ARE INCIDENTAL TO THE RETAIL SALE OF GOODS OR SERVICES BY THE PERSON THAT IS PROVIDING THE CHECK CASHING SERVICES;

(2) IN WHICH A CUSTOMER PRESENTS A PAYMENT INSTRUMENT FOR THE EXACT AMOUNT OF A PURCHASE; OR

(3) INVOLVING FOREIGN CURRENCY EXCHANGE SERVICES OR THE CASHING OF A PAYMENT INSTRUMENT DRAWN ON A FINANCIAL INSTITUTION OTHER THAN A FEDERAL, STATE, OR OTHER STATE FINANCIAL INSTITUTION.

(B) (1) THIS SUBTITLE DOES NOT APPLY TO A TRANSACTION THAT IS SUBJECT TO THE MARYLAND CONSUMER LOAN LAW (TITLE 12, SUBTITLE 3 OF THE COMMERCIAL LAW ARTICLE AND TITLE 11, SUBTITLE 2 OF THE FINANCIAL INSTITUTIONS ARTICLE), INCLUDING A TRANSACTION IN WHICH AN ADDITIONAL FEE IS CHARGED TO DEFER THE PRESENTMENT OR DEPOSIT OF A PAYMENT INSTRUMENT UNTIL A SUBSEQUENT DATE.

(2) A CHECK CASHING SERVICE ~~IN WHICH A PAYMENT INSTRUMENT IS DEFERRED FOR PRESENTMENT OR DEPOSIT~~ IS NOT SUBJECT TO THE MARYLAND CONSUMER LOAN LAW IF:

(I) THE FEE CHARGED FOR THE CHECK CASHING SERVICE DOES NOT EXCEED THE FEE PERMITTED UNDER THIS SUBTITLE;

(II) NO ADDITIONAL FEE IS CHARGED TO DEFER THE PRESENTMENT OR DEPOSIT OF THE PAYMENT INSTRUMENT; AND

(III) THE CHECK CASHING SERVICE IS NOT SUBJECT TO RENEWAL OR EXTENSION BY ANY MEANS.

12-103.

~~SECTIONS 12-106, 12-107, AND 12-108(C) AND (D)(2) OF THIS SUBTITLE DO NOT APPLY TO:~~

~~(1) A BANKING INSTITUTION;~~

~~(2) A NATIONAL BANKING ASSOCIATION;~~

~~(3) A FEDERAL OR STATE SAVINGS AND LOAN ASSOCIATION;~~

~~(4) A FEDERAL OR STATE CREDIT UNION; OR~~

~~(5) AN OTHER STATE BANK HAVING A BRANCH IN THIS STATE.~~

(A) THIS SUBTITLE DOES NOT APPLY TO:

(1) ANY BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION INCORPORATED OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES THAT MAINTAINS ITS PRINCIPAL OFFICE IN THIS STATE;

(2) ANY OUT-OF-STATE BANK, AS DEFINED IN § 5-1001 OF THIS ARTICLE, HAVING A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE; AND

(3) ANY INSTITUTION INCORPORATED UNDER FEDERAL LAW AS A SAVINGS ASSOCIATION OR SAVINGS BANK THAT DOES NOT MAINTAIN ITS PRINCIPAL OFFICE IN THIS STATE BUT HAS A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE.

(B) A SUBSIDIARY OR AFFILIATE OF AN INSTITUTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS EXEMPT FROM ALL REQUIREMENTS OF LICENSING UNDER THIS SUBTITLE PROVIDED THE SUBSIDIARY OR AFFILIATE:

(1) IS SUBJECT TO AUDIT OR EXAMINATION BY A REGULATORY BODY OR AGENCY OF THIS STATE, THE UNITED STATES, OR THE STATE WHERE THE SUBSIDIARY OR AFFILIATE MAINTAINS ITS PRINCIPAL OFFICE; AND

(2) SUBMITS TO THE COMMISSIONER IN WRITING AND PRIOR TO PROVIDING CHECK CASHING SERVICES THE FOLLOWING INFORMATION:

(I) THE SUBSIDIARY'S OR AFFILIATE'S NAME AND ADDRESS, AND THE NAMES AND ADDRESSES OF EACH:

1. OWNER WHO OWNS 5% OR MORE OF THE SUBSIDIARY OR AFFILIATE; AND

2. OFFICER, DIRECTOR, OR PRINCIPAL OF THE SUBSIDIARY OR AFFILIATE;

(II) 1. EACH ADDRESS AT WHICH CHECK CASHING SERVICES WILL BE PROVIDED; AND

2. IF A MOBILE UNIT WILL BE USED TO PROVIDE CHECK CASHING SERVICES, THE VEHICLE IDENTIFICATION NUMBER OF THE MOBILE UNIT AND THE GEOGRAPHIC AREA IN WHICH THE MOBILE UNIT WILL BE OPERATING; AND

(III) ANY OTHER INFORMATION THAT THE COMMISSIONER REQUESTS.

(C) (1) AN EXEMPT ENTITY IS NOT SUBJECT TO THE PROVISIONS OF §§ 12-106 ~~THOUGH~~ *THROUGH* 12-112, INCLUSIVE, AND § 12-122 OF THIS SUBTITLE.

(2) AN EXEMPT ENTITY IS SUBJECT TO:

(I) THE PROVISIONS OF §§ 12-113 THROUGH 12-121, INCLUSIVE, AND §§ 12-123 THROUGH 12-127, INCLUSIVE , OF THIS SUBTITLE; AND

(II) ANY REGULATION, *EXCEPT TO THE EXTENT THE REGULATION CONCERNS LICENSING*, ADOPTED UNDER THIS SUBTITLE.

12-104.

THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

12-105.

(A) EXCEPT AS PROVIDED IN § 12-102(A) OF THIS SUBTITLE, A PERSON MAY NOT PROVIDE CHECK CASHING SERVICES UNLESS THE PERSON IS LICENSED UNDER THIS SUBTITLE OR IS AN EXEMPT ENTITY.

(B) A SEPARATE LICENSE IS REQUIRED FOR EACH PLACE OF BUSINESS AT WHICH, OR MOBILE UNIT FROM WHICH, A PERSON PROVIDES CHECK CASHING SERVICES.

12-106.

TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE COMMISSIONER THAT:

(1) THE APPLICANT'S BUSINESS WILL PROMOTE THE CONVENIENCE AND ADVANTAGE OF THE COMMUNITY IN WHICH THE APPLICANT'S PLACE OF BUSINESS, OR MOBILE UNIT, WILL BE LOCATED; AND

(2) THE APPLICANT OR, IF THE APPLICANT IS NOT AN INDIVIDUAL, EACH OF THE OWNERS, OFFICERS, DIRECTORS, OR PRINCIPALS OF THE ENTITY:

(I) HAS SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL RESPONSIBILITY, AND GENERAL FITNESS TO:

1. COMMAND THE CONFIDENCE OF THE PUBLIC; AND

2. WARRANT THE BELIEF THAT THE BUSINESS WILL BE OPERATED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY; AND

(II) HAS NOT COMMITTED ANY ACT THAT WOULD BE A GROUND FOR SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS SUBTITLE.

12-107.

(A) WITH AN APPLICATION AND AT ANY OTHER TIME THE COMMISSIONER REQUIRES, AN APPLICANT OR LICENSEE SHALL PROVIDE FINGERPRINTS FOR USE ~~IN CONDUCTING~~ BY THE FEDERAL BUREAU OF INVESTIGATION AND THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO CONDUCT A CRIMINAL HISTORY RECORDS CHECK.

(B) AN APPLICANT OR LICENSEE REQUIRED UNDER THIS SECTION TO PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING OR OTHER REQUIRED FEE.

(C) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL APPLY TO THE PRESIDENT, AND ANY OTHER OFFICER, DIRECTOR, PRINCIPAL, OR OWNER OF THE CORPORATION AS REQUIRED BY THE COMMISSIONER.

12-108.

(A) (1) TO APPLY FOR A LICENSE, AN APPLICANT SHALL SUBMIT TO THE COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES.

(2) THE APPLICATION SHALL INCLUDE:

(I) THE APPLICANT'S NAME AND ADDRESS AND, IF THE APPLICANT IS NOT AN INDIVIDUAL, THE NAMES AND ADDRESSES OF EACH:

1. OWNER WHO OWNS 5% OR MORE OF THE ENTITY; AND

2. OFFICER, DIRECTOR, OR PRINCIPAL OF THE ENTITY;

(II) 1. THE ADDRESS AT WHICH CHECK CASHING SERVICES WILL BE PROVIDED; OR

2. IF THE LICENSE IS FOR A MOBILE UNIT, THE VEHICLE IDENTIFICATION NUMBER OF THE MOBILE UNIT AND THE GEOGRAPHIC AREA IN WHICH THE MOBILE UNIT WILL BE OPERATING; AND

(III) ANY OTHER INFORMATION THAT THE COMMISSIONER REQUIRES FOR AN INVESTIGATION AND FINDINGS UNDER § 12-109 OF THIS SUBTITLE.

(B) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE COMMISSIONER:

(1) AN INVESTIGATION FEE OF $100; AND

(2) A LICENSE FEE OF:

(I) $1,000 IF THE APPLICANT APPLIES FOR A LICENSE TO BE ISSUED ON OR AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31 OF AN EVEN-NUMBERED YEAR; OR

(II) $500 IF THE APPLICANT APPLIES FOR A LICENSE TO BE ISSUED ON OR AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31 OF AN ODD-NUMBERED YEAR.

~~(C) (1) WITH THE APPLICATION, THE APPLICANT SHALL FILE WITH THE COMMISSIONER A SURETY BOND.~~

~~(2) THE SURETY BOND FILED UNDER THIS SUBSECTION SHALL RUN TO THE STATE FOR THE BENEFIT OF INDIVIDUALS WHO HAVE BEEN DAMAGED BY A VIOLATION OF ANY LAW OR REGULATION GOVERNING CHECK CASHING SERVICES THAT IS COMMITTED BY A LICENSEE.~~

~~(3) THE SURETY BOND SHALL BE:~~

~~(I) IN THE AMOUNT OF AT LEAST $50,000;~~

~~(II) ISSUED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE;~~

~~(III) CONDITIONED SO THAT THE APPLICANT SHALL COMPLY WITH ALL LAWS REGULATING THE PROVISION OF CHECK CASHING SERVICES; AND~~

~~(IV) APPROVED BY THE COMMISSIONER.~~

~~(D)~~ (C) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, IF AN APPLICANT APPLIES FOR MORE THAN ONE LICENSE, AS TO EACH LICENSE THE APPLICANT SHALL:

(I) SUBMIT A SEPARATE APPLICATION; AND

(II) PAY A SEPARATE INVESTIGATION FEE AND LICENSE FEE.

(2) AN APPLICANT THAT APPLIES FOR MORE THAN ONE LICENSE IS NOT REQUIRED TO PROVIDE FINGERPRINTS FOR A CRIMINAL HISTORY RECORDS CHECK FOR MORE THAN ONE APPLICATION.

12-109.

(A) WHEN AN APPLICANT FOR A LICENSE FILES THE APPLICATION AND PAYS THE FEES REQUIRED BY § 12-108 OF THIS SUBTITLE, THE COMMISSIONER SHALL INVESTIGATE THE FACTS RELEVANT TO THE APPLICATION TO DETERMINE IF THE APPLICANT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(B) UNLESS THE COMMISSIONER AND AN APPLICANT AGREE IN WRITING TO EXTEND THE TIME, THE COMMISSIONER SHALL APPROVE OR DENY EACH APPLICATION FOR A LICENSE WITHIN 60 DAYS AFTER THE DATE WHEN THE COMPLETE APPLICATION IS FILED AND THE FEES ARE PAID.

(C) THE COMMISSIONER SHALL ISSUE A LICENSE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(D) (1) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS SUBTITLE, THE COMMISSIONER SHALL:

(I) DENY THE APPLICATION;

(II) NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL;

(III) ~~IF A SURETY BOND HAS BEEN FILED, RETURN THE SURETY BOND FILED UNDER § 12-108 OF THIS SUBTITLE;~~

~~(IV)~~ REFUND THE LICENSE FEE; AND

~~(V)~~ (IV) RETAIN THE INVESTIGATION FEE.

(2) WITHIN 10 DAYS AFTER THE COMMISSIONER DENIES AN APPLICATION, THE COMMISSIONER SHALL:

(I) FILE IN THE COMMISSIONER'S OFFICE WRITTEN FINDINGS AND A SUMMARY OF THE EVIDENCE SUPPORTING THEM; AND

(II) SEND A COPY OF THE FINDINGS AND SUMMARY TO THE APPLICANT.

12-110.

(A) THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

(1) THE NAME OF THE LICENSEE; AND

(2) (I) THE ADDRESS AT WHICH CHECK CASHING SERVICES WILL BE PROVIDED; OR

(II) IF THE LICENSE IS FOR A MOBILE UNIT, THE VEHICLE IDENTIFICATION NUMBER OF THE MOBILE UNIT AND THE GEOGRAPHIC AREA IN WHICH CHECK CASHING SERVICES WILL BE PROVIDED.

(B) (1) A LICENSE AUTHORIZES THE LICENSEE TO PROVIDE CHECK CASHING SERVICES UNDER THE NAME STATED ON THE LICENSE AND AT THE ADDRESS AT WHICH, OR IF THE LICENSE IS FOR A MOBILE UNIT THE GEOGRAPHIC AREA IN WHICH, CHECK CASHING SERVICES WILL BE PROVIDED.

(2) ONLY ONE PLACE OF BUSINESS, OR ONE MOBILE UNIT, MAY BE MAINTAINED UNDER A LICENSE.

(C) THE COMMISSIONER MAY ISSUE MORE THAN ONE LICENSE TO AN APPLICANT WHO:

(1) COMPLIES WITH § 12-108 OF THIS SUBTITLE; AND

(2) OTHERWISE MEETS THE REQUIREMENTS OF THIS SUBTITLE.

12-111.

(A) A LICENSE EXPIRES ON DECEMBER 31 IN EACH ODD-NUMBERED YEAR UNLESS IT IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

(B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE MAY BE RENEWED FOR AN ADDITIONAL 2-YEAR TERM, IF THE LICENSEE:

(1) OTHERWISE IS ENTITLED TO BE LICENSED;

(2) PAYS TO THE COMMISSIONER A RENEWAL FEE OF $1,000; AND

(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES~~; AND~~

~~(4) IF A SURETY BOND HAD BEEN FILED INITIALLY, FILES A SURETY BOND OR SURETY BOND CONTINUATION CERTIFICATE FOR THE AMOUNT REQUIRED UNDER § 12-108 OF THIS SUBTITLE~~.

(C) THE COMMISSIONER SHALL DETERMINE IF THE REQUIREMENTS OF § 12-106 OF THIS SUBTITLE TO QUALIFY FOR A LICENSE CONTINUE TO APPLY.

(D) THE COMMISSIONER MAY DETERMINE THAT LICENSES ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

12-112.

(A) A LICENSE IS NOT TRANSFERABLE.

(B) A LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY AT THE LICENSEE'S PLACE OF BUSINESS OR MOBILE UNIT.

12-113.

(A) A LICENSEE MAY NOT CHANGE THE PLACE OF BUSINESS FOR WHICH A LICENSE IS ISSUED UNLESS THE LICENSEE:

(1) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED CHANGE; AND

(2) RECEIVES THE WRITTEN CONSENT OF THE COMMISSIONER PRIOR TO THE CHANGE.

(B) IF THE COMMISSIONER CONSENTS TO A PROPOSED CHANGE OF PLACE OF BUSINESS, THE LICENSEE SHALL ATTACH THE WRITTEN CONSENT TO THE LICENSE.

12-114.

(A) A LICENSEE SHALL KEEP THE BOOKS AND RECORDS THAT THE COMMISSIONER REQUIRES TO DETERMINE COMPLIANCE WITH THIS SUBTITLE.

(B) UNLESS A LONGER PERIOD IS EXPRESSLY REQUIRED BY STATE OR FEDERAL LAW, A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS SUBTITLE FOR A PERIOD OF AT LEAST 2 YEARS.

(C) A LICENSEE MAY RETAIN THE RECORDS REQUIRED UNDER THIS SUBTITLE AT ANY LOCATION, PROVIDED THAT THE LICENSEE:

(1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF THE RECORDS; AND

(2) MAKES THE RECORDS AVAILABLE AT A PLACE OF BUSINESS FOR WHICH A LICENSE HAS BEEN ISSUED OR AT THE LICENSEE'S PRINCIPAL PLACE OF BUSINESS, AS AGREED BY THE COMMISSIONER AND THE LICENSEE, WITHIN 7 DAYS OF A WRITTEN REQUEST FOR EXAMINATION BY THE COMMISSIONER.

<u>(D) IN ADDITION TO ANY OTHER BOOKS AND RECORDS THAT THE COMMISSIONER MAY REQUIRE, A LICENSEE SHALL RETAIN:</u>

<u>(1) A CHRONOLOGICAL REGISTER OF ALL PAYMENT INSTRUMENTS CASHED BY THE LICENSEE SHOWING:</u>

<u>(I) THE NAME OF THE CUSTOMER;</u>

<u>(II) THE TRANSACTION DATE;</u>

<u>(III) THE TYPE AND AMOUNT OF PAYMENT INSTRUMENT;</u>

<u>(IV) THE AMOUNT OF FEE CHARGED; AND</u>

<u>(V) A COMPLETE DESCRIPTION OF THE IDENTIFICATION PRESENTED BY THE CUSTOMER; AND</u>

<u>(2) THE LICENSEE'S BANK STATEMENTS AND CANCELED CHECKS.</u>

<u>(E) A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS SECTION IN ONE OF THE FOLLOWING WAYS:</u>

<u>(1) ORIGINAL FORM;</u>

<u>(2) AN ELECTRONIC EQUIVALENT APPROVED BY THE COMMISSIONER; OR</u>

<u>(3) A MICROPHOTOGRAPHIC COPY APPROVED BY THE COMMISSIONER.</u>

12-115.

(A) AT ANY TIME AND AS OFTEN AS THE COMMISSIONER CONSIDERS APPROPRIATE, THE COMMISSIONER MAY INVESTIGATE THE RECORDS AND BUSINESS OPERATIONS OF A LICENSEE OR A PERSON WHO ACTS ON BEHALF OF A LICENSEE.

(B) FOR THE PURPOSES OF THIS SECTION, THE COMMISSIONER:

(1) SHALL BE GIVEN ACCESS TO ANY BOOKS, PAPERS, RECORDS, SAFES, OR VAULTS OF THE PERSON UNDER INVESTIGATION; AND

(2) MAY EXAMINE UNDER OATH A PERSON WHOSE TESTIMONY THE COMMISSIONER REQUIRES.

12-116.

BEFORE A LICENSEE DEPOSITS A PAYMENT INSTRUMENT IN OR PRESENTS A PAYMENT INSTRUMENT TO A FINANCIAL INSTITUTION, THE LICENSEE SHALL ENDORSE THE PAYMENT INSTRUMENT WITH THE NAME UNDER WHICH THE LICENSEE IS LICENSED TO PROVIDE CHECK CASHING SERVICES.

12-117.

A LICENSEE SHALL COMPLY WITH~~:~~

~~(1)~~ ALL FEDERAL AND STATE LAWS CONCERNING MONEY LAUNDERING~~; AND~~

~~(2) THE TRUTH IN LENDING ACT (15 U. S. C. 1601 ET SEQ.)~~.

12-118.

A LICENSEE SHALL CONSPICUOUSLY POST, IN 48 POINT OR LARGER TYPE, AT EACH PLACE OF BUSINESS AT WHICH, OR MOBILE UNIT FROM WHICH, THE LICENSEE PROVIDES CHECK CASHING SERVICES, A NOTICE OF THE FEES FOR CHECK CASHING SERVICES.

12-119.

(A) A LICENSEE SHALL PAY A CUSTOMER, IN UNITED STATES CURRENCY, THE FACE AMOUNT OF THE PAYMENT INSTRUMENT RECEIVED LESS THE FEE CHARGED.

(B) (1) A LICENSEE MAY NOT PROVIDE CHECK CASHING SERVICES TO A CUSTOMER UNLESS THE CUSTOMER PRESENTS A FORM OF CUSTOMARILY ACCEPTABLE IDENTIFICATION.

(2) ACCEPTABLE FORMS OF IDENTIFICATION INCLUDE:

(I) A VALID DRIVER'S LICENSE WITH PHOTOGRAPH ISSUED BY A STATE GOVERNMENT;

(II) A VALID IDENTITY CARD WITH PHOTOGRAPH ISSUED BY A STATE GOVERNMENT;

(III) A VALID UNITED STATES PASSPORT OR ALIEN REGISTRATION CARD; AND

(IV) A VALID MILITARY IDENTIFICATION CARD.

12-120.

(A) EXCEPT AS PROVIDED IN § 15-802(B) OF THE COMMERCIAL LAW ARTICLE AND SUBSECTION (B) OF THIS SECTION, A LICENSEE MAY NOT CHARGE ANY OTHER FEE, INCLUDING ~~MEMBERSHIP~~ LATE FEES OR OTHER SERVICE FEES, FOR ACCEPTING OR CASHING A PAYMENT INSTRUMENT IN EXCESS OF THE GREATER OF:

(1) 2% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR ~~$5~~ *$3*, IF THE PAYMENT INSTRUMENT IS ISSUED BY THE FEDERAL GOVERNMENT OR A STATE OR LOCAL GOVERNMENT;

(2) ~~3%~~ 10% OF THE FACE AMOUNT OF A PAYMENT INSTRUMENT OR $5, IF THE PAYMENT INSTRUMENT IS A ~~PAYROLL~~ PERSONAL CHECK; OR

(3) 4% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR $5, FOR ANY OTHER PAYMENT INSTRUMENT.

(B) A LICENSEE MAY CHARGE A CUSTOMER A ONE-TIME MEMBERSHIP FEE NOT TO EXCEED $5.

12-121.

SUBJECT TO THE HEARING PROVISIONS OF § 12-123 OF THIS SUBTITLE, THE COMMISSIONER MAY ORDER A LICENSEE TO CEASE AND DESIST FROM A COURSE OF CONDUCT IF THE COURSE OF CONDUCT RESULTS IN AN EVASION OR VIOLATION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE.

12-122.

~~SUBJECT TO THE HEARING PROVISIONS OF § 12-123 OF THIS SUBTITLE, THE COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY LICENSEE IF THE LICENSEE OR ANY OWNER, OFFICER, DIRECTOR, PRINCIPAL, EMPLOYEE, OR AGENT OF THE LICENSEE:~~

~~(1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A LICENSE;~~

~~(2) HAS BEEN CONVICTED OF ANY CRIME OF MORAL TURPITUDE;~~

~~(3) HAS BEEN CONVICTED OF A VIOLATION OF ANY FEDERAL OR STATE CONSUMER PROTECTION LAWS;~~

~~(4) IN CONNECTION WITH PROVIDING CHECK CASHING SERVICES:~~

~~(I) COMMITS FRAUD; OR~~

~~(II) ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY;~~

~~(5) VIOLATES A PROVISION OF THIS SUBTITLE, A REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY OTHER LAW CONCERNING CHECK CASHING SERVICES IN THE STATE; OR~~

~~(6) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH, DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY, EQUITABLY, AND EFFICIENTLY.~~

(A) SUBJECT TO THE HEARING PROVISIONS OF § 12-123 OF THIS SUBTITLE, THE COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY LICENSEE IF THE LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER, PARTNER, STOCKHOLDER, EMPLOYEE, OR AGENT OF THE LICENSEE:

(1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A LICENSE;

(2) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY OTHER STATE OF:

(I) A FELONY; OR

(II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE PERSON TO PROVIDE CHECK CASHING SERVICES;

(3) IN CONNECTION WITH ANY CHECK CASHING SERVICE:

(I) COMMITS ANY FRAUD;

(II) ENGAGES IN ANY ILLEGAL OR DISHONEST ACTIVITIES; OR

(III) MISREPRESENTS OR FAILS TO DISCLOSE ANY MATERIAL FACTS TO ANYONE ENTITLED TO THAT INFORMATION;

(4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY OTHER LAW REGULATING CHECK CASHING SERVICES IN THE STATE; OR

(5) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH, DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY, EQUITABLY, AND EFFICIENTLY.

(B) IN DETERMINING WHETHER THE LICENSE OF THE LICENSEE SHOULD BE SUSPENDED OR REVOKED FOR A REASON LISTED IN SUBSECTION (A)(2) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER:

(1) THE NATURE OF THE CRIME;

(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;

(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO PROVIDE CHECK CASHING SERVICES;

(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

(5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE CONVICTION.

12-123.

(A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 12-121, § 12-122, OR § ~~12-124~~ 12-126 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE LICENSEE AN OPPORTUNITY FOR A HEARING BEFORE THE COMMISSIONER.

(B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

12-124.

THE COMMISSIONER SHALL REPORT TO THE APPROPRIATE STATE'S ATTORNEY OR THE ATTORNEY GENERAL ANY ALLEGED CRIMINAL VIOLATION OF THIS SUBTITLE.

12-125.

A PERSON WHO KNOWINGLY VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $5,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

12-126.

(A) THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY AGAINST A PERSON WHO VIOLATES THIS SUBTITLE IN AN AMOUNT NOT EXCEEDING:

(1) $1,000 FOR A FIRST OFFENSE; AND

(2) $5,000 FOR EACH SUBSEQUENT OFFENSE.

(B) IN DETERMINING THE AMOUNT OF CIVIL PENALTY TO BE IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER THE FOLLOWING:

(1) THE SERIOUSNESS OF THE VIOLATION;

(2) THE GOOD FAITH OF THE VIOLATOR;

(3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

(4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;

(5) THE ASSETS OF THE VIOLATOR; AND

(6) ANY OTHER FACTOR RELEVANT TO THE DETERMINATION OF THE CIVIL PENALTY.

12-127.

(A) A PERSON WHO IS INJURED BY A VIOLATION OF THIS SUBTITLE MAY FILE AN ACTION TO RECOVER DAMAGES ~~FROM~~ OR FOR INJUNCTIVE RELIEF.

(B) ~~(1)~~ A COURT MAY AWARD A PREVAILING PLAINTIFF UNDER THIS SECTION:

~~(I)~~ (1) UP TO 3 TIMES THE AMOUNT OF ACTUAL DAMAGES ~~ACTUALLY INCURRED~~; AND

~~(II)~~ (2) AN AMOUNT AT LEAST EQUAL TO THE AMOUNT PAID BY THE PLAINTIFF TO THE DEFENDANT, REASONABLE ATTORNEY'S FEES, AND COSTS.

~~(2) IN ADDITION TO THE AMOUNT AWARDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF A COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT A VIOLATION WAS WILLFUL, THE COURT MAY AWARD PUNITIVE DAMAGES TO THE PLAINTIFF.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2000.