
By: **Delegates Bobo, Benson, Bronrott, Dobson, Dypski, Grosfeld, A. Jones,
Mandel, Marriott, Menes, Montague, Moe, Pitkin, Riley, Rosso, Stern,
Swain, and Valderrama**

Introduced and read first time: February 12, 1999

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Consumer Protection - Check Cashing Service**

3 FOR the purpose of requiring persons who engage in check cashing service to register
4 with the Division of Consumer Protection of the Office of the Attorney General;
5 defining certain terms; specifying certain application requirements and
6 procedures for a person who engages in check cashing service; prohibiting
7 certain persons from engaging in check cashing service under certain
8 circumstances; specifying certain limitations on the fees that may be charged for
9 check cashing service; requiring persons who engage in check cashing service to
10 maintain certain records and to permit examination of those records under
11 certain circumstances; specifying certain penalties; and generally relating to
12 certain requirements, limitations, and conditions governing persons who engage
13 in check cashing service.

14 BY adding to
15 Article - Commercial Law
16 Section 14-1315
17 Annotated Code of Maryland
18 (1990 Replacement Volume and 1998 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Commercial Law**

22 14-1315.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.

25 (2) (I) "CHECK CASHING SERVICE" MEANS THE BUSINESS ENGAGED
26 IN BY A PERSON TO CASH CHECKS, DRAFTS, MONEY ORDERS, OR TRAVELER'S
27 CHECKS.

1 (II) "CHECK CASHING SERVICE" DOES NOT INCLUDE A
2 TRANSACTION IN WHICH THE CUSTOMER PRESENTS A CHECK FOR THE EXACT
3 AMOUNT OF A PURCHASE.

4 (3) "DIVISION" MEANS THE CONSUMER PROTECTION DIVISION OF THE
5 OFFICE OF THE ATTORNEY GENERAL.

6 (4) "REGISTRANT" MEANS A PERSON AUTHORIZED BY THE DIVISION TO
7 ENGAGE IN CHECK CASHING SERVICE.

8 (B) A PERSON MAY NOT ENGAGE IN CHECK CASHING SERVICE UNLESS THE
9 PERSON REGISTERS WITH THE DIVISION UNDER THIS SECTION.

10 (C) (1) A PERSON MAY APPLY TO THE DIVISION IN WRITING, ON A FORM
11 DESIGNATED BY THE DIVISION, TO REGISTER TO ENGAGE IN CHECK CASHING
12 SERVICE.

13 (2) THE APPLICATION FORM SHALL INCLUDE:

14 (I) 1. THE LEGAL NAME AND RESIDENCE AND BUSINESS ADDRESS
15 OF THE APPLICANT IF THE APPLICANT IS A NATURAL PERSON;

16 2. THE NAME OF EACH PARTNER IF THE APPLICANT IS A
17 PARTNERSHIP;

18 3. THE NAME OF EACH DIRECTOR IF THE APPLICANT IS A
19 CORPORATION; OR

20 4. THE NAME OF EACH OFFICER IF THE APPLICANT IS AN
21 ASSOCIATION;

22 (II) THE LOCATION OF THE PRINCIPAL OFFICE OF THE APPLICANT;

23 (III) THE COMPLETE ADDRESS OF EACH LOCATION AT WHICH THE
24 APPLICANT PROPOSES TO ENGAGE IN CHECK CASHING SERVICE, INCLUDING EACH
25 VENDOR THE APPLICANT PROPOSES TO BE AUTHORIZED TO ENGAGE IN CHECK
26 CASHING SERVICE ON THE APPLICANT'S BEHALF; AND

27 (IV) ANY OTHER INFORMATION SPECIFIED BY THE DIVISION.

28 (D) (1) THE DIVISION MAY DENY AN APPLICANT'S REQUEST FOR
29 REGISTRATION IF IT DETERMINES THAT THE APPLICANT HAS BEEN CONVICTED OF A
30 FELONY INVOLVING MORAL TURPITUDE IN ANY JURISDICTION OR OF A CRIME
31 WHICH, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE A CRIME INVOLVING
32 MORAL TURPITUDE UNDER THE LAWS OF THIS STATE.

33 (2) UNDER THIS SUBSECTION, A PERSON SHALL BE DEEMED TO HAVE
34 BEEN CONVICTED OF A CRIME IF THE PERSON EITHER HAS PLEADED GUILTY TO OR
35 BEEN FOUND GUILTY OF A CHARGE BEFORE A COURT OR FEDERAL MAGISTRATE OR

1 BY THE VERDICT OF A JURY, REGARDLESS OF WHETHER A SENTENCE WAS IMPOSED
2 OR SUSPENDED.

3 (3) IN REVIEWING AN APPLICANT'S REQUEST FOR REGISTRATION, THE
4 DIVISION MAY CONSIDER THAT:

5 (I) THE APPLICANT PLEADED GUILTY TO THE OFFENSE;

6 (II) THE DECISION, JUDGMENT, OR VERDICT RELATING TO THE
7 APPLICANT WAS SET ASIDE, REVERSED, OR OTHERWISE ABROGATED BY LAWFUL
8 JUDICIAL PROCESS; OR

9 (III) FOLLOWING CONVICTION, THE APPLICANT RECEIVED A
10 PARDON FROM THE JURISDICTION WHERE THE CONVICTION WAS ENTERED OR
11 RECEIVED A LAWFUL CERTIFICATE WHICH STATES THAT THE DISABILITY UNDER
12 WHICH THE APPLICANT WAS CONVICTED HAS BEEN REMOVED.

13 (4) THE DIVISION MAY DENY A PERSON'S INITIAL APPLICATION FOR
14 REGISTRATION IF THE APPLICANT IS THE SUBJECT OF A PENDING CRIMINAL
15 PROSECUTION OR GOVERNMENTAL ENFORCEMENT ACTION IN ANY JURISDICTION,
16 PENDING THE CONCLUSION OF THE PROSECUTION OR ENFORCEMENT ACTION.

17 (E) (1) AN APPLICATION FOR REGISTRATION TO ENGAGE IN CHECK
18 CASHING SERVICE SHALL BE ACCOMPANIED BY A NONREFUNDABLE INVESTIGATION
19 FEE IN AN AMOUNT SPECIFIED BY THE DIVISION BY RULE, BUT NOT TO EXCEED \$250.

20 (2) A REGISTRANT'S APPLICATION FOR RENEWAL OF CHECK CASHING
21 SERVICE SHALL SPECIFY EACH LOCATION AT WHICH THE APPLICANT PROPOSES TO
22 ENGAGE IN CHECK CASHING SERVICE, INCLUDING EACH VENDOR THE APPLICANT
23 PROPOSES TO BE AUTHORIZED TO ENGAGE IN CHECK CASHING SERVICE ON THE
24 APPLICANT'S BEHALF.

25 (3) A REGISTRANT SHALL NOTIFY THE DIVISION OF ANY CHANGE IN
26 LOCATION AT WHICH IT ENGAGES IN CHECK CASHING SERVICE.

27 (F) (1) AN APPLICANT'S INITIAL REGISTRATION OR RENEWAL REMAINS IN
28 EFFECT FOR 2 YEARS FROM THE DATE THAT THE DIVISION GRANTS THE INITIAL
29 REGISTRATION OR RENEWAL, UNLESS THE REGISTRATION IS SURRENDERED,
30 SUSPENDED, OR REVOKED.

31 (2) EACH APPLICATION FOR RENEWAL SHALL BE ACCOMPANIED BY A
32 COMPLETED RENEWAL FORM SPECIFIED BY THE DIVISION AND PAYMENT OF A
33 NONREFUNDABLE FEE SPECIFIED BY THE DIVISION BY RULE, BUT NOT TO EXCEED
34 \$500.

35 (3) (I) IN ADDITION TO THE RENEWAL FEE REQUIRED UNDER
36 PARAGRAPH (2) OF THIS SUBSECTION, A REGISTRANT MUST REGISTER AND PAY AN
37 ADDITIONAL \$50 REGISTRATION FEE FOR EACH LOCATION, INCLUDING ANY
38 AUTHORIZED VENDOR ASSOCIATED WITH THE REGISTRANT WHO OPERATES IN THIS
39 STATE.

1 (II) IN LIEU OF THE REGISTRATION FEE SPECIFIED UNDER
2 SUBPARAGRAPH (I) OF THIS PARAGRAPH, A REGISTRANT MAY PAY A FEE OF \$5,000 TO
3 REGISTER ALL LOCATIONS OF THE REGISTRANT'S CHECK CASHING SERVICE IN THE
4 STATE FOR A TERM OF 2 YEARS.

5 (4) IF A REGISTRANT DOES NOT RENEW A REGISTRATION BEFORE THE
6 DATE THAT THE REGISTRATION EXPIRES:

7 (I) THE REGISTRATION AUTOMATICALLY EXPIRES; AND

8 (II) A RENEWAL APPLICATION AND FEE MUST BE FILED BEFORE
9 THE REGISTRATION MAY BE REINSTATED.

10 (G) (1) BEFORE A REGISTRANT DEPOSITS IN A FINANCIAL INSTITUTION A
11 PAYMENT INSTRUMENT THAT IS CASHED BY THE REGISTRANT, THE REGISTRANT
12 SHALL ENDORSE THE PAYMENT INSTRUMENT WITH THE ACTUAL NAME UNDER
13 WHICH THE REGISTRANT DOES BUSINESS.

14 (2) A REGISTRANT SHALL COMPLY WITH ANY FEDERAL OR STATE LAW
15 GOVERNING MONEY LAUNDERING.

16 (H) (1) IN THIS SUBSECTION, "IDENTIFICATION" MEANS:

17 (I) AN UNEXPIRED AND OTHERWISE VALID DRIVER'S LICENSE;

18 (II) AN IDENTIFICATION CARD ISSUED BY ANY STATE OR
19 TERRITORY OF THE UNITED STATES OR THE DISTRICT OF COLUMBIA THAT SHOWS A
20 PHOTOGRAPH AND SIGNATURE;

21 (III) A UNITED STATES GOVERNMENT RESIDENT ALIEN
22 IDENTIFICATION CARD;

23 (IV) A UNITED STATES PASSPORT; OR

24 (V) A UNITED STATES MILITARY IDENTIFICATION CARD.

25 (2) (I) THE DIVISION SHALL BY RULE REQUIRE A REGISTRANT TO
26 DISPLAY ITS REGISTRATION AND POST A NOTICE OF ITS CHARGES FOR CHECK
27 CASHING SERVICE.

28 (II) THE DIVISION MAY BY RULE SET A FEE FOR THE DIRECT COSTS
29 THAT A REGISTRANT MAY CHARGE FOR VERIFYING A CHECK.

30 (3) EXCEPT FOR THE AMOUNT OF THE FEE FOR DIRECT COSTS
31 ESTABLISHED BY THE DIVISION UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION, A
32 REGISTRANT MAY NOT CHARGE A FEE FOR CHECK CASHING SERVICE IN EXCESS OF:

33 (I) 5% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT;

1 (II) THE GREATER OF 6% OF THE FACE AMOUNT OF THE PAYMENT
2 INSTRUMENT OR \$5, IF THE PERSON TENDERING THE CHECK DOES NOT PROVIDE
3 IDENTIFICATION;

4 (III) 3% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT, OR
5 THE GREATER OF 4% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$5, IF
6 THE PAYMENT INSTRUMENT IS ISSUED BY A STATE, LOCAL, OR FEDERAL
7 GOVERNMENT ENTITY PAYABLE TO THE BEARER OF THE PAYMENT INSTRUMENT; OR

8 (IV) THE GREATER OF 10% OF THE FACE AMOUNT OF A PAYMENT
9 INSTRUMENT OR \$5, IF THE PAYMENT INSTRUMENT IS A PERSONAL CHECK.

10 (I) (1) (I) A REGISTRANT SHALL MAINTAIN ALL DOCUMENTS NECESSARY
11 TO DETERMINE THAT THE REGISTRANT IS IN COMPLIANCE WITH THE
12 REQUIREMENTS OF THIS SECTION. UNLESS OTHERWISE SPECIFIED BY LAW, THE
13 RECORDS MAY BE KEPT AND STORED IN PAPER OR ELECTRONIC FORM AT THE
14 DISCRETION OF THE REGISTRANT.

15 (II) UNLESS A LONGER PERIOD IS EXPRESSLY REQUIRED BY STATE
16 OR FEDERAL LAW, A REGISTRANT SHALL RETAIN THE RECORDS REQUIRED UNDER
17 THIS SECTION FOR A PERIOD OF AT LEAST 3 YEARS.

18 (2) A REGISTRANT MAY RETAIN THE RECORDS REQUIRED UNDER THIS
19 SECTION AT ANY LOCATION PROVIDED THAT THE REGISTRANT NOTIFIES THE
20 DIVISION IN WRITING OF THE LOCATION OF THE RECORDS.

21 (3) A REGISTRANT SHALL MAKE ITS RECORDS AVAILABLE TO THE
22 DIVISION FOR EXAMINATION WITHIN 7 DAYS AFTER A WRITTEN REQUEST FROM THE
23 DIVISION.

24 (J) (1) THE ATTORNEY GENERAL MAY INITIATE A CIVIL ACTION AGAINST
25 ANY PERSON WHO VIOLATES THIS SECTION FOR AN AMOUNT:

26 (I) NOT EXCEEDING \$1,000, FOR A FIRST OFFENSE; AND

27 (II) NOT EXCEEDING \$5,000, FOR A SECOND OFFENSE.

28 (2) A PERSON WHO IS TWICE FOUND IN VIOLATION OF THIS SECTION
29 AND WHO, WITHIN 10 YEARS OF THE DATE OF THE FIRST OFFENSE, ENGAGES IN
30 CHECK CASHING SERVICE IN VIOLATION OF THIS SECTION IS GUILTY OF A
31 MISDEMEANOR PUNISHABLE BY IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A
32 FINE NOT EXCEEDING \$5,000 OR BOTH.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1999.