

BY: Commerce and Government Matters Committee

AMENDMENTS TO HOUSE BILL NO. 516

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after "Regulation" insert "or exempt from licensure under certain circumstances"; in line 5, after "services" insert ", certain loans, and certain financial institutions"; in the same line, after "Act;" insert "exempting subsidiaries and affiliates of certain financial institutions from certain provisions of this Act under certain circumstances;"; and in line 6, strike "fees, and surety bond requirements" and substitute "and fees".

AMENDMENT NO. 2

On page 2, after line 11, insert:

"(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.";

after line 14, insert:

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

in lines 12, 15, 17, and 20, strike "(B)", "(C)", "(D)", and "(E)", respectively, and substitute "(C)", "(E)", "(F)", and "(G)", respectively; in line 21, after "INSTRUMENT" insert "REGARDLESS OF THE DATE OF THE PAYMENT INSTRUMENT"; in line 23, before "THIS" insert "(A)"; in line 24, after "(1)" insert "(I)"; in the same line, strike "\$2" and substitute "\$4"; in line 25, after "INSTRUMENT" insert "; AND

(II) THAT ARE INCIDENTAL TO THE RETAIL SALE OF GOODS OR

(Over)

SERVICES BY THE PERSON THAT IS PROVIDING THE CHECK CASHING SERVICES”;
and after line 30, insert:

“(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.”.

On pages 2 and 3, strike in their entirety the lines beginning with line 32 on page 2 through line 5 on page 3 , inclusive, and substitute:

“(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.

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(C) (1) AN EXEMPT ENTITY IS NOT SUBJECT TO THE PROVISIONS OF §§ 12-106 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 ADOPTED UNDER THIS SUBTITLE.”.

On page 3, in line 10, after “(A)” insert “EXCEPT AS PROVIDED IN § 12-102(A) OF THIS SUBTITLE,”; and in line 11, after “SUBTITLE” insert “OR IS AN EXEMPT ENTITY”.

AMENDMENT NO. 3

On page 4, in lines 3 and 4, strike “IN CONDUCTING” and substitute “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”.

On page 5, strike in their entirety lines 4 through 16, inclusive; and in line 17, strike “(D)” and substitute “(C)”.

On page 6, strike beginning with “IF” in line 5 down through “(IV)” in line 7; and in line 8, strike “(V)” and substitute “(IV)”.

On page 7, in line 7, after “\$1,000;” insert “AND”; and strike beginning with “; AND” in line 9 down through “SUBTITLE” in line 12.

On page 8, in line 27, strike the colon; in line 28, strike “(1)”; and strike beginning with the semicolon in line 28 down through “SEQ.)” in line 30.

On page 10, in line 10, strike “12-124” and substitute “12-126”.

On page 11, in line 6, strike "FROM" and substitute "OR FOR"; in line 9, after "OF" insert "ACTUAL"; and in lines 9 and 10, strike "ACTUALLY INCURRED".

AMENDMENT NO. 4

On page 8, after line 11, insert:

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

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

(I) THE NAME OF THE CUSTOMER;

(II) THE TRANSACTION DATE;

(III) THE TYPE AND AMOUNT OF PAYMENT INSTRUMENT;

(IV) THE AMOUNT OF FEE CHARGED; AND

(V) A COMPLETE DESCRIPTION OF THE IDENTIFICATION PRESENTED BY THE CUSTOMER; AND

(2) THE LICENSEE'S BANK STATEMENTS AND CANCELED CHECKS.

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

(1) ORIGINAL FORM;

(2) AN ELECTRONIC EQUIVALENT APPROVED BY THE COMMISSIONER;

OR

(Over)

(3) A MICROPHOTOGRAPHIC COPY APPROVED BY THE COMMISSIONER.”;

and in line 32, after “TYPE,” insert “AT EACH PLACE OF BUSINESS AT WHICH, OR MOBILE UNIT FROM WHICH, THE LICENSEE PROVIDES CHECK CASHING SERVICES,”.

AMENDMENT NO. 5

On page 9, in line 2, before the first “A” insert “(A)”; and after line 3, insert:

“(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.”.

AMENDMENT NO. 6

On page 9, in line 5, before “EXCEPT” insert “(A)”; in the same line, after “ARTICLE” insert “AND SUBSECTION (B) OF THIS SECTION”; in line 6, strike “MEMBERSHIP” and substitute “LATE”; in line 12, strike “3%” and substitute “10%”; in line 13, strike “PAYROLL” and substitute “PERSONAL”; and after line 15, insert:

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

AMENDMENT NO. 7

On pages 9 and 10, strike in their entirety the lines beginning with line 22 on page 9 through line 7 on page 10, inclusive, and substitute:

“(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

(Over)

(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."

AMENDMENT NO. 8

On page 11, in line 7, strike "(1)"; in lines 9 and 11, strike "(I)" and "(II)", respectively, and substitute "(1)" and "(2)", respectively; and strike in their entirety lines 13 through 16, inclusive.