

HOUSE BILL 516

Unofficial Copy
12

2000 Regular Session
(01r0617)

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.

Proofreader.

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

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Check Cashing Services - Licensing - Maximum Fees**

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

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

6 BY repealing

7 Article - Financial Institutions

8 The subtitle designation "Subtitle 1. Bank Services and Bank Services

9 Corporations" immediately preceding the former Section 12-101

10 Annotated Code of Maryland

11 (1998 Replacement Volume and 1999 Supplement)

12 BY adding to

13 Article - Financial Institutions

14 Section 12-101 through 12-127, inclusive, to be under the new subtitle "Subtitle

15 1. Check Cashing Services"

16 Annotated Code of Maryland

17 (1998 Replacement Volume and 1999 Supplement)

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

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

24 **Article - Financial Institutions**

25 **SUBTITLE 1. CHECK CASHING SERVICES.**

26 12-101.

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

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

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

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

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

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

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

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

9 12-102.

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

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

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

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

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

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

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

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

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

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

1 12-103.

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

4 ~~(1) A BANKING INSTITUTION;~~

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

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

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

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

9 (A) THIS SUBTITLE DOES NOT APPLY TO:

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

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

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

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

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

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

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

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

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

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

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

4 (III) ANY OTHER INFORMATION THAT THE COMMISSIONER
5 REQUESTS.

6 (C) (1) AN EXEMPT ENTITY IS NOT SUBJECT TO THE PROVISIONS OF §§
7 12-106 ~~THOUGH~~ THROUGH 12-112, INCLUSIVE, AND § 12-122 OF THIS SUBTITLE.

8 (2) AN EXEMPT ENTITY IS SUBJECT TO:

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

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

13 12-104.

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

16 12-105.

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

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

23 12-106.

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

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

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

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

33 1. COMMAND THE CONFIDENCE OF THE PUBLIC; AND

1 (1) AN INVESTIGATION FEE OF \$100; AND

2 (2) A LICENSE FEE OF:

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

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

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

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

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

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

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

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

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

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

25 (I) SUBMIT A SEPARATE APPLICATION; AND

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

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

30 12-109.

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

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

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

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

9 (I) DENY THE APPLICATION;

10 (II) NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL;

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

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

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

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

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

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

21 12-110.

22 (A) THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

23 (1) THE NAME OF THE LICENSEE; AND

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

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

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

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

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

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

4 (2) OTHERWISE MEETS THE REQUIREMENTS OF THIS SUBTITLE.

5 12-111.

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

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

10 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

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

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

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

17 (C) THE COMMISSIONER SHALL DETERMINE IF THE REQUIREMENTS OF §
18 12-106 OF THIS SUBTITLE TO QUALIFY FOR A LICENSE CONTINUE TO APPLY.

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

21 12-112.

22 (A) A LICENSE IS NOT TRANSFERABLE.

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

25 12-113.

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

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

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

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

3 12-114.

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

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

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

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

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

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

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

21 (I) THE NAME OF THE CUSTOMER;

22 (II) THE TRANSACTION DATE;

23 (III) THE TYPE AND AMOUNT OF PAYMENT INSTRUMENT;

24 (IV) THE AMOUNT OF FEE CHARGED; AND

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

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

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

30 (1) ORIGINAL FORM;

31 (2) AN ELECTRONIC EQUIVALENT APPROVED BY THE COMMISSIONER;

32 OR

33 (3) A MICROPHOTOGRAPHIC COPY APPROVED BY THE COMMISSIONER.

1 12-115.

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

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

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

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

10 12-116.

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

15 12-117.

16 A LICENSEE SHALL COMPLY WITH:

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

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

20 12-118.

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

25 12-119.

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

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

31 (2) ACCEPTABLE FORMS OF IDENTIFICATION INCLUDE:

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

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

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

5 (IV) A VALID MILITARY IDENTIFICATION CARD.

6 12-120.

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

11 (1) 2% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$5 ~~\$3~~,
 12 IF THE PAYMENT INSTRUMENT IS ISSUED BY THE FEDERAL GOVERNMENT OR A
 13 STATE OR LOCAL GOVERNMENT;

14 (2) ~~3%~~ 10% OF THE FACE AMOUNT OF A PAYMENT INSTRUMENT OR \$5, IF
 15 THE PAYMENT INSTRUMENT IS A ~~PAYROLL~~ PERSONAL CHECK; OR

16 (3) 4% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$5, FOR
 17 ANY OTHER PAYMENT INSTRUMENT.

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

20 12-121.

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

25 12-122.

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

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

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

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

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

- 1 (4) ~~COMMITTS FRAUD; OR~~
- 2 (II) ~~ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY;~~
- 3 (5) ~~VIOLATES A PROVISION OF THIS SUBTITLE, A REGULATION ADOPTED~~
4 ~~UNDER THIS SUBTITLE, OR ANY OTHER LAW CONCERNING CHECK CASHING~~
5 ~~SERVICES IN THE STATE; OR~~
- 6 (6) ~~OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,~~
7 ~~DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE~~
8 ~~LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY,~~
9 ~~EQUITABLY, AND EFFICIENTLY.~~
- 10 (A) SUBJECT TO THE HEARING PROVISIONS OF § 12-123 OF THIS SUBTITLE,
11 THE COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY LICENSEE IF
12 THE LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER, PARTNER,
13 STOCKHOLDER, EMPLOYEE, OR AGENT OF THE LICENSEE:
- 14 (1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A
15 LICENSE;
- 16 (2) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY
17 OTHER STATE OF:
- 18 (I) A FELONY; OR
- 19 (II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS
20 AND QUALIFICATION OF THE PERSON TO PROVIDE CHECK CASHING SERVICES;
- 21 (3) IN CONNECTION WITH ANY CHECK CASHING SERVICE:
- 22 (I) COMMITTS ANY FRAUD;
- 23 (II) ENGAGES IN ANY ILLEGAL OR DISHONEST ACTIVITIES; OR
- 24 (III) MISREPRESENTS OR FAILS TO DISCLOSE ANY MATERIAL FACTS
25 TO ANYONE ENTITLED TO THAT INFORMATION;
- 26 (4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY RULE OR
27 REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY OTHER LAW REGULATING
28 CHECK CASHING SERVICES IN THE STATE; OR
- 29 (5) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,
30 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE
31 LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY,
32 EQUITABLY, AND EFFICIENTLY.
- 33 (B) IN DETERMINING WHETHER THE LICENSE OF THE LICENSEE SHOULD BE
34 SUSPENDED OR REVOKED FOR A REASON LISTED IN SUBSECTION (A)(2) OF THIS
35 SECTION, THE COMMISSIONER SHALL CONSIDER:

- 1 (1) THE NATURE OF THE CRIME;
2 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
3 BY THE LICENSE;
4 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION
5 TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO PROVIDE CHECK
6 CASHING SERVICES;
7 (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND
8 (5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE
9 CONVICTION.

10 12-123.

11 (A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 12-121, §
12 12-122, OR § ~~42-424~~ 12-126 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE
13 LICENSEE AN OPPORTUNITY FOR A HEARING BEFORE THE COMMISSIONER.

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

17 12-124.

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

21 12-125.

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

25 12-126.

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

28 (1) \$1,000 FOR A FIRST OFFENSE; AND

29 (2) \$5,000 FOR EACH SUBSEQUENT OFFENSE.

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

33 (1) THE SERIOUSNESS OF THE VIOLATION;

- 1 (2) THE GOOD FAITH OF THE VIOLATOR;
- 2 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;
- 3 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;
- 4 (5) THE ASSETS OF THE VIOLATOR; AND
- 5 (6) ANY OTHER FACTOR RELEVANT TO THE DETERMINATION OF THE
6 CIVIL PENALTY.

7 12-127.

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

10 (B) ~~(+)~~ A COURT MAY AWARD A PREVAILING PLAINTIFF UNDER THIS
11 SECTION:

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

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

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

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