

SENATE BILL 450

Unofficial Copy
12

2000 Regular Session
(01r2212)

ENROLLED BILL

-- Finance/Commerce and Government Matters --

Introduced by **Senators Currie, McFadden, and Lawlah**

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.

President.

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
15 cashing services under certain circumstances; authorizing the Commissioner to
16 issue a cease and desist order, suspend or revoke a license, or report an alleged
17 criminal violation under certain circumstances; imposing certain criminal and

1 civil penalties for certain violations; defining certain terms; and generally
2 relating to check cashing services.

3 BY repealing

4 Article - Financial Institutions

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

6 Corporations" immediately preceding the former Section 12-101

7 Annotated Code of Maryland

8 (1998 Replacement Volume and 1999 Supplement)

9 BY adding to

10 Article - Financial Institutions

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

12 1. Check Cashing Services"

13 Annotated Code of Maryland

14 (1998 Replacement Volume and 1999 Supplement)

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18 Financial Institutions of the Annotated Code of Maryland be repealed.

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

21 **Article - Financial Institutions**

22 **SUBTITLE 1. CHECK CASHING SERVICES.**

23 12-101.

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

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

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

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

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

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

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

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

7 12-102.

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

9 (1) (I) FOR WHICH A FEE OF \$2 \$4 UP TO 2% 1.5% OF THE FACE AMOUNT
10 OF THE PAYMENT INSTRUMENT, BUT NOT EXCEEDING \$10, OR LESS IS CHARGED PER
11 PAYMENT INSTRUMENT; AND

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

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

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

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

25 (2) A CHECK CASHING SERVICE IS NOT SUBJECT TO THE MARYLAND
26 CONSUMER LOAN LAW IF:

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

29 (II) NO ADDITIONAL FEE IS CHARGED EXCEPT AS PERMITTED
30 UNDER THIS SUBTITLE TO DEFER THE PRESENTMENT OR DEPOSIT OF THE PAYMENT
31 INSTRUMENT; AND

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

34 12-103.

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

- 1 ~~(1) A BANKING INSTITUTION;~~
2 ~~(2) A NATIONAL BANKING ASSOCIATION;~~
3 ~~(3) A FEDERAL OR STATE SAVINGS AND LOAN ASSOCIATION;~~
4 ~~(4) A FEDERAL OR STATE CREDIT UNION; OR~~
5 ~~(5) AN OTHER STATE BANK HAVING A BRANCH IN THIS STATE.~~

6 (A) THIS SUBTITLE DOES NOT APPLY TO:

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

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

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

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

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

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

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

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

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

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

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

1 (III) ANY OTHER INFORMATION THAT THE COMMISSIONER
2 REQUESTS.

3 (C) (1) AN EXEMPT ENTITY IS NOT SUBJECT TO THE PROVISIONS OF §§
4 12-106 THROUGH 12-112, INCLUSIVE, AND § 12-122 OF THIS SUBTITLE.

5 (2) AN EXEMPT ENTITY IS SUBJECT TO:

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

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

10 12-104.

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

13 12-105.

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

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

20 12-106.

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

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

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

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

30 1. COMMAND THE CONFIDENCE OF THE PUBLIC; AND

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

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

1 12-107.

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

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

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

14 12-108.

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

18 (2) THE APPLICATION SHALL INCLUDE:

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

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

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

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

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

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

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

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

34 (2) A LICENSE FEE OF:

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

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

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

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

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

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

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

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

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

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

23 (I) SUBMIT A SEPARATE APPLICATION; AND

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

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

28 12-109.

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

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

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

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

5 (I) DENY THE APPLICATION;

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

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

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

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

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

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

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

17 12-110.

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

19 (1) THE NAME OF THE LICENSEE; AND

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

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

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

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

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

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

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

2 12-111.

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

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

7 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

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

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

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

14 (C) THE COMMISSIONER SHALL DETERMINE IF THE REQUIREMENTS OF §
15 12-106 OF THIS SUBTITLE TO QUALIFY FOR A LICENSE CONTINUE TO APPLY.

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

18 12-112.

19 (A) A LICENSE IS NOT TRANSFERABLE.

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

22 12-113.

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

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

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

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

1 12-114.

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

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

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

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

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

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

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

19 (I) THE NAME OF THE CUSTOMER;

20 (II) THE TRANSACTION DATE;

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

22 (IV) THE AMOUNT OF FEE CHARGED; AND

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

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

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

28 (1) ORIGINAL FORM;

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

30 OR

31 (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%~~ ~~6%~~ 10% OF THE FACE AMOUNT OF A PAYMENT INSTRUMENT OR \$5,
 15 IF THE PAYMENT INSTRUMENT IS A ~~PAYROLL~~ PERSONAL CHECK; OR

16 (3) ~~4%~~ ~~5%~~ 4% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR
 17 \$5, FOR 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 ~~§ 12-124~~ § 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.