

[First Reprint]

## **ASSEMBLY, No. 688**

# **STATE OF NEW JERSEY**

## **216th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

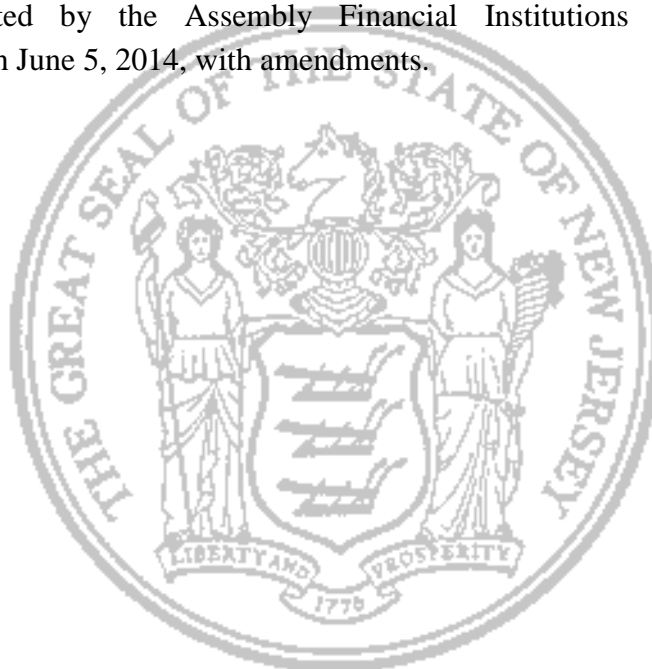
**Assemblyman Ciattarelli**

**SYNOPSIS**

Modifies certain fees charged by, and requirements imposed on, check casher licensees.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Financial Institutions and Insurance Committee on June 5, 2014, with amendments.



**(Sponsorship Updated As Of: 3/10/2015)**

1 AN ACT concerning licensed check cashers and amending P.L.1993,  
2 c.383 and P.L.2003, c.252.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 2 of P.L.1993, c.383 (C.17:15A-31) is amended to  
8 read as follows:

9 2. As used in this act:

10 "Applicant" means a person who has applied or is in the process  
11 of applying for a license pursuant to this act.

12 "Automated cash machine" means an unmanned communications  
13 terminal which dispenses cash, traveler's checks or both; does not  
14 accept deposits; and through which transactions with banking  
15 institutions are consummated.

16 "Automated check cashing machine" means an unmanned  
17 communications terminal which only cashes checks for a fee.

18 "Check" includes a check, draft, money order, negotiable order  
19 of withdrawal and similar types of negotiable instruments.

20 "Commissioner" means the Commissioner of Banking and  
21 Insurance.

22 "Controlling interest" means ownership, control or interest in  
23 25% or more of the outstanding and issued voting stock of the  
24 check cashing business.

25 "Customer" means any person who seeks to have a check cashed  
26 by a licensee but does not include the maker of a check payable to  
27 another person.

28 "Department" means the Department of Banking and Insurance.

29 "Fee" includes any fee, charge, cost, expense, or other  
30 consideration.

31 "License" means a license issued pursuant to this act and held by  
32 a licensee, which license authorizes the licensee to cash checks for a  
33 fee as provided pursuant to this act.

34 "Licensee" means a person who holds, or who should hold, a  
35 license pursuant to this act.

36 "Limited branch office" means a private premises where a  
37 licensee maintains and makes available to the particular group  
38 specified in the authorization, and to that group only, the facilities  
39 for cashing checks, drafts, or money orders on the designated  
40 premises for no more than two days of each week as designated in  
41 the authorization pursuant to subsection c. of section 12 of this act  
42 and also includes the premises where payroll services are provided.

43 "Mobile office" means any vehicle or other moveable means  
44 from which the business of cashing checks is conducted.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AFI committee amendments adopted June 5, 2014.

1 "Natural person" does not include a payee identified on the payee  
2 line of a check as a partnership, professional association, company,  
3 corporation, or other business entity.

4 "Office" includes a principal office and a full branch office.

5 "Payroll check" means a check issued by an employer to its  
6 employee in payment of salary or wages for services rendered by  
7 the employee.

8 "Payroll service" means a service provided, pursuant to a written  
9 agreement, by a licensed check casher to an employer in which the  
10 employer pays a fixed fee or rate for the on-site delivery of payroll  
11 or cashing of payroll checks issued to its employees, at no cost to  
12 the employees.

13 "Person" has the meaning given that word in R.S.1:1-2.

14 "Substantial stockholder" means any person who beneficially  
15 owns or controls more than 10% of the outstanding voting shares of  
16 an applicant or a licensee.

17 (cf: P.L.2003, c.252, s.1)

18  
19 2. Section 14 of P.L.1993, c.383 (C.17:15A-43) is amended to  
20 read as follows:

21 14. No licensee shall charge a fee or receive any other  
22 consideration, directly or indirectly, which is greater than the  
23 amount permitted pursuant to this section, as follows:

24 a. For cashing a check drawn on a depository institution or  
25 other financial entity located in this or any other State, two percent  
26 of the face amount of the check, or \$.90, whichever is greater;

27 b. For cashing a check payable to a recipient of **aid to families**  
28 **with dependent children (AFDC)** Temporary Assistance for Needy  
29 Families (TANF), one percent of the face amount of the check, or  
30 \$.90, whichever is greater;

31 c. For cashing a check payable to a recipient of supplemental  
32 security income pursuant to Subchapter XVI of the Social Security  
33 Act, 42 U.S.C. s.1381 et seq., one and one half percent of the face  
34 amount of the check, or \$.90, whichever is greater;

35 d. For cashing a check payable to a recipient of old-age and  
36 survivors benefit payments pursuant to Subchapter II of the Social  
37 Security Act, 42 U.S.C. s.401 et seq., one and one half percent of  
38 the face amount of the check, or \$.90, whichever is greater;

39 e. On or after the 365th day from the effective date of this act,  
40 subsequent increases to the fees which may be charged pursuant to  
41 subsection a. of this section by a licensee for cashing a check, draft  
42 or money order shall be set by the commissioner by regulation;

43 f. In setting the fees pursuant to subsection e. of this section,  
44 the commissioner shall consider, but not be limited to, the  
45 following:

46 (1) rates charged in the past;

47 (2) the income, cost and expense of the operation of licensees;

(3) rates charged by licensed check cashers or other similar entities located in other states for the same or similar services and the factors upon which those rates are based;

(4) changes in the population served; and

(5) a reasonable profit for check cashers.

g. Subject to the provisions of subsections b., c., and d. of this section, for cashing a check payable to a non-natural person or a check in excess of \$2,500, a licensee may charge up to three percent of the face amount of the check.

(cf: P.L.1998, c.98, s.1)

3. Section 15 of P.L.1993, c.383 (C.17:15A-44) is amended to read as follows:

15. A licensee shall:

a. Conspicuously display at each office, limited branch office or mobile office it operates the original license, certificate or branch authorization, as appropriate, issued by the commissioner.

b. Conspicuously display all signs and notifications which the commissioner may require.

c. Provide each customer, at the time of a transaction, with a record of each transaction as specified by regulation.

d. Produce a photographic record, on such equipment as the commissioner may prescribe, of all of the checks cashed at the place of business and maintain a true copy of each such record.

e. Endorse each check cashed with the actual name under which the licensee is doing business and legibly write or stamp the words "Licensed Casher of Checks" immediately after or below the licensee's name.

f. Conduct all check cashing business through a bank account or accounts which are used solely for that purpose, and which have been identified as such to the department.

g. Inform the department if any bank account number changes or if any bank account is closed.

h. Maintain adequate records of its check cashing business as prescribed by the commissioner by regulation.

i. Retain for five years essential records, and retain all other records for a shorter period as prescribed by the commissioner by regulation. Such records shall be separate from the records of other businesses in which the licensee may be engaged. Although separate records are required, it is not required that the licensee's check cashing business have a different legal identity from other businesses in which the licensee is engaged.

j. Suspend for at least six months the check cashing privileges of any customer who cashes, in any one calendar year, more than three checks which are returned by the payor bank because of insufficient funds, and notify the department in writing of the name of such customer and the action taken, except that for purposes of

1 this subsection two or more checks of a single maker which are  
2 returned because of insufficient funds shall be counted as one check  
3 provided they were cashed the same day and deposited in the  
4 licensee's bank account on the same banking day.

5 k. Maintain at all times a capital or net worth of at least  
6 \$50,000 for the operation of the licensee's check cashing business at  
7 each office, mobile office and automated check cashing machine  
8 location, and maintain at all times liquid assets of at least \$50,000  
9 for the operation of the licensee's check cashing business at each  
10 office, mobile office and automated check cashing machine  
11 location.

12 l. (1) Maintain on its premises, a record keeping system by  
13 which a licensee may track, and provide for inspection at the  
14 request of the commissioner, checks which the licensee cashed and  
15 which were made payable to a payee other than a natural person and  
16 checks which the licensee cashed in the amount of \$2,500.00 or  
17 more.

18 (2) The record keeping system required pursuant to paragraph  
19 (1) of this subsection l. shall include, but not be limited to, the  
20 following information:

- 21 (a) the date of the transaction;
- 22 (b) the name of the payee;
- 23 (c) the federal tax payer identification number of the payee;
- 24 (d) the face amount of the check;
- 25 (e) the date of the check;
- 26 (f) the name or names of those presenting the check for  
27 payment;
- 28 (g) the name of the financial institution on which the check is  
29 drawn and the financial institution's transit routing number;
- 30 (h) the amount of the fee charged; and
- 31 (i) a photograph, photostat, duplicate, microfilm, microfiche or  
32 any other reproduction of the front and back of the fully endorsed  
33 check.

34 (3) The record keeping system shall be made available to any  
35 State or federal law enforcement agency upon written request and  
36 without necessity of subpoena.

37 m. **【File with the Attorney General of New Jersey a duplicate**  
38 **copy of any report a licensee is required to file】** Retain for five  
39 years a complete copy of any report, including all such reports filed  
40 electronically. regarding business conducted in this State pursuant  
41 to 31 U.S.C.s.5311 et seq. and **【31 C.F.R.s.103 et seq】** 31 C.F.R.  
42 Chapter X.

43 n. Supervise employees engaged in the operation of the check  
44 cashing business to ensure the business is conducted lawfully and  
45 pursuant to the provisions of this act and any order, rule or  
46 regulation made or issued pursuant to this act.

47 (cf: P.L. 2003, c.252, s.5)

1       4. Section 18 of P.L.1993, c.383 (C.17:15A-47) is amended to  
2 read as follows:

3       18. No licensee, or any person acting on behalf of a licensee,  
4 shall:

5       a. Cash a check which is made payable to a payee which is  
6 other than a natural person unless the licensee has on file a  
7 corporate resolution or other appropriate documentation indicating  
8 that the corporation, partnership or other entity has authorized the  
9 presentment of a check on its behalf and the federal taxpayer  
10 identification number of the corporation, partnership or other entity;

11       b. Cash a check for anyone other than the payee named on the  
12 face of the check, except that the commissioner may, by regulation,  
13 establish exceptions to this prohibition;

14       c. Cash or advance any money on a postdated check; except  
15 that a licensee may cash a check payable on the first banking  
16 business day following the date of cashing, if the check is:

17       (1) drawn by the United States, the State of New Jersey, or any  
18 department, bureau, agency or authority of the United States or the  
19 State of New Jersey, or

20       (2) a payroll check drawn by any employer to the order of its  
21 employee in payment for services performed by that employee;

22       d. Fail to give each customer at the end of each transaction a  
23 receipt showing the amount of the check which was cashed, the  
24 amount which was charged for cashing the check, and the amount  
25 of cash which the customer was given;

26       e. Engage in the business of making loans of money, credit,  
27 goods or things or discounting or buying of notes, bills of exchange,  
28 checks or other evidences of debt, or conduct, or allow to be  
29 conducted, a loan business or the negotiation of loans or the  
30 discounting or buying of notes, bills of exchange, checks or other  
31 evidences of debt in the same premises where the licensee is  
32 cashing checks. For purposes of this subsection, a licensee shall be  
33 deemed to have made a loan if the licensee cashes a check deposited  
34 by a customer whose check cashing privileges were required to be  
35 suspended under subsection j. of section 15 of this act.  
36 Notwithstanding the provisions of this subsection, any person  
37 licensed as a pawnbroker in this State shall be eligible to qualify as  
38 a licensee under this act, and upon being so licensed, may conduct  
39 business as a check casher in the same premises in which that  
40 person conducts business as a pawnbroker;

41       f. Engage in business at an office or mobile office other than a  
42 business which primarily provides financial services, except as  
43 otherwise provided pursuant to subsection e. of this section;

44       g. Violate any provision of this act or regulations promulgated  
45 pursuant to this act; or

46       h. Fail to comply with any order of the commissioner.

47 (cf: P.L.1993, c.383, s.18)

1       5. Section 8 of P.L.2003, c.252 is amended to read as follows:

2       8. This act shall take effect immediately. **【**The provisions of  
3 this act (P.L.2003, c.252) shall expire on the first day of the first  
4 month on the tenth year after the effective date of this act, unless  
5 prior to that date the Legislature reauthorizes this act.**】**

6

7       6. <sup>1</sup>**【This】** Sections 1 through 4 of this<sup>1</sup> act shall take effect  
8 immediately <sup>1</sup>and section 5 of this act shall be retroactive to  
9 January 1, 2014<sup>1</sup>.