

P.L.2015, CHAPTER 233, *approved January 19, 2016*
Senate, No. 2260 (*Second Reprint*)

1 AN ACT concerning licensed check cashers and amending ²1and
2 supplementing¹² P.L.1993, c.383 and ¹amending¹ P.L.2003,
3 c.252.

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

7
8 ²11. (New section) The Legislature finds and declares:

9 a. The State's licensed check cashing industry provides regulated
10 financial services to the State's under-banked families and
11 communities.

12 b. The State has a law enforcement interest in supporting a
13 regulated and transparent financial services industry. The State's
14 check cashing industry is closely regulated by the New Jersey
15 Department of Banking and Insurance. Strict record keeping and anti-
16 money laundering regulations assist law enforcement by ensuring
17 transparency in transactions.

18 c. The regulated check cashing industry is facing competition
19 from unlicensed operators who ignore recordkeeping regulations and
20 complete transactions without requiring identification. Illegal
21 operators have included bars, bodegas, and other types of businesses
22 that avoid financial regulation, some with alleged ties to organized
23 crime.

24 d. The industry has suffered significant declines due to check
25 transactions flowing to direct deposit and electronic payment systems.
26 Based on licensee reports filed with the department, between 2009 and
27 2013, the number of check transactions declined by nearly 40 percent
28 and the associated revenues decreased by over 21 percent. As a result,
29 more than one in five check cashing locations have closed their doors
30 in recent years.

31 e. If the licensed industry is not supported, illegal transaction
32 activity may migrate underground to unlicensed check cashers and
33 untraceable channels. The State's licensed check cashing branches, of
34 which there are over 300, have a positive record of compliance. "The
35 Check Cashers Regulatory Act of 1993" supports the licensed industry
36 by:

37 (1) permitting licensees to charge moderately higher fees on
38 certain larger checks where the risk of loss is greater;

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:

¹Senate SCM committee amendments adopted July 23, 2015.

²Senate amendments adopted in accordance with Governor's recommendations January 11, 2016.

1 (2) giving licensees a private right of action to pursue civil action
2 against unlicensed check cashing businesses, thus helping to stamp out
3 illegal operators; and

4 (3) streamlining State anti-money laundering reporting
5 requirements concerning certain currency transaction reports and
6 suspicious activity reports.¹²

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8 ¹[1.] ²[2.1] 1.² Section 2 of P.L.1993, c.383 (C.17:15A-31) is
9 amended to read as follows:

10 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 "Payroll check" means a check issued by an employer to its
3 employee in payment of salary or wages for services rendered by
4 the employee.

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

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

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

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

15

16 ¹[2.] ²[3.1] ² Section 14 of P.L.1993, c.383 (C.17:15A-43) is
17 amended to read as follows:

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

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

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

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

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

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

40 f. In setting the fees pursuant to subsection e. of this section,
41 the commissioner shall consider, but not be limited to, the
42 following:

43 (1) rates charged in the past;

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

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

48 (4) changes in the population served; and

1 (5) a reasonable profit for check cashers.

2 ²[g. Subject to the provisions of subsections b., c., and d. of this
3 section, for cashing ¹[a check payable to a non-natural person or]¹
4 a check in excess of \$2,500, a licensee may charge up to three
5 percent of the face amount of the check.]²
6 (cf: P.L.1998, c.98, s.1)

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8 ¹[3.] ²[4.] ¹3.² Section 15 of P.L.1993, c.383 (C.17:15A-44)
9 is amended to read as follows:

10 15. A licensee shall:

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

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

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

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

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

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

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

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

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

39 j. Suspend for at least six months the check cashing privileges
40 of any customer who cashes, in any one calendar year, more than
41 three checks which are returned by the payor bank because of
42 insufficient funds, and notify the department in writing of the name
43 of such customer and the action taken, except that for purposes of
44 this subsection two or more checks of a single maker which are
45 returned because of insufficient funds shall be counted as one check
46 provided they were cashed the same day and deposited in the
47 licensee's bank account on the same banking day.

1 k. Maintain at all times a capital or net worth of at least
2 \$50,000 for the operation of the licensee's check cashing business at
3 each office, mobile office and automated check cashing machine
4 location, and maintain at all times liquid assets of at least \$50,000
5 for the operation of the licensee's check cashing business at each
6 office, mobile office and automated check cashing machine
7 location.

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

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

17 (a) the date of the transaction;

18 (b) the name of the payee;

19 (c) the federal tax payer identification number of the payee;

20 (d) the face amount of the check;

21 (e) the date of the check;

22 (f) the name or names of those presenting the check for
23 payment;

24 (g) the name of the financial institution on which the check is
25 drawn and the financial institution's transit routing number;

26 (h) the amount of the fee charged; and

27 (i) a photograph, photostat, duplicate, microfilm, microfiche or
28 any other reproduction of the front and back of the fully endorsed
29 check.

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

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

39 n. Supervise employees engaged in the operation of the check
40 cashing business to ensure the business is conducted lawfully and
41 pursuant to the provisions of this act and any order, rule or
42 regulation made or issued pursuant to this act.

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

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45 ¹**[4.]** ²**[5.]** ^{4.}² Section 18 of P.L.1993, c.383 (C.17:15A-47) is
46 amended to read as follows:

47 18. No licensee, or any person acting on behalf of a licensee,
48 shall:

- 1 a. Cash a check which is made payable to a payee which is
2 other than a natural person unless the licensee has on file a
3 corporate resolution or other appropriate documentation indicating
4 that the corporation, partnership or other entity has authorized the
5 presentment of a check on its behalf and the federal taxpayer
6 identification number of the corporation, partnership or other entity;
- 7 b. Cash a check for anyone other than the payee named on the
8 face of the check, except that the commissioner may, by regulation,
9 establish exceptions to this prohibition;
- 10 c. Cash or advance any money on a postdated check; except
11 that a licensee may cash a check payable on the first banking
12 business day following the date of cashing, if the check is:
- 13 (1) drawn by the United States, the State of New Jersey, or any
14 department, bureau, agency or authority of the United States or the
15 State of New Jersey, or
- 16 (2) a payroll check drawn by any employer to the order of its
17 employee in payment for services performed by that employee;
- 18 d. Fail to give each customer at the end of each transaction a
19 receipt showing the amount of the check which was cashed, the
20 amount which was charged for cashing the check, and the amount
21 of cash which the customer was given;
- 22 e. Engage in the business of making loans of money, credit,
23 goods or things or discounting or buying of notes, bills of exchange,
24 checks or other evidences of debt, or conduct, or allow to be
25 conducted, a loan business or the negotiation of loans or the
26 discounting or buying of notes, bills of exchange, checks or other
27 evidences of debt in the same premises where the licensee is
28 cashing checks. For purposes of this subsection, a licensee shall be
29 deemed to have made a loan if the licensee cashes a check deposited
30 by a customer whose check cashing privileges were required to be
31 suspended under subsection j. of section 15 of this act.
32 Notwithstanding the provisions of this subsection, any person
33 licensed as a pawnbroker in this State shall be eligible to qualify as
34 a licensee under this act, and upon being so licensed, may conduct
35 business as a check casher in the same premises in which that
36 person conducts business as a pawnbroker;
- 37 f. Engage in business at an office or mobile office other than a
38 business which primarily provides financial services, except as
39 otherwise provided pursuant to subsection e. of this section;
- 40 g. Violate any provision of this act or regulations promulgated
41 pursuant to this act; or
- 42 h. Fail to comply with any order of the commissioner.
43 (cf: P.L.1993, c.383, s.18)
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45 ¹~~5.~~ ²~~6.1~~ ^{5.} Section 8 of P.L.2003, c.252 is amended to read
46 as follows:

47 8. This act shall take effect immediately. **【**The provisions of
48 this act (P.L.2003, c.252) shall expire on the first day of the first

1 month on the tenth year after the effective date of this act, unless
2 prior to that date the Legislature reauthorizes this act.】
3 (cf: P.L.2003, c.252, s.8)
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5 ¹【6.】 ²【7.1】 6.² Sections 1 through ¹【4】 ²【5¹】 4² of this act
6 shall take effect immediately and section ¹【5】 ²【6¹】 5² of this act
7 shall be retroactive to January 1, 2014.
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12 Modifies certain fees charged by, and requirements imposed on,
13 check cashier licensees.