

**CHECK CASHING:
A MODEL STATE STATUTE**

written by
Sandra B. Eskin

**A project of the AARP Strategic Activity on Financial Protection
in cooperation with the Public Policy Institute**

**George Gaberlavage, Project Officer
AARP Public Policy Institute
Research Group**

March 1999

The Public Policy Institute, formed in 1985, is part of the Research Group at AARP. One of the missions of the Institute is to foster research and analysis on public policy issues of interest to older Americans. This publication represents part of that effort. The views expressed herein are for information, debate, and discussion.

© 1999 AARP. Reprinting with permission only.

ACKNOWLEDGMENTS

This model state statute was developed through a consensus process involving staff from across AARP. It required a level of commitment and purpose that went well beyond the normal review and comment process. Special thanks are due Dacosta Mason, Consumer Issues Team Leader, AARP State Legislation Department; Andrea Saunders, Consumer Issues Analyst, AARP State Legislation Department; Deborah Zuckerman, an attorney for AARP's Foundation Litigation; Sharon Hermanson, Senior Policy Analyst, Consumer Team, AARP Public Policy Institute; Laura Polacheck, Consumer Issues Senior Analyst, AARP State Legislation Department; and George Gaberlavage, Project Officer, AARP Public Policy Institute. The author and project officer would also like to thank Ann McLarty Jackson, Research Assistant, AARP Public Policy Institute, for formatting the materials for printing, and Jean Ann Fox, Director of Consumer Protection at the Consumer Federation of America, for her valuable insights and advice.

Table of Contents

Introduction	5
Model Statute	7
Definitions	7
Applicability	7
Section 2: Registration Requirement.....	8
Section 3: Application for Registration	8
Section 4: Granting of Registration	9
Section 5: Denial of Registration	10
Section 6: Renewal of Registration	11
Section 7: Transferrability and Assignability of Registration.....	11
Section 8: Limits on Check-cashing Fees	11
Section 9: Duties of Registrant.....	12
Section 10: Prohibited Activities	13
Section 11: Suspension or Revocation of Registration	14
Section 12: Investigation and Examination of Check-cashing Business	15
Section 13: Cease and Desist Order	15
Section 14: Enforcement	16
Section 15: Civil Penalties	16
Section 16: Criminal Penalties	17
Section 17: State Regulatory Authority Annual Report	17
Section 18: Regulations	18
Section 19: Severability	18
Appendix A: A Summary of State Check-Cashing Laws	A1
A Summary of State Check-Cashing Laws	A3
Annotated Guide to Column Headings.....	A3
1998 Survey of Check-Cashing State Laws	A7
Appendix B: State Check-Cashing Laws.....	B1
State Summaries:.....	B3-B30

CHECK CASHING: A MODEL STATE STATUTE

INTRODUCTION

Check cashing is a growing and profitable business; the number of check-cashing outlets more than doubled from the mid-1980s to the early 1990s. Many consumers, particularly those who have low incomes and do not have bank accounts, rely on so-called “fringe banks”—check-cashing outlets, consumer finance companies, and pawnshops—for their banking needs. Major reasons for the growth in “fringe banking” include stagnant incomes and a larger number of households at lower-income levels; bank branch closings, especially in low-income and minority neighborhoods; decline of the savings and loan industry; steep increases in banking fees; discriminatory lending practices; and increased credit card debt and personal bankruptcies. In addition, a lax regulatory environment, which permits high charges and results in extraordinary profits, has made the check-cashing industry a magnet for capital raised in the equity markets.

While some people use check cashing outlets because they offer convenience and fewer “hassles” than banks, many low-income people cannot afford to maintain a checking account because of minimum balance requirements or high bank fees. According to the Federal Reserve’s latest Survey of Consumer Finance, 33 percent of families headed by persons age 50 and older did not have checking accounts in 1995. The incidence of older families without a checking account is higher among those with low incomes and those headed by older women and minorities. The lack of a checking account is a particular difficulty for older families receiving government benefit payments such as Social Security and Supplemental Security Income. Cashing a check at a check-cashing outlet is almost always more expensive than doing so at a bank or other depository institution. Some check-cashing outlets charge as much as 21 percent of a check’s value. This means less income is available from benefit checks to make ends meet. Encouraged by a lax regulatory environment, check-cashing fees have been increasing. A 1997 survey by the Consumer Federation of America (CFA) found a 37 percent increase since 1987 in fees to cash a Social Security check at check-cashing outlets. Another survey, conducted in the Chicago area by the Woodstock Institute (1996), showed that the amount a check-cashing outlet charges to cash one check is equivalent to the cost of maintaining a checking account for a month. The study also found that a person with bank expenses between \$80 and \$100 a year would spend nearly four times as much at a check-cashing outlet for the same services.

The industry notes it is providing a service that other financial institutions often decline to offer, especially in neighborhoods where bank branches

A
M
O
D
E
L
A
C
T

A MODEL ACT

have closed. Check-cashing outlets, unlike banks, are often willing to extend credit (at very high interest rates) to customers who need money immediately to pay the rent, repair cars to get to work, or cope with other emergencies. Consumers with language barriers or low literacy skills may also find these outlets easier to use. However, a key public policy question is whether older and low-income households should be exposed to extraordinarily high charges and a variety of unfair and deceptive practices in order to access basic banking services. The model state statute included in this publication was developed on the premise that they should not. States have enacted laws that regulate the check-cashing industry. A review of state statutes indicates that nearly half of all states regulate at least some aspect of check-cashing services (Appendix A). Most of these states regulate check cashing through a system of licensing or registration: a check casher submits an application—along with a fee—and, if it meets the qualifications set out in the law and regulations, it is granted a license. Unless or until that license is granted or registration is accepted, the check-cashing business cannot operate.

Most states that regulate check cashing address the biggest consumer concern—the levying of high check-cashing fees—by setting fee limits for each type of check (e.g., government, payroll, personal). They also establish a long list of responsibilities that a check casher must satisfy, such as posting fees, providing customers with itemized receipts, and filing reports of their operations with the state regulatory authority. In addition, state check-cashing laws delineate other prohibited acts and provide for penalties for violations of the law.

Another common service that is regulated by check-cashing laws is "payday lending" or "deferred deposit." Deferred deposit is the practice of holding a customer's post-dated check for deposit until a later date. The fees charged for these loans can be significant. Some statutes prohibit deferred deposit, while others allow it under a separate approval process or with specific restrictions. (For additional information, see the AARP publication, *Payday Loans: A Model State Statute*.)

The Check-cashing Model Statute combines the best aspects of various state statutes into a structure that is both comprehensive and streamlined. It is targeted to address the real risks to consumers in using these outlets—high check-cashing fees and unfair and deceptive practices. The model statute prohibits payday loans unless the operation complies with a particular state law's requirements for small loan companies. The statute also grants consumers an explicit private right of action against a check-cashing operation and allows recovery of damages, fees, and costs.

- (a) ***“Check” means any check, draft, money order, traveler’s check or other instrument for the transmission or payment of money.***
- (b) (1) ***“Check-cashing business” means a person or entity that for compensation engages, in whole or in part, in the business of cashing checks, drafts, money orders, traveler’s checks or other instruments for the transmission or payment of money.***
- (2) ***“Check-cashing business” does not include the following:***
- (i) ***a state or federally chartered bank, savings association, credit union, or industrial loan company;***
 - (ii) ***any person who cashes checks without receiving, directly or indirectly, any consideration or fee therefor; or***
 - (iii) ***a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks for a maximum flat fee of two dollars.***
- (c) ***“Identification” means an unexpired and otherwise valid driver’s license, a state identification card issued by any state of the United States or its territories or the District of Columbia, and showing a photograph and signature; a United States Government Resident Alien Identification Card; a United States Passport; a United States Military Identification Card; or a recent utility bill listing an individual’s name and address.***
- (d) ***“Person” means any individual, partnership, association, joint stock association, trust, corporation, or other entity, but shall not include the United States government or government of this or any other state.***

In this section, the model statute addresses the key terms used in its provisions; in particular, it defines “check” to include money orders, travelers’ checks, and other instruments for the payment or transmission of money.

The statute also defines what is, and is not, a “check-cashing business” subject to the regulatory structure established in the act. Excluded from the term “check-cashing business” are traditional banks and savings and loan institutions, a person who cashes checks without charging a fee, and a retailer that cashes checks as an incidental part of its business. These narrowly defined exemptions from the check-cashing regulatory system are appropriate because these entities do not have the opportunity or

incentive to engage in the abusive practices that the law targets. The model statute indicates that the flat fee for check cashing charged by a retailer must be no more than \$2 in order for a business to be excluded from the requirements of the act. The model statute defines broadly the types of identification that must be presented in order to cash a check. As an alternative to this statutory provision, a state could define acceptable forms of identification in regulations.

**Section 2:
Registration
Requirement**

No person shall engage in the business of check cashing without first registering as provided in this act.

**Commentary:
Registration
Requirement**

This section of the model statute requires all check-cashing businesses to register with the appropriate state regulatory authority. A registration system provides consumers with adequate protection against fraud and abuse by check cashers. Registration allows the state regulatory authority to keep track of check-cashing outlets, to monitor their compliance with the law, and to take prompt action against any violations.

Currently, 20 states and the District of Columbia require check-cashing businesses to obtain a license, while four require these businesses to register.

**Section 3:
Application for
Registration**

(a) An application for registration to operate a check-cashing business must be in writing and under oath and in such form as the state regulatory authority may prescribe. The application must include the following information:

(1) the name and address of the applicant if the applicant is an individual. If the applicant is a business entity, the name and address of each partner, director, officer, manager, supervisory employee, and authorized agent;

(2) the address of each location at which the applicant proposes to do business; and

(3) any other information that the state regulatory authority may require.

(b) An application for registration must be filed with a nonrefundable fee, to be set by the state regulatory authority, for the principal place of business of the check-cashing business and for each additional location.

The statute specifies what information must be included in an application for registration. In particular, information about each partner, officer, director, supervisory employee, and authorized agent must be listed, as well as the address of each location at which the applicant proposes to do business. Again, the state regulatory authority is given the discretion of adding any other requirements it may deem necessary.

The statute also requires that a nonrefundable registration fee should accompany an application. The amount of the fee is to be set by the state regulatory authority and must be paid for the principal place of business and each additional location. For example, Maine imposes a nonrefundable fee of \$50, along with a fee of \$100 for each additional location.

The state regulatory authority may grant an application for registration at its discretion. In determining whether to issue a certificate of registration, the state regulatory authority may require additional information from the applicant in order to determine whether

(a) the individuals who are partners, directors, officers, supervisory employees or authorized agents of the check-cashing business are competent, experienced, possess integrity, are financially able, and possess any other qualifications determined by the state regulatory authority to be necessary. Such individuals must not have been convicted of violating federal or state currency laws, in particular money laundering or any other felony involving dishonesty, fraud, or deceit, provided the crime is substantially related to the qualifications, functions, or duties of a person engaged in the business of check cashing. Such individuals must not have committed any act, omission, or practice that consists of a breach of a fiduciary duty, or been subject to any suspension or removal from their position of authority by any agency or department of the United States or any state;

(b) accepting such registration would not be against the public interest; and

(c) the applicant has a feasible plan for conducting business.

The statute directs the state regulatory authority to register a check-cashing business for operation if it meets all of the required qualifications. The statute specifies a number of requirements for anyone who is to be a director, officer, supervisory employee, or authorized agent of the business — the individual must be competent, experienced, possess integrity, and be financially able — but it also gives the state regulatory authority to establish any additional qualifications that it deems necessary. The statute also lists activities that will disqualify an individual from operating a check-cashing business, such as criminal activity, fraud, or a breach of fiduciary

**Section 5:
Denial of
Registration**

duty. Of particular concern are any criminal activities involving currency, such as money laundering. In addition, the state must also find that accepting the applicant's registration would not be against the public interest and that the applicant has a feasible plan for conducting business.

(a) An application for initial registration or renewal shall be granted or rejected within 60 days of the filing of the application.

(b) The state regulatory authority shall deny an application for registration to conduct a check-cashing business, or for renewal of a registration, if any individual who is the partner, director, officer, supervisory employee, or authorized agent of the applicant

(1) has been convicted of violating federal or state currency laws, in particular money laundering, or convicted of any other felony involving dishonesty, fraud, or deceit, provided the crime is substantially related to the qualifications, functions, or duties of a person engaged in the business of check cashing; any act, omission, or practice that consists of a breach of fiduciary duty, or been subject to any suspension or removal from their position of authority by any agency or department of the United States or any state.

(c) If the state regulatory authority denies an initial application for registration, or a renewal application, it shall notify the applicant of the denial. Within 20 days after the date of such notice, the state regulatory authority shall enter upon its records a written decision and findings containing the reasons supporting the denial. Within 30 days of the publication of the decision, the applicant may appeal such denial to the superior court sitting in a county in which the check-cashing business is to be located.

**Commentary:
Denial of
Registration**

The statute grants the state regulatory authority multiple grounds for denying an applicant's registration, including conviction of a crime involving dishonesty, fraud, or violation of currency laws.

As an important due process protection, the statute does require that an application for initial registration or renewal must be accepted or rejected within 60 days of the filing of the application, and a written decision explaining the denial must be filed within 20 days of notifying the unsuccessful applicant of the decision. In addition, an individual whose application has been denied can appeal the denial within 30 days of publication of the decision.

(a) Registration pursuant to this act shall remain effective for 12 months from the date it is granted, unless sooner surrendered, suspended, or revoked. Registration must be renewed annually.

(b) An application for registration renewal must be filed with a non-refundable fee, to be set by the state regulatory authority, for the principal place of business of the check-cashing business and for each additional location.

A check-cashing business's registration remains effective for one year from the date that registration was initially granted. An application for renewal must be accompanied by non-refundable fee for the principal place of business and each additional location.

A check-cashing registration is not transferable or assignable.

Registration of a check-cashing business cannot be transferred or assigned. To allow transfer or assignment would undermine the integrity of the check-cashing regulatory system.

No check-cashing business shall

(a) charge fees in excess of 1 percent of the face amount of the check, or \$5, whichever is less, if such check is a payroll or government check payable to the bearer of such check; or

(b) charge fees in excess of 2 percent of the face amount of the check, or \$5, whichever is less, for all others.

High check-cashing fees have been the principal complaint of consumers utilizing check-cashing outlets, and, as a result, fee limits or caps are a central feature of most state regulatory schemes. Some states set different fee caps depending on the type of check — personal, payroll, or government. These distinctions are intended to reflect the risk associated with each kind of check, and the fee charged reflects this risk. The model statute, like statutes in Delaware, Illinois, and West Virginia expresses fee limits in two ways: a set percentage of the face amount of the check or a flat maximum amount, whichever is lower.

**Section 6:
Renewal of
Registration**

**Commentary:
Renewal of
Registration**

**Section 7:
Transferability
and
Assignability of
Registration**

**Section 8:
Limits on
check-cashing
fees**

**Commentary:
Limits on check-
cashing fees**

**Section 9:
Duties of
Registrant**

A registrant shall

(a) post in conspicuous locations, in readable type size and style, and in the unobstructed view of the public at each place of business:

(1) a schedule of fees, along with illustrative examples;

(2) a list of valid identifications;

(3) a valid copy of its registration certificate; and

(4) information (including a toll-free number) on how to file a complaint about a check-cashing business under regulations adopted by the state regulatory authority.

(b) provide each customer cashing a check with a receipt showing the name or trade name of the registrant, the transaction date, the amount of the check, the fee charged, and the cash given;

(c) contact the police or state regulatory authority if a customer tries to cash a check that the check-cashing business has reason to believe is stolen;

(d) file an annual report with the state regulatory authority providing such information as said state regulatory authority may require concerning its business and operations during the preceding calendar year; and

(e) maintain all books, accounts, records, and documents necessary to determine the registrant's compliance with the provisions of this act. Books, accounts, records, and documents must be retained for a period of at least three years from the date of each transaction. The registrant shall make the books, accounts, records, and documents available to the state regulatory authority upon request to determine compliance with this act.

**Commentary:
Duties of
Registrant**

This provision establishes a number of requirements for registered check cashers. First, this subsection provides for the disclosure of essential information about the check-cashing service, a fundamental consumer protection. The registrant must ensure that this information is made readily apparent to any consumer who walks in the door. This essential information includes a schedule of fees with illustrative examples, a list of valid identifications, a copy of the business's registration certificate, and information on how to file a complaint about a check-cashing business (including a toll-free number to call). All of this information must be printed in a readable type size and style, and must be posted in a conspicuous, unobstructed location.

Second, a check-cashing outlet must provide each customer with a receipt that lists the business's name, the transaction date, the amount of the check, the fee charged, and the cash received.

Third, a check-cashing business has an affirmative obligation to contact the police or state regulatory authority if it has reason to believe that a check to be cashed is stolen.

Fourth, a check casher must file an annual report with the state regulatory authority providing information concerning its business and operations during the preceding calendar year.

Fifth, a check-cashing business must maintain all books, accounts, records, and documents necessary to determine compliance with the act and retain them for at least three years from the date of each transaction. These books and other materials must be made available to the state regulatory authority upon request.

No registrant shall

- (a) charge fees in excess of those authorized by the act;***
- (b) charge any fees associated with check-cashing services in addition to the posted, regulated check-cashing fees;***
- (c) engage in the business of making loans of money, or extensions of credit, or discounting notes, bills of exchange, or other evidences of debt; or accepting deposits or bailments of money or other items, except as expressly provided by the act;***
- (d) use or cause to be published or disseminated any advertising communication that contains any false, misleading, or deceptive statement or representation;***
- (e) conduct business at premises or locations other than locations registered with the state regulatory authority;***
- (f) extend credit through a deferred deposit, payday loan, or other device unless it has first obtained a separate license under the applicable state laws and regulations governing companies that offer small loans; or***
- (g) engage in any unfair, deceptive, or fraudulent acts or practices.***

This section includes a list of activities in which check-cashing businesses shall not engage. The intent is to include all of the types of unfair and unlawful conduct that are known to have occurred in this industry. The last

**Section 10:
Prohibited
Activities**

**Commentary:
Prohibited
Activities**

(a) The state regulatory authority shall have the authority to conduct an investigation to determine the financial responsibility, business experience, character, and general fitness of an applicant, and to conduct an examination to determine the compliance of a check-cashing business with the act. In making any investigation or examination, the state regulatory authority may administer oaths, subpoena witnesses, and require production of books, documents, or other tangible items, in order to obtain information pertaining to the identities and locations of persons having knowledge of facts concerning compliance with this act.

(b) An applicant shall pay a fee to help cover the costs of an investigation. A registrant shall pay a fee to help cover the costs of an examination.

With adequate investigatory authority and resources, a state should be able to weed out any potential bad actors before they start operating check-cashing outlets. The statute grants the state regulatory authority broad powers to investigate all relevant factors regarding the applicant's fitness to operate a check-cashing business, and to administer oaths, obtain subpoenas, and require production of materials. The state is also directed to assess a fee to be paid by any applicant that is investigated.

The same powers are granted to the state regulatory authority in conducting on-going examinations of check-cashing outlets to determine compliance with the act.

(a) If the state regulatory authority determines, after giving notice and an opportunity for a hearing, that a registrant has engaged in or is about to engage in an act or practice constituting a violation of a provision of this act or a rule, regulation, or other order adopted hereunder, the state regulatory authority may order such registrant to cease and desist from such unlawful act or practice and take such affirmative action as in its judgment will effect the purposes of this act.

(b) If the state regulatory authority makes written findings that consumers will be irreparably harmed by a delay in issuing a cease and desist order, it may issue a temporary cease and desist order contemporaneous with giving notice and an opportunity for a hearing.

This section provides the state regulatory authority with an important enforcement tool, a cease and desist order. After giving the check-cashing business notice and an opportunity to be heard, the state can order the business to cease and desist from any unlawful conduct or take any

**Section 12:
Investigation
and
Examination of
Check-Cashing
Businesses**

**Commentary:
Investigation
and
Examination of
Check-Cashing
Businesses**

**Section 13:
Cease and
Desist Order**

**Commentary:
Cease and
Desist Order**

**Section 14:
Enforcement****Commentary:
Enforcement****Section 15:
Civil Penalties****Commentary:
Civil Penalties**

affirmative action consistent with the purposes of the statute. If the state finds that the public interest will be irreparably harmed by a delay, it may issue a temporary cease and desist order.

(a) A violation of any of the provisions of this act shall be deemed an unfair and deceptive trade practice under applicable state law.

(b) The state or local regulatory authority, an aggrieved party, or a group of aggrieved parties may enforce the provisions of this act, or restrain any violations thereof, by filing a civil action in a court of competent jurisdiction. A successful plaintiff shall recover actual, consequential, and punitive damages, in addition to reasonable attorney's fees, expert witness fees, and court costs incurred by bringing such action. The minimum amount of damages recovered shall be \$500 or the amount of loss, whichever is greater. A plaintiff can also sue for injunctive or equitable relief.

This section includes two important provisions. The first provides that a violation of any provision of the statute will be deemed an unfair and deceptive trade practice under the state's Unfair and Deceptive Acts and Practices (UDAP) law. As such, the state can also take advantage of the remedies provided by its UDAP law. Second, the statute recognizes a private right of action to enforce the provisions of the law. This right is critical because it adds another layer of protection in a regulatory environment, at the state and local level, where agencies do not often have sufficient resources to monitor and enforce consumer protection laws. A successful plaintiff can recover actual, consequential, and punitive damages, in addition to attorney's fees, expert witness fees, and costs. The minimum amount of damages recovered shall be \$500 or the amount of loss, whichever is greater. A party can also sue for injunctive or equitable relief.

The state regulatory authority may impose a civil penalty not exceeding \$1,000 for a violation of any provision of this act. For the purposes of this act, each separate violation shall be subject to the civil penalty herein prescribed. Civil penalties paid pursuant to this act shall be deposited to the credit of a fund that finances government-sponsored consumer education programs regarding check cashing and other financial services.

This section provides that when the state regulatory authority imposes a civil penalty for a violation of this statute, the monies shall be deposited in a fund that will finance consumer education programs regarding check cashing and other consumer financial services.

Any person who knowingly violates this act is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000 for each separate violation or imprisonment not exceeding six months, or both.

Criminal penalties are an important deterrent to fraud and other illegal activity. Any violation of the act is a misdemeanor and is subject to a fine of up to \$1,000, or by imprisonment for not more than six months, or both.

The state regulatory authority shall submit an annual report to the state legislature which includes information most helpful to the authority, legislature, and public, including

(a) the number of check-cashing businesses granted or denied initial and renewed registration;

(b) the number of complaints about check-cashing businesses filed by consumers;

(c) the number and outcome of actions brought against check cashers;

(d) the amount of money the state regulatory authority has collected from check-cashing businesses in fees and penalties; and

(e) any other information that the state regulatory authority may request from registered check-cashing businesses.

This report shall be made available to the public.

The state regulatory authority is required to submit an annual report to the state legislature, which includes the following information: the number of check-cashing businesses operating in the state; the number of complaints about check-cashing businesses filed by consumers; the volume of business; the number and outcome of state and individual actions against check cashers; and monies collected in fees and penalties. The report should also be made available to the public.

**Section 16:
Criminal
Penalties**

**Commentary:
Criminal
Penalties**

**Section 17:
State
Regulatory
Authority
Annual Report**

**Commentary:
State
Regulatory
Authority
Annual Report**

**Section 18:
Regulations**

The state regulatory authority shall adopt such regulations, guidelines, or policies as may be necessary to carry out the provisions of this act.

**Commentary:
Regulations**

The state regulatory authority is charged with implementing the provisions of the act, and is given broad authority to adopt implementing regulations.

**Section 19:
Severability**

If any provision of this act or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this act which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this chapter are declared to be severable.

**Commentary:
Severability**

This section is a standard provision included in many, if not most, statutes. It ensures that if any provision of the statute is invalidated or determined to be unconstitutional, the invalidated provision will be “severed” from the rest of the statute, and the remainder of the provisions will continue to be in effect.

APPENDIX A:
A SUMMARY OF STATE CHECK-CASHING LAWS

A SUMMARY OF CHECK-CASHING LAWS

This chart summarizes and compares the major provisions of state check-cashing laws. It allows for easy comparison of the extent to which the states have regulated the check-cashing industry, and highlights where opportunities exist for states to strengthen the consumer protection provisions within their laws. The chart provides a snapshot of the areas in which a particular state has regulated check-cashing activity, as well as an overview of the states that have enacted specific check-cashing law provisions.

Information contained in this chart is based on an extensive analysis of each state's check-cashing law. The provisions noted in the chart are those gleaned from the state check-cashing laws, which are sometimes part of broader statutes regulating other related financial services. The chart includes only these laws, and not broader, state consumer protection statutes or other state laws that may address certain aspects of check cashing in a more general way. The goal of this chart is to provide specific information to advocates who are seeking to reform existing check-cashing laws or improve proposed legislation regulating check-cashing services.

This chart was designed as a quick reference guide. To fully understand the scope and depth of any particular state law, it will be necessary to examine the full statute. Some state laws are quite comprehensive and include provisions that go beyond those described in this chart and accompanying narrative. This chart provides a guide to the major provisions found in most check-cashing laws, and is not meant to limit or exclude provisions that may be beneficial to consumer protection. It must also be noted that regardless of the provisions contained in any particular law, strict enforcement of the law's provisions and implementing regulations and swift prosecution for any violations are needed to ensure that consumer protection is actually realized.

ANNOTATED GUIDE TO COLUMN HEADINGS

This column indicates whether a state requires that a check-cashing business obtain a license (or permit) before it can operate and indicates, through footnotes, the entities that may cash checks but are excluded from the licensing requirement.

Discussion

Licensing: A regulatory structure that requires a check casher to obtain a license or permit before opening for business is the approach taken by most states (21 states plus the District of Columbia) that regulate this service. Licensure allows regulators to easily identify which businesses are engaged in check cashing in the state, oversee their operations, and determine their compliance with the check-cashing law. Check cashers must pay an application fee and meet requirements for competency and

Purpose of the Chart

Sources of Information

Limitations

Licensing

Registration

financial integrity before being granted a license. Allowing regulators to prosecute check cashers for failure to obtain a license deters potentially fraudulent companies before they have an opportunity to defraud consumers.

This column indicates whether a state requires that a check-cashing business register before it can operate and indicates, through footnotes, the entities that may cash checks but are excluded from the registration requirement.

Discussion

Registration: A registration system shares many of the same characteristics as licensure, discussed above, but is viewed by many as less burdensome and costly for both the state regulator and the regulated industry. This column indicates which state laws exclude from the law's requirements certain entities under certain circumstances. Entities that may cash checks but are excluded from the licensing or registration requirements fall into four general categories:

Exemptions

Regulated financial institutions: Footnote 1 refers to state or federally chartered banks, savings associations, credit unions, or industrial loan companies.

Retailers who cash checks: Footnote 2 refers to retailers who engage primarily in the business of selling consumer goods and services and who cash checks incidental to their retail business. States vary as to the amount that a retailer can charge for this incidental check-cashing.

U.S. Post Office: Footnote 3 refers to the U.S. Post Office, which is expressly exempt from the check-cashing law by only the District of Columbia.

No consideration: Footnote 4 refers to entities that cash checks without receiving, directly or indirectly, any consideration or fee.

Discussion

Exemptions: Each state statute contains exemptions that exclude certain entities from the definition of a check casher and thereby from the licensing/registration and other substantive requirements of the check-cashing law. It is important that these exemptions be narrowly defined and that their number be limited; otherwise, no matter how strongly the law may deter unfair and fraudulent check-cashing practices, it will not be effective if very few check-cashing establishments are subject to it.

This column refers to whether a state law includes a provision requiring that a list of fees and/or a copy of the license or certificate of registration be conspicuously posted in every check-cashing outlet.

Discussion

Posts Fees/ License/Registration: Most states that regulate check cashing require that certain key information be prominently posted in the check-cashing outlet—a copy of the license or certificate of registration (whichever is appropriate) and a listing of fees charged (where set by law or regulation). Requiring that fees be conspicuously disclosed will increase customer knowledge and encourage competition among outlets. Only one state—Virginia—requires the posting of information on how a consumer can file a complaint about a check casher.

This column refers to whether the state allows or prohibits “deferred deposit” or “payday lending.” A shaded box in this column means that the state prohibits deferred deposit. Otherwise, the state explicitly allows this loan practice by check cashers or has not enacted legislation addressing deferred deposit.

Discussion

Deferred Deposit: “Deferred deposit” or “payday lending” is the practice of holding a customer’s check for deposit at a later date, often up to two weeks later, for a preagreed fixed fee. These relatively small-sum, short-term loans carry with them very high, effective interest rates, estimated by some consumer advocates to be as much as 2,000 percent on an annual basis. Currently, nine states allow deferred deposit by check cashers, often through a separate approval/licensing process or with significant restrictions. Seven states prohibit this practice outright, and many more are in the process of considering deferred deposit legislation.

This column refers to whether states cap the amount of fees check cashers can charge customers to cash checks. Most states set fee limits based on the type of check being cashed (i.e., payroll, government, or personal checks); this column does not, however, indicate what the exact limits are and which type of checks are subject to these limits.

Discussion

Limits Fees: Not all states that regulate check-cashing outlets limit the amount of fees that can be charged for check cashing; in fact, only 20 state statutes and the District of Columbia set fee limits or direct the appropriate regulatory authority to set these limits. Most states use a sliding scale for setting fees. For example, to cash a government or payroll check, some state laws limit fees to 2 percent of the face value of the check or \$5, whichever is greater. To cash personal checks or money orders, the fee limit may be 10 percent of the check’s face value or \$5, whichever is greater.

**Posts Fees/
License/
Registration**

**Deferred
Deposit**

Limits Fees

Civil Penalties

This column indicates which states impose civil fines on check cashers who violate the law.

Discussion

Civil Penalties: Civil penalties are one of a number of tools available to the state regulatory authority to enforce its check-cashing authority; others include criminal penalties and cease and desist orders. The maximum amount of the fine varies from state to state.

Criminal Penalties

This column indicates which states impose criminal fines on check cashers who violate the law.

Discussion:

Criminal Penalties: Criminal penalties are another enforcement tool available to the state. These penalties vary depending on the severity of the offense, and can differ considerably among the states. Almost all state laws that provide for criminal penalties include imprisonment in lieu of or in addition to a monetary fine. Many states believe that criminal penalties are the best deterrent against check-cashing fraud.

This column indicates which states allow consumers injured by check-cashing outlets to use the law to sue for damages.

Private Right of Action**Discussion:**

Private Right of Action: This right means that individual consumers or groups of consumers who have been injured by check-cashing fraud can sue under the law to recover damages and enjoin illegal practices. If a private right of action is not provided for in a state's law, then only the state can prosecute violations of the law, and individuals must use other remedies to pursue individual damages.

1998 Survey of Check-cashing State Laws

States and Special Jurisdictions	Check-casher Requirements		Special Requirements		Special Restrictions	
	License (or permit)	Registration	Post Fees	Post License or Registration	Prohibits Deferred Deposit	Limit Fees
Alabama						
Alaska						
Arizona	1					
Arkansas						
California	1,2					
Colorado						
Connecticut	1,2,4					
Delaware	1,2,4					
District of Columbia	1,3,4		6			
Florida		2				
Georgia						
Hawaii						
Idaho						
Illinois ⁵						
Indiana	1,2					
Iowa						
Kansas						
Kentucky	1,2,4					
Louisiana	1,2,7					
Maine		1,2				
Maryland						
Massachusetts	1,2					
Michigan						
Minnesota	1,2					8
Mississippi	1,2,4					
Missouri						
Montana						
Nebraska						
Nevada		1,2				
New Hampshire						
New Jersey						
New Mexico						
New York	1,2,4				9	
North Carolina	1,2					
North Dakota						
Ohio	1,2					
Oklahoma						
Oregon						
Pennsylvania	1					
Puerto Rico						
Rhode Island	2					
South Carolina	1,4					
South Dakota						
Tennessee	1,2,4					
Texas						
Utah						
Vermont						
Virgin Islands						
Virginia		1,2	10			
Washington	1,2					
West Virginia	1,2					
Wisconsin	1,2					
Wyoming						

*Shading of a column indicates that a state's law contains the particular requirement. Any footnotes in a shaded area address specific limitations or requirements of the state law.

1998 Survey of Check-cashing State Laws*

States and Special Jurisdictions	Maximum Fines			Footnotes
	Civil Penalties	Criminal Penalties	Private Right of Action	
Alabama				1) Regulated financial institutions are excluded from the licensing requirement
Alaska				
Arizona				2) Retailers who cash checks are excluded from the licensing requirement.
Arkansas				
California				3) The U.S. Post Office is excluded from the licensing requirement.
Colorado				
Connecticut				4) Entities that do not charge for check-cashing are excluded from the licensing requirement.
Delaware				
District of Columbia				5) Check-cashing services can only be offered by a merchant in the course of his business and incidental thereto.
Florida				
Georgia				6) Information must be posted in English and Spanish.
Hawaii				
Idaho				7) No license will be granted to a check-cashing facility within 30 feet of a gaming establishment or riverboat.
Illinois				
Indiana				8) Check cashers must submit a list of fees to the regulator for approval.
Iowa				
Kansas				9) Deferred deposits by check cashers are allowed only for government and payroll checks.
Kentucky				
Louisiana				10) State law also requires the posting of information on how to file a complaint against a check casher.
Maine				
Maryland				
Massachusetts				
Michigan				
Minnesota				
Mississippi				
Missouri				
Montana				
Nebraska				
Nevada				
New Hampshire				
New Jersey				
New Mexico				
New York				
North Carolina				
North Dakota				
Ohio				
Oklahoma				
Oregon				
Pennsylvania				
Puerto Rico				
Rhode Island				
South Carolina				
South Dakota				
Tennessee				
Texas				
Utah				
Vermont				
Virgin Islands				
Virginia				
Washington				
West Virginia				
Wisconsin				
Wyoming				

*Shading of a column indicates that a state's law contains the particular requirement. Any footnotes in a shaded area address specific limitations or requirements of the state law.

APPENDIX B
STATE CHECK-CASHING LAWS

Licensing/Registration: License required

Exemptions from licensing/registration: The United States or any department or agency thereof; the state or any department or agency thereof; federally or state chartered bank; person operating as an authorized delegate of a licensee; debt manager; consumer lender; escrow agent; trust company; mortgage banker; and safe deposit repository.

Posting of license/fees: License or delegate authorization must be prominently displayed.

Criminal penalties: Knowing violation of certain provisions constitutes class 3 or 6 felony.



Cal. Civ. Code §§ 1789.30 - 1789.37

Licensing/Registration: Permit required

Exemptions from licensing/registration: (1) State or federally chartered bank, savings association, credit union, or industrial loan company; and (2) retail seller engaged primarily in the business of selling consumer goods that cashes checks or issues money orders for a minimum flat fee not exceeding \$2 incidental to its business.

Disqualifications: Felony conviction involving dishonesty, fraud, or deceit (crime must be substantially related to the qualifications, functions, or duties of a person engaged in the business of check cashing).

Limitations on fees: (1) No more than 3%, with identification (3.5% without) of the face amount of the check, or \$3, whichever is greater, for payroll or government checks; (2) no more than 12% of the face value of personal checks. Fee of not more than \$10 may be charged to set up an initial account, and a replacement optional identification card may be issued for no more than \$5.

Posting of fees: Complete schedule of fees and valid identification must be posted in a conspicuous location in the unobstructed view of the public in letters not less than one-half inch in height.

Deferred deposit: Permitted with specific requirements

Civil penalties: Violation of fee limits incurs civil penalty not to exceed \$2,000 for each violation. Operating without a permit incurs a penalty of not more than \$1,000 for the first offense, and not more than \$5,000 for the second offense. Failure to post required information or imposition of fees or identification requirements contrary to posted information is an unfair business practice under Section 17200 of the Business and Professional Code.

Criminal penalties: Willful violation of law is a misdemeanor; if permit requirement is twice violated, and then violated again within 10 years, check casher is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding \$5,000, or both.

Private right of action: Granted. Injured party can recover damages or obtain an injunction. Treble damages may be recovered but in no case shall the amount awarded be less than the amount paid by the injured party to the licensee. If injured party prevails, reasonable attorney's fees and costs will be rewarded. Punitive damages may be awarded with clear and convincing evidence that breach or violation was willful.

Conn. Gen. Stat. §§ 36a-580 - 36a-589

CONNECTICUT

Licensing/Registration: License required

Exemptions from licensing/registration: Checks, drafts or money orders cashed (1) without consideration or charge; or (2) as an incident to the conduct of any other lawful business where not more than \$.50 is charged for cashing such check, draft, or money order. Also exempt is any institution subject to control by the federal or state government.

Limitations on fees: No more than 1% of the check value if state public assistance check by original payee with reasonable identification; fee limit for other checks set by commissioner of banking.

Posting of license/fees: License must be conspicuously posted.

CONNECTICUT

Del. Code Ann. tit. 5, §§ 2701 - 2745

Licensing/Registration: License required

Exemptions from licensing/registration: Persons that cash checks, drafts, or money orders without charge or as incident to any lawful business where not more than \$.10 is charged. Also exempt are banks organized under federal or state law.

Limitations on fees: No more than 2% of the face amount of a check or money order, or \$4, whichever is greater.

Posting of license/fees: License must be conspicuously displayed, and a schedule of permitted fees and charges must be displayed in every location.

Deferred deposit: Prohibited for check cashers

Criminal penalties: Fine of no more than \$500 or imprisonment for not more than one year, or both.

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Banks, credit unions, trust companies, building and loan associations, and savings and loan associations; (2) the U.S. Postal Service; and (3) any person who cashes checks without consideration or a charge.

Limitations on fees: Fee shall not exceed (1) 5% of the face value of a government or payroll check, (2) 7% of the face value of an insurance check, (3) 10% of the face value of a personal check or money order, or \$4, whichever is greater in each circumstance.

Posting of license/fees: License must be conspicuously displayed. Fees must be conspicuously posted in both English and Spanish.

Deferred deposit: Permitted

Civil penalties: Not more than \$1,000 for each violation of the law; if check casher has been operating without a license, check casher also liable to D.C. government in an amount equal to all license fees that would have been paid.

Fla. Stat. Ann. §§ 560.301 - 560.310

Licensing/Registration: Registration required

Exemptions from licensing/registration: Persons engaged in the cashing of payment instruments, which are incidental to the retail sale of goods or services and whose compensation does not exceed 5% of the total gross income from the retail sale of goods or services during the most recently completed fiscal year.

Disqualifications: Applicant cannot have been convicted of a felony involving moral turpitude, and cannot be the subject of a pending criminal prosecution or government enforcement action.

Limitations on fees: Fees shall not exceed (1) 5% of the face amount of the payment instrument, or 6% without identification, or \$5, whichever is greater; (2) 3% of the face amount of the payment instrument, or 4% without identification, or \$5, whichever is greater, for state public assistance or federal social security benefit checks; and (3) 10% of the face amount of personal checks or money orders.

Posting of registration/fees: Check casher must display registration and post a notice containing charges.

Ga. Code Ann. §§ 7-1-705-7-1-706

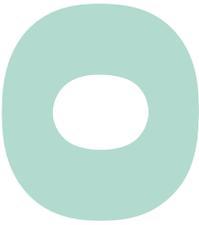
Limitations on fees: Fees shall not exceed (1) 5% of the face amount of the check or draft or \$5, whichever is greater; (2) 3% of the face amount of the check or draft or \$5, whichever is greater, for state public assistance or federal Social Security benefit checks; and (3) 10% of the face amount of the check or money order or \$5, whichever is greater, for personal checks or money orders.

Posting of license/fees: A notice stating the charges for cashing checks must be conspicuously posted.

Deferred deposit: Prohibited unless licensee posts a surety bond.



ILLINOIS



Ill. Comp. Stat. §§ 315/0.01 - 2.

Licensing/Registration: No license/registration required. Check-cashing services can only be offered by a merchant in the course of his business and only as incident thereto.

Limitations on fees: Fees shall not exceed the greater of \$.50 or 1% of the face value of the check cashed.

Ind. Code §§ 28-8-5-1, 28-8-5-25.

INDIANA

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Financial institutions organized under state or federal law; and (2) persons who provide check cashing as incident to the retail sale of goods or services, and consideration does not exceed the greater of 1% of the face amount of the check or \$1.

Disqualifications: License may be refused if applicant has been convicted of a felony.

Limitations on fees: Fees shall not exceed the greater of \$5 or 10% of the face amount of a check, whichever is greater.

Posting of fee: Notice with maximum charges must be conspicuously displayed.

Civil penalties: Penalties are not to exceed \$5,000 per violation. Civil penalties shall be deposited into the financial institution's fund.

Criminal penalties: Violation of check-cashing law constitutes a Class A misdemeanor.

INDIANA

KENTUCKY

Ky. Rev. Stat. Ann. §§368.010 et seq.

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Any bank, trust company, savings and loan association, including a mortgage loan broker or pawn broker, chartered, licensed, or organized under state or federal law; (2) any person who cashes checks without receiving, directly or indirectly, any consideration or fee; and (3) any person principally engaged in the retail sale of goods or services who may cash checks from time to time.

Posting of license and fees: License must be conspicuously posted.

Criminal penalties: Violation of law is a misdemeanor, with a fine of not less than \$100 or more than \$5,000 or imprisonment for not more than 12 months, or both.

La. Rev. Stat. Ann. §§ 6: 423; 27: 322

LOUISIANA

Licensing/Registration: License required

Exemptions from licensing/registration: Limitations on location of check-cashing businesses do not apply to a facility whose fee does not exceed \$1 or 1% of the value of the check, draft, money order, or traveler's check, whichever is greater, and the cashing service is incidental to facility's primary business.

Miscellaneous: A person who has been granted a license to place video draw poker devices in his truck stop cannot cash an identifiable payroll check.

LOUISIANA

Licensing/Registration: Registration required

Exemptions from licensing/registration: (1) A supervised financial organization; (2) a supervised lender; (3) a licensee under the Money Transmitters Act; and (4) a person who is primarily engaged in the business of selling tangible personal property or services at retail and that business does not derive more than 5% of its income from check cashing.

Disqualifications: Criminal activity, fraud or other act of personal dishonesty, a breach of fiduciary duty, or suspension or removal from participation in the conduct of a state or federally regulated business does not necessarily disqualify an applicant.

Limitations on fees: Fees shall not exceed (1) 5% of the face amount of the payment instrument (6% without identification), or \$5, whichever is greater; (2) 3% of the face amount of a state public assistance or federal Social Security benefit check or \$5, whichever is greater; and (3) 10% of the face amount of personal checks or money orders, or \$5, whichever is greater.

Posting of registration/fees: Administrator may require display of registration certificate.

Deferred deposit: Prohibited

Civil penalties: Penalty not to exceed \$5,000 or actual damages, whichever is greater.

Criminal penalties: Carrying on a business without a valid registration constitutes a Class E crime.

Mass. Gen. Laws. Ann. ch 169A §§ 1-13.

MASSACHUSETTS

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Person or entity who cashes checks for a consideration of \$1 or less per item; and (2) any bank, national banking association, federally chartered credit union, savings and loan, or savings bank.

Disqualifications: Applicant not automatically disqualified if officer, director, or member of applicant business has been convicted of or pleaded nolo contendere to a felony; or committed an act involving fraud or deceit, which act is substantially related to the qualifications, functions, or duties of a check casher.

Posting of license/fees: Copy of license and schedule of fees and charges must be prominently displayed in the place of business.

Civil penalties: A violation of check-cashing law constitutes a violation of Chapter 93A.

Criminal penalties: Operation of check-cashing business without a license or violation of regulation punishable by a fine of not more than \$500 or by imprisonment for not more than six months, or both.

Private right of action: Provided

MASSACHUSETTS

Minn. Stat. Ann. §§ 53A.01 - 53A.13

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Bank, trust company, savings bank, savings association, credit union, or industrial loan or thrift company; (2) persons who provide services incidental to the person's primary business if the charge for check cashing does not exceed \$1 or 1% of the value of the check, whichever is greater.

Limitations on fees: Fees to be charged must be filed with and approved by the Commissioner of Commerce.

Criminal penalties: Violation of provision is a misdemeanor.

Private right of action: A person who violates any subdivision is liable to the person damaged by the violation for actual damages, and the court may award reasonable attorney fees and costs.

Miss. Code Ann. Sec. 75-67-501 et seq.

MISSISSIPPI

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Any bank, trust company, savings association, which is chartered under state or federal law; (2) any person who cashes checks at their face value and does not charge the consumer a fee or consideration; and (3) any person principally engaged in the retail sale of goods or services who may from time to time cash checks for a fee or other consideration, not exceeding 3% of the face amount of the check or \$10, whichever is greater.

Disqualifications: Felony conviction in the last 10 years.

Limitations on fees: Fees shall not exceed (1) 3% of the face amount of the check or \$5, whichever is greater, for checks issued by the federal or state government, or any agency or subdivision thereof; (2) 10% of the face amount of the check or \$5, whichever is greater, for personal checks; or (3) 5% of the face amount of the check or \$5, whichever is greater for all other checks, and for money orders.

Posting of license/fees: License and fees must be conspicuously posted in the place of business of the licensee.

Deferred deposit: Permitted

Civil penalties: Shall not exceed \$500 per violation.

Criminal penalties: Operating a check-cashing business without a license, willfully violating any provision of law, or willfully making a false entry in any record required by the law, are each punishable by a fine not in excess of \$1,000 or by confinement in the county jail for not more than one year, or both.

Miscellaneous: "Check" does not include traveler's checks or foreign drawn payment instruments; check casher may not be part of, or located at the same business address with, a pawnshop, title pledge office, or small loan company.



Nev. Rev. Stat. §§ 604.010-604.170

Licensing/Registration: Registration required

Exemptions from licensing/registration: (1) Bank authorized by state or federal law; (2) person licensed to make installment loans; (3) person primarily engaged in retail sale of goods or services who from time to time cashes checks for a fee or other consideration of not more than \$2 and does not hold himself out as a check-cashing service; (4) person while performing act authorized pursuant to chapter 671; (5) person who holds a nonrestricted gaming license; (6) person who is exclusively engaged in a check-cashing service relating to out-of-state checks; and (7) check-cashing service in operation since 7/1/73.

Limitations on fees: Established by regulation by the Commissioner of Financial Institutions.

Posting of registration/fees: Certificate of registration and notice of fees charged must be prominently displayed. Written notice of fees must be given to and signed by customer before check is cashed.

Deferred deposit: Permitted

Civil penalties: To be established by regulation by the Commissioner of Financial Institutions.

Licensing/Registration: License required

Limitations on fees: Fees shall not exceed (1) 2% of the face amount of the check, or \$.90, whichever is greater for cashing check drawn by financial entity or for Aid to Families with Dependent Children (AFDC); (2) 1.5% of the face amount of the check, or \$.90, whichever is greater, for a Supplemental Security Income (SSI) check. Commissioner of Banking has the authority to increase the fees according to set criteria.

Posting of license fees: License must be conspicuously displayed.

Deferred deposit: Prohibited

Civil penalties: Not more than \$1,000 for cashing checks without a license, and not more than \$5,000 for violating act or regulations or aiding and abetting violation.

New York Banking Law §§ 366-374

Licensing/Registration: License required

Exemptions from licensing/registration: Checks cashed by other than licensee (1) without consideration or charge; or (2) as an incident to the conduct of any other lawful business where not more than \$.50 is charged for cashing each check. Also exempt are any national bank or other entities operating under the state banking law.

Qualifications: Conviction of a felony disqualifies an applicant but conviction of a crime or associating with any person who has been convicted of a crime does not automatically disqualify an applicant.

Limitations on fees: Superintendent of banks establishes the maximum check-cashing fees.

Posting of license/fees: License and schedule of fees and charges must be conspicuously and continuously posted.

Deferred deposit: Prohibited

Criminal penalties: Violation of law constitutes a misdemeanor punishable by imprisonment for not more than one year or by a fine of not more than \$500, or both.

N.C. Gen. Stat. §§ 53-275 - 53-289.

**NORTH
CAROLINA**

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Banks, savings institution, or other financial institution organized under state or federal law; (2) any person or entity principally engaged in the bona fide retail sale of goods or services who from time to time cashes checks for a fee of not more than \$2.

Limitations on fees: Fees shall not exceed (1) 3% of the face value of the check or \$5, whichever is greater, for checks issued by federal or state government or their subdivisions; (2) 10% of the face amount of the check or \$5, whichever is greater, for personal checks; and (3) 5% of the face amount of the check, or \$5, whichever is greater, for all other checks and for money orders.

Posting of fees: Notice of fees charged must be conspicuously posted.

Deferred Ddeposit: Permitted

Civil penalties: Shall not exceed \$1,000 per violation. All civil penalties are to be paid to the county school fund.

Criminal penalties: Operation without a license is a Class I felony.

Private right of action: None, but repayment of unlawful or excessive fees paid by customers may be ordered.

NORTH
CAROLINA



OHIO

Ohio Rev. Code Ann. §§ 1315.21 - 1315.30.

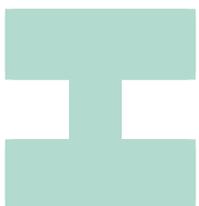
Licensing/Registration: License required

Exemptions from licensing/registration: (1) A licensee under section 1321.01; (2) a registrant under section 1321.51; (3) a financial institution; (4) a person who is primarily engaged in the business of selling tangible personal property or services at retail and does not derive more than 5% of gross income from the cashing of checks; and (5) a person licensed under sections 1315.01 to 1315.11.



Disqualifications: Person has been convicted of, or has pleaded guilty or no contest to a felony.

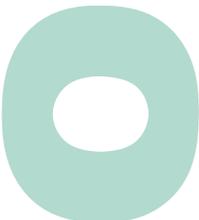
Limitations on fees: Fees or charges shall not exceed 3% of the face amount of a check issued by the state or federal government or any subdivision thereof.



Posting of license/fees: License and schedule of fees and charges must be conspicuously posted.

Deferred deposit: Permitted with separate license

Civil Penalties: Check casher who knowingly violates law pays injured party twice the actual damages suffered.



1998 Act No. 22

PENNSYLVANIA

Licensing/Registration: License required

Exemptions from licensing/registration: Any insured depository institutions and companies licensed by the Department of Banking under designated statutes.

Qualifications: License may be denied if applicant has been convicted of or pled guilty or nolo contendere to a felony, which would warrant such a denial.

Limitations on fees: Fees shall not exceed (1) 2.5% of the face amount of a government assistance check with identification; (2) 3% of the face amount of a payroll check; or (3) 10% of the face amount of a personal check.

Deferred deposit: Prohibited

Civil penalties: Up to \$2,000 for each violation

Criminal penalties: Any person who cashes checks without a license, falsifies a record, or refuses to allow examination or investigation is guilty of a misdemeanor of the third degree.

Private right of action: Any person who willfully violates the law with respect to any consumer is liable to the consumer for an amount equal to three times any actual damages sustained by the consumer as a result of the failure, or the sum of \$250, whichever is greater.

PENNSYLVANIA

RHODE ISLAND

R.I. Gen. Laws §§ 19-14.4-1 - 19-14.4-10.

Licensing/Registration: License required.

Exemptions from licensing/registration: Person who cashes checks incidental to retail sale of goods or services and charges not more than \$.50 per check cashed.

Limitations on fees: Fees shall not exceed (1) 3% of the face amount of the check, or \$5, whichever is greater, if check is for state public assistance or federal Social Security benefit; (2) 10% of the face amount of a personal check, or \$5, whichever is greater; and (3) 5% of the face amount of the check or \$5, whichever is greater, for all other checks.

Posting of fees: Notice stating charges shall be conspicuously posted at all times.

S.C. Code Ann. §§ 34-39-110 et seq.

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Banks, savings institutions, and other financial institutions chartered under state or federal law; and (2) persons principally engaged in the bona fide retail sale of goods or services who from time to time cash checks, drafts, or money orders without a fee or other consideration.

Limitations on fees: No fees shall exceed (1) 2% of the face amount of the check or \$3, whichever is greater, for checks issued by the federal or state government or subdivision thereof and printed payroll checks; and (2) 7% of the face amount of the check, or \$5, whichever is greater, for all other checks, handwritten payroll checks, and money orders.

Posting of license/fees: License must be posted conspicuously.

Deferred deposit: Permitted with separate license

Criminal penalties: A willful violation of law by a person required to obtain a check-cashing license constitutes a Class B misdemeanor.

**SOUTH
CAROLINA**

SOUTH
CAROLINA

Tenn. Code Ann. §§ 45-18-101 - 45-18-121.

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Any bank, trust company, or other financial institution organized under state or federal law; (2) money transmitters licensed under state law; (3) industrial loan and thrift companies holding a certificate of registration; (4) persons who offer a check-cashing service without receiving, directly or indirectly, any consideration or fee; and (5) persons engaged in the cashing of payment instruments, which is incidental to the retail sales of goods and services and whose compensation does not exceed 5% of the gross receipts from the retail sale of goods or services by such person during the most recently completed fiscal year.

Disqualifications: License can be granted, at the discretion of the Commissioner, to a person who has committed a felony.

Limitations on fees: Check-cashing fees shall not exceed (1) 5% of the face amount of the payment instrument or \$5, whichever is greater; (2) 3% of the face amount of the payment instrument, or \$2, whichever is greater, for state public assistance or federal Social Security benefit checks; or (3) 10% of the face amount of the personal check or money order, or \$5, whichever is greater. One-time membership fee not to exceed \$10 can be charged, and maximum fee for a bad check is \$20.

Posting of license/fees: License and notice of charges must be displayed.

Civil Penalties: Not to exceed \$1,000 for each violation of law, implementing regulation, or order.

Criminal penalties: Any person who knowingly and willfully violates the law, and implementing regulation, or an order, commits a Class C misdemeanor. Any person who knowingly or willfully makes a material false statement; knowingly and willfully fails to file required documents; carries on an unauthorized check-cashing business; or obstructs, or endeavors to obstruct a lawful examination of a licensee, commits a Class E felony.

Va. Code Ann. §§ 6.1-432 - 6.1-443.

Licensing/Registration: Registration required

Exemptions from licensing/registration: (1) Any bank, savings institution, or credit union authorized under state or federal law; and (2) any person not operating as a check-cashing service, which is principally engaged in the bona fide retail sale of goods or services, which from time to time cashes items for a fee or other consideration, where charge is not more than \$2 or 2% of the amount of the item, whichever is greater.

Posting of fees: Notice of fees must be conspicuously posted, along with toll-free number and information on how to file a complaint.

Deferred deposit: Prohibited

Civil penalties: Not to exceed \$1,000 for violation of any provisions of the law or implementing regulations.

Criminal penalties: Cashing checks without a license constitutes a Class 1 misdemeanor.

Private right of action: Successful party recovers reasonable attorney's fees, expert witness fees, and court costs.



Licensing/Registration: License required

Exemptions from licensing/registration: (1) Any bank, trust company, or other financial institution; (2) person who cashes checks, drafts, or money orders as a convenience, as a minor part of its customary business, and not for profit; (3) issuance of checks, drafts, money orders, or other commercial paper by any corporation, partnership, association, or agent thereof, where corporation *et al.* has a net worth of not less than \$3 million; and (4) in a circumstance where a total or partial exemption would not be detrimental to the public.

Disqualifications: License may be refused if applicant or key employee or officer has been convicted of a felony or is associating or consorting with any person convicted of a felony.

Posting of license/fees: License and schedule or fees and charges must be conspicuously posted.

Deferred deposit: No loan business allowed for check casher unless it receives a small loan endorsement to its license.

Civil penalties: Failure to comply with the law or order of Director of Financial Institutions is subject to a penalty of not more than \$100 for each offense.

Criminal penalties: Any violation of the law, rules, or orders of the Director is a misdemeanor.

W. Va. Code §32A-3-1 et seq.

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Merchant who derives 5% or less of his/her gross income from cashing checks (check cashing is incidental to retail); (2) federally insured banks and foreign bank agencies; and (3) government entities. Other financial institutions may offer check-cashing service with the written approval of the Commissioner of Banking.

Limitations on fees: Fee charged does not exceed the greater of \$1 or 1% of the face value of the check cashed.

Posting of license/fees: Fees must be posted.

Deferred deposit: Prohibited

Civil penalties: Yes (as set forth in Chapter 46A)

Private right of action: Yes

WISCONSIN

WISCONSIN

Wis. Stat. §218.05

Licensing/Registration: License required

Exemptions from licensing/registration: (1) Federally or state chartered bank, savings and loan, or credit union ; (2) any person engaged in the transporting of bullion, currency et al.; and (3) any retailer who cashes checks incidental to primary business.

Posting of license/fees: License must be conspicuously posted.