

PART VI. CHECK CASHERS

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**CHAPTER 81. CHECK CASHER LICENSING—
STATEMENT OF POLICY**

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Authority

The provisions of this Chapter 81 issued under the Check Casher Licensing Act (63 P. S. §§ 2301—2334), unless otherwise noted.

Source

The provisions of this Chapter 81 adopted May 1, 1998, effective May 2, 1998, 28 Pa.B. 2049, unless otherwise noted.

GENERAL**§ 81.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Act—The Check Casher Licensing Act (63 P. S. §§ 2301—2334).

Department—The Department of Banking and Securities of the Commonwealth.

§ 81.2. Purpose.

(a) The act contains license application requirements, limitations on check casher rates, a prohibition on a licensee cashing postdated checks and examination authority of the Department, among other licensing and enforcement provisions.

(b) This chapter is necessary to provide adequate guidance to the check cashing industry in this Commonwealth regarding licensure, compliance and enforcement issues affecting the conduct of the industry and its interaction with consumers and the Department.

INITIAL LICENSE APPLICATION PROCESS**§ 81.11. Application forms, confidentiality and financial statements.**

(a) A check casher initial application form will be provided to a prospective applicant by the Department. Upon completion and submission of the application by the applicant, the marked pages of the application form will be made available by the Department for public inspection, upon request, under section 304(b)(3) of the act (63 P. S. § 2314(b)(3)). The remaining pages of the application form, regarding financial and other information provided by the applicant, will be deemed confidential by the Department and will not be made available for public inspection, unless otherwise required by law. The Department retains the right to contest or deny a request for the confidential pages of the application form.

(b) The applicant for a check casher license will be requested by the Department to provide financial statements prepared by the applicant or the applicant's accountant.

(c) The financial statements should include a balance sheet and income and expense statement prepared in accordance with generally accepted accounting principles.

(d) The Department may require additional information with the application as provided in section 301(c) of the act (63 P. S. § 2311(c)).

(e) The application forms shall be mailed to the Department as specified in the application instructions that accompany the forms.

§ 81.12. Check cashers in business by April 19, 1998.

(a) *Submission of application by an existing check casher.* For any check casher license application received by the Department from an applicant engaged in the check casher business by April 19, 1998 (existing check casher), the Department will have 60 days from receipt of a complete application to approve or deny the application. Initial applications shall be filed by existing check cashers with the Department by April 18, 1999, but may be filed any time prior to that date at the discretion of the applicant.

(b) *No public comment period.* There is no public comment period applicable to a license application from an existing check casher.

§ 81.13. New check cashers not in business by April 19, 1998.

(a) *Submission of application by a new check casher.* For a license application received by the Department prior to January 1, 1999, from a person who is not engaged in the check casher business by April 19, 1998, (new check casher), the Department will have up to 6 months from receipt to process the application. This statement is consistent with section 1104(a) of the act (63 P. S. § 2334(a)), which provides the Department with the 6 month review period for the new check casher applications. For a license application received by the Department on or after January 1, 1999, the Department will have 60 days from receipt to process the application.

(b) *Publication and public comment.* The new check casher applicant is required to cause notice of the application to be published in a newspaper having general circulation in each community in which the applicant intends to initially locate, under the following conditions:

(1) Once the Department receives, reviews and deems an application form to be complete, the applicant will be notified in writing.

(2) Within 10 days of receipt of the written notification from the Department, the applicant shall have a separate notice of the application published in a newspaper having general circulation in each community in which the applicant intends initially to locate. The form of notice to be published is provided to the applicant with the application forms.

(3) Within 30 days of publication of the notice of application in the required newspaper, the applicant shall provide a copy of the newspaper notice and publisher's affidavit to the Department. The newspaper notice and publisher's affidavit may be provided to the Department either through the applicant or directly from the newspaper.

(4) Failure of the applicant to cause the newspaper notice of the application to be published within the 10 days shall cause the Department to return the application, at which time the Department will terminate the application process and commence the process of returning the application fee to the applicant.

(5) Failure of the applicant to cause to provide a copy of the newspaper notice and publisher's affidavit to the Department within 30 days of publication shall cause the Department to return the application, at which time the Department will terminate the application process and commence the process of returning the application fee to the applicant.

(6) In the case of paragraph (4) or (5), the applicant may refile the application with the Department at which time the entire application process begins anew.

(7) Provided the application has not been returned to the applicant under either paragraph (4) or (5), the following procedure is authorized by section 304 of the act (63 P. S. § 2314). Within 30 days of the date of publication of notice of the application (public comment period), a person may file a notice in protest or in favor of the application (public comment) by submitting two copies of the public comment to the Department. The applicant may request a copy of the public comment and may file with the Department an answer to any public comment by submitting two copies of the answer to the Department within 10 days of the end of the 30-day public comment period.

§ 81.14. Check cashier locations not in existence by April 19, 1998.

(a) *Submission of applications for new locations.* Regardless of whether the check cashier applicant is otherwise licensed or conducting check cashier business at any location in this Commonwealth by April 19, 1998, an applicant may commence a check cashier business at a new location after April 19, 1998 (new location) only upon receipt of a license from the Department for the new location. For an application for a new location received by the Department prior to January 1, 1999, the Department will have up to 6 months from receipt to process the application. This statement is consistent with section 1104(a) of the act (63 P. S. § 2334(a)), which provides the Department with the 6-month review period for the new location applications. For a license application received by the Department on or after January 1, 1999, the Department will have 60 days from receipt to process the application.

(b) *Publication and public comment.* The applicant for a new location is required to cause notice of the application to be published in a newspaper having general circulation in each community in which the applicant intends to initially locate, under the following conditions:

(1) Once the Department receives, reviews and deems an application form to be complete, the applicant will be notified in writing.

(2) Within 10 days of receipt of that written notification from the Department, the applicant shall have a separate notice of the application published in a newspaper having general circulation in the community in which the applicant intends to locate. The form of notice to be published is provided to the applicant with the application forms.

(3) Within 30 days of publication of the notice of application in the required newspaper, the applicant shall provide a copy of the newspaper notice and publisher's affidavit to the Department. The newspaper notice and publisher's affidavit may be provided to the Department either through the applicant or directly from the newspaper.

(4) Failure of an applicant to cause the newspaper notice of the application to be published within the 10 days shall cause the Department to return the application, at which time the Department will terminate the application process and commence the process of returning the application fee to the applicant.

(5) Failure of an applicant to cause to provide a copy of the newspaper notice and publisher's affidavit to the Department within 30 days of publication shall cause the Department to return the application, at which time the Department will terminate the application process and commence the process of returning the application fee to the applicant.

(6) In the case of paragraph (4) or (5), the applicant may refile the application with the Department at which time the entire application process begins anew.

(7) Provided the application has not been returned to the applicant under either paragraph (4) or (5), the following procedure is authorized by section 304 of the act (63 P. S. § 2314). Within 30 days of the date of publication of notice of the application (public comment period), a person may file a notice in protest or in favor of the application (public comment) by submitting two copies of the public comment to the Department. The applicant may request a copy of the public comment and may file with the Department an answer to any public comment by submitting two copies of the answer to the Department within 10 days of the end of the 30 day public comment period.

LICENSE RENEWAL APPLICATION PROCESS

§ 81.31. Renewal.

(a) A license issued by the Department shall be renewed on May 1 of each year upon payment of the annual renewal fee by the applicant, filing by the applicant of a completed renewal application and determination by the Department that the licensee is conducting business in accordance with the act.

(b) Since the Department has 60 days from receipt to process the application, timely issuance of a renewal application is conditioned on the Department receiv-

ing from the applicant the application fee and a renewal application on or before March 1 of each year. No refund of any portion of the license fee will be made if the renewal application is withdrawn or the license is voluntarily surrendered to the Department or suspended or revoked by the Department prior to its expiration date.

§ 81.32. Additional information from applicants for renewal licenses.

The Department may request the filing of additional information to be received by the Department in conjunction with the renewal application. This information will assist the Department in evaluating whether the renewal applicant is financially stable and conducting business in a manner which provides a beneficial check cashing service to the public as stated in section 102 of the act (63 P. S. § 2302). The additional information that the Department requests with the renewal application may include financial statements prepared by the applicant or the applicant's accountant, prepared in accordance with generally accepted accounting principles such as a balance sheet and an income and expense statement.

EXAMINATION AND RECORDS

§ 81.41. Examination of records.

Under sections 104(2) and 506 of the act (63 P. S. §§ 2304(2) and 2326), the Department has authority to examine the records of a check casher and to prescribe the records that will enable the Department to determine whether the check casher is complying with the act. A check casher operating two or more locations may maintain a consolidated or combined set of books and records at its principal office location in this Commonwealth. The books and records should reflect separate figures for each location. The books, accounts and records of the check casher shall be maintained for 5 years under section 506(a) of the act (63 P. S. § 2326(a)) and should be made available to Department examiners. The records should include the following:

(1) *Receipts.* The check casher should maintain a copy of the receipts provided to consumers for each check cashing transaction. The receipts should indicate the name and address of the check casher, transaction date, customer's name, address and type of identification used, item number, date and amount of check cashed, fee charged and the employee's initials. In lieu of placing the customer's name, address and type of identification on the receipt, the check casher may assign an identification number to the customer, if a log is maintained by the check casher at the examination site.

(2) *Daily record of checks cashed.* The check casher should maintain a daily record of all checks cashed which should be reconciled to the deposit records received from each depository used by the check casher.

POSTING NOTICE OF FEES AND CHARGES**§ 81.51. Posting notice of fees and charges.**

Check cashers should post a notice of exact fees and charges, which shall be within the maximum prescribed in the act. The notice should be in plain view and in a location readily apparent to the consumer transacting business at each check casher location.

RESTRICTIONS ON BUSINESS**§ 81.61. Prohibition on cashing certain checks.**

Under section 505(a) of the act (63 P. S. § 2325(a)), a licensee may not cash or advance any money on a postdated check. A written or verbal, express or implied, agreement between the licensee and a customer to delay the processing and presentment of a check, even if the check is not postdated, constitutes a violation of the section 505(a) of the act.

§ 81.62. Report of certain transactions.

(a) Under section 505(b) of the act (63 P. S. § 2325(b)), a licensee shall report to the Department each transaction involving a check drawn on a personal account of the maker which is also payable to the maker in accordance with the Federal money laundering statutes and regulations (including 31 U.S.C.A. § 5316, and 31 CFR 103.11 and 103.22 (relating to meaning of terms; and reports of currency transactions)).

(b) The report shall be forwarded to the Department within 10 days of the transaction and shall include the name and address of the person on whose account the check was drawn and the date of the transaction, and should include the amount of the check.

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(364650) No. 460 Mar. 13

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