

SENATE BILL No. 61

January 23, 2003, Introduced by Senators CLARK-COLEMAN and SWITALSKI and referred to the Committee on Banking and Financial Institutions.

A bill to regulate check cashing businesses; to provide for licensing and fees; to prescribe the powers and duties of certain state agencies and officials; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "check cashing licensing act".

3 Sec. 2. As used in this act:

4 (a) "Applicant" means a person seeking a license under this
5 act.

6 (b) "Check" means a check, draft, money order, food stamp,
7 government warrant, or other instrument for the transmission or
8 payment of money.

9 (c) "Commissioner" means the commissioner of the department.

10 (d) "Department" means the office of financial and insurance
11 services.

1 (e) "Licensee" means a person licensed by the commissioner
2 under this act.

3 (f) "Person" means an individual, partnership, association,
4 corporation, limited liability company, or other legal entity
5 except a governmental agency.

6 Sec. 3. Except as provided in section 4, a person shall not
7 engage in the business of cashing checks for a fee or other
8 consideration without first obtaining a license under this act.

9 Sec. 4. (1) This act does not apply to the cashing of
10 checks by any of the following:

11 (a) A state or national bank or a state or federal credit
12 union, savings and loan association, or savings bank.

13 (b) A department or agency of a state or the United States.

14 (c) A foreign bank agency, as defined by section 1202 of the
15 banking code of 1999, 1999 PA 276, MCL 487.11202.

16 (d) A corporation or limited liability company with offices
17 or franchises in at least 20 states engaged in the business of
18 cashing checks.

19 (2) This act does not apply to the receipt of money by an
20 incorporated telegraph company at an office of the company for
21 immediate transmission by telegraph.

22 Sec. 5. (1) A person seeking a license to engage in the
23 business of cashing checks in this state shall file an
24 application with the commissioner in writing and under oath that
25 includes all of the following:

26 (a) The name and exact address of the applicant and the name
27 and address of 1 of the following:

1 (i) If the applicant is a corporation, its officers and
2 directors.

3 (ii) If the applicant is an association, its officers and
4 directors.

5 (iii) If the applicant is a partnership, its partners.

6 (iv) If the applicant is a limited liability company, either
7 its manager or managers if managed by a manager or managers, or
8 its members.

9 (v) If the applicant is any other legal entity, its manager
10 or other person designated to control the operation of that legal
11 entity.

12 (b) A copy of a certificate of an assumed name, if
13 applicable.

14 (c) One of the following, as applicable:

15 (i) If the applicant is a corporation, a copy of the
16 articles of incorporation and bylaws.

17 (ii) If the applicant is a partnership, a copy of any
18 partnership agreement and partnership certificate.

19 (iii) If the applicant is a limited liability company, a
20 copy of the articles of organization and operating agreement.

21 (iv) If the applicant is an association, a copy of any
22 organizational documents of the association.

23 (2) At the time of filing the application, the applicant
24 shall do all of the following:

25 (a) Pay to the department a nonrefundable license fee of
26 \$300.00 for 1 business location, and \$150.00 for each additional
27 business location.

1 (b) Furnish financial statements to the department, in a
2 form satisfactory to the commissioner, showing the applicant has
3 working capital in excess of \$5,000.00 for each of the
4 applicant's business locations and cash in excess of \$25,000.00.

5 (c) Furnish a \$5,000.00 surety bond for each of the
6 applicant's business locations issued by a bonding company or
7 insurance company authorized to do business in this state and in
8 a form satisfactory to the commissioner, to secure the
9 performance of the obligations of the applicant with respect to
10 the receipt of money in connection with the cashing of checks.

11 (d) File an appointment of the commissioner as the agent for
12 service of process in this state.

13 Sec. 6. After the applicant files the application and
14 complies with section 5(2), the department shall investigate the
15 financial responsibility, financial and business experience, and
16 character and general fitness of the applicant. If the
17 department finds these factors and qualities meet the
18 requirements of this act and reasonably warrant the belief that
19 the applicant's business will be conducted honestly, fairly,
20 equitably, carefully, efficiently, and in a manner commanding the
21 confidence and trust of the community, the commissioner shall
22 issue to the person a license to engage in the business of
23 cashing checks.

24 Sec. 7. On or before January 1 of each year, a licensee
25 shall pay a license renewal fee of \$300.00 for its principal
26 business location, and \$150.00 for each additional business
27 location, and submit a renewal application in the form prescribed

1 by the commissioner. The commissioner shall renew the license
2 if, after considering all relevant factors and any comments or
3 complaints about the licensee, the commissioner determines the
4 licensee is in compliance with this act.

5 Sec. 8. (1) A licensee shall conduct the business of
6 cashing checks only at locations approved by the commissioner.

7 (2) A license issued under this act is not transferable, but
8 with the prior written approval of the commissioner, the licensee
9 may change its name or principal address.

10 Sec. 9. A licensee shall not contract for, receive, impose,
11 assess, or collect a charge or fee for the cashing of a check
12 that exceeds 1 of the following percentages of the face amount of
13 the check, as applicable:

14 (a) Five percent for a payroll, pension, or government
15 check.

16 (b) Seven percent for a check from an insurance company,
17 including, but not limited to, a private health or disability
18 insurance plan payment.

19 (c) Ten percent for a personal check, money order, or other
20 check.

21 Sec. 10. (1) The commissioner shall not deny, suspend, or
22 revoke a license issued under this act before notice is sent to
23 the applicant or licensee setting forth in writing the reasons
24 for the denial, suspension, or revocation. Within 5 days after
25 receipt of the notice, the applicant or licensee may make written
26 demand for a hearing. The commissioner with reasonable
27 promptness shall hear and determine the matter as provided by the

1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
2 24.328. If the applicant or licensee considers itself aggrieved
3 by the order of the commissioner, the applicant or licensee may
4 appeal within 30 days from the date of the order to the circuit
5 court in the manner provided by the administrative procedures act
6 of 1969, 1969 PA 306, MCL 24.201 to 24.328. If an appeal is
7 taken from an order revoking a license, the effect of the order
8 may be stayed by the court pending the final determination of the
9 appeal.

10 (2) The commissioner may conduct investigations and hearings
11 as the commissioner considers necessary to determine whether a
12 licensee or other person has violated this act, or whether a
13 licensee has conducted business in a manner that justifies
14 suspension or revocation of its license.

15 (3) The commissioner may subpoena witnesses, documents,
16 papers, books, records, and other evidence in a matter over which
17 the commissioner has jurisdiction, control, or supervision. The
18 commissioner may administer oaths and affirmations to a person
19 whose testimony is required.

20 Sec. 11. The commissioner shall promulgate rules that are
21 necessary for the administration of this act under the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

24 Sec. 12. A licensee shall maintain accurate and complete
25 books, accounts, and records of its check cashing business in a
26 form satisfactory to the commissioner, and shall preserve the
27 books, accounts, and records for not less than 3 years.

1 Sec. 13. (1) A person who violates this act is guilty of a
2 misdemeanor, punishable by a fine of not more than \$500.00, or
3 imprisonment for not more than 90 days, or both.

4 (2) Each transaction in violation of this act constitutes a
5 separate offense.