

BANKING  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF BANKING

Check Cashing

Proposed Readoption with Amendments: N.J.A.C. 3:24

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8, 17:1-15e, and 17:15A-30 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-89

Submit comments by May 6, 2005 to:

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The agency proposal follows:

**Summary**

The Department of Banking and Insurance (Department) proposes to readopt and amend N.J.A.C. 3:24, which is scheduled to expire on September 30, 2005, pursuant to N.J.S.A. 52:14B-5.1c..

N.J.A.C. 3:24-1 provides definitions of key terms not already defined by N.J.S.A. 17:15A-31 and establishes requirements for applications and licensing fees for check cashers.

N.J.A.C. 3:24-2 requires the applicant for a check cashing license to furnish proof of net worth and liquid assets as required by N.J.S.A. 17:15A-37 and to make their accountant's records available for inspection in New Jersey.

N.J.A.C. 3:24-3 requires the applicant to demonstrate compliance with applicable State, county and municipal laws and ordinances.

N.J.A.C. 3:24-4 sets limits on the type of fees which a licensee may charge for cashing a check, and the location and content of signs which a licensee must post at every location where checks are cashed.

N.J.A.C. 3:24-5 regulates the licensees' conduct of business, including check cashing procedures, recordkeeping, cash reconciliation, deposits and prohibitions on commingling funds or records of the check cashing business with those of other businesses that may, in accordance with N.J.S.A. 17:15A-47e and f, be conducted on the same premises.

N.J.A.C. 3:24-6 sets forth requirements for additional reports to the Commissioner, requires that copies of Currency Transaction Reports be filed with the Commissioner and establishes a fee for filing each such report.

These rules implement many essential provisions of the "Check Cashers Regulatory Act of 1993," N.J.S.A. 17:15A-30 et seq., (Act) and its subsequent amendments. As part of this readoption process, the Department has undertaken a review of N.J.A.C. 3:24 to update the rules as needed. Each rule was examined to determine whether it still fulfills a useful function. The Department has determined that N.J.A.C. 3:24 continues to provide the check cashing industry with appropriate regulatory standards and that the original purpose of each rule continues to exist. The Department is proposing to readopt the rules with the following amendments. The Department proposes to amend N.J.A.C. 3:24-1.6 dealing with information submitted as part of a license application. N.J.A.C. 3:24-1.6 currently requires background documents on corporations, including information on each director, substantial stockholder, officer, owner, partner, manager and employee of the business to be licensed. The Department proposes to extend the

requirement to provide such information for any “limited liability company” or “member,” as its owners are called. These proposed amendments will update this section to take into account that certain licensed entities now use as a form of business a limited liability company and to improve the explanatory language. In addition, N.J.A.C. 3:24-1.6(e) is proposed to be amended to substitute the word “alternate” for “fictitious” in reference to corporate names. This will bring the rule up to date with the current language used in describing the names under which corporations do business.

The Department also proposes a change to N.J.A.C. 3:24-1.6(h) regarding the requirements for applicants seeking approval for change of address of a check cashing location. As set forth in N.J.S.A. 17:15A-41(e), the Act prohibits new check cashing locations from being established closer than 2,500 feet from an existing location. The proposed amendment to N.J.A.C. 3:24-1.6(h) requires the submission of proof of compliance with this statutory requirement when approval for a change of address is sought.

Lastly, the Department proposes to add a new subsection at N.J.A.C. 3:24-1.6(j). The proposed amendment would require that updated information on changes in banking institutions or accounts, license application information, or mobile office locations and mobile office motor vehicle registrations be reported to the Department within five business days of the change.

The Department’s rule proposal provides for a comment period of 60 days, and therefore, pursuant to N.J.A.C. 1:30-3.3(a)5 is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

### **Social Impact**

These rules are designed to promote financial responsibility of licensees and to maintain the integrity of the check cashing industry. An applicant for a check cashers license must demonstrate that he or she possesses a capital or net worth of at least \$50,000 for each office or mobile office and liquid assets of at least \$50,000 for each office or mobile office. Fees permitted to be charged for cashing checks are established by statute. Further, by the proposed amendments, recordkeeping regulations have been tightened. These amendments are designed ultimately to benefit the general public by increasing the public's confidence in the honesty, efficiency and reliability of the services rendered.

Check cashers provide an important financial service to their customers, many of whom are low and moderate income individuals who do not have easy access to traditional banking institutions. The rules proposed for readoption with amendments provide reasonable standards for recordkeeping and the conduct of business and are not overly burdensome. At the same time, the rules proposed for readoption with amendments authorize an appropriate level of Department oversight and control over the licensing, branching and operation of check cashers. The rules proposed for readoption with amendments therefore have a positive social impact.

### **Economic Impact**

The rules proposed for readoption with amendments continue long-standing regulatory requirements with some additions as outlined above. Check cashers will continue to be required to bear any costs associated with recordkeeping and reporting requirements involving applications for licensure and operations. The information required to be filed or maintained is already maintained in the regular course of business of check cashers. Therefore, the rules

proposed for re adoption with amendments will not impose an undue burden on check cashers. The information will continue to permit the Department to monitor an entity's financial solvency and determine its financial position and compliance with applicable law.

The maximum fees charged by licensees for cashing the checks of consumers are established by statute and are set out in the rules. Check cashers will continue to incur professional costs for a C.P.A. or public accountant for an annual financial statement. This cost will vary based on the volume of business and the professional accountant who is retained. This is required by the statute.

Also, license fees, charges imposed for filing required reports and application fees are set out in the rules. They are consistent with the legislative intent of the statute, which is to protect and serve the public interest by permitting check cashing services to be offered by fiscally responsible licensees to the general public at a reasonable cost.

The Department will continue to incur costs to oversee the regulation of check cashers contained in this chapter. The amendments being proposed should have no effect on the Department's costs.

### **Federal Standards Statement**

The rules proposed for re adoption with amendments are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

### **Jobs Impact**

The Department does not anticipate that any jobs will be lost or gained as a result of the rules proposed for re adoption with amendments.

The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed readoption with amendments together with their written comments on other aspects of this proposal.

### **Agriculture Industry Impact**

The Department does not expect any agriculture industry impact from the rules proposed for readoption with amendments.

### **Regulatory Flexibility Analysis**

Most check cashers are small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-1 et seq. These rules impose recordkeeping, reporting and compliance requirements on all applicants and licensees, and are necessary both to meet statutory mandates and to monitor compliance with the rules. Recordkeeping requirements, in addition to those spelled out in N.J.S.A. 17:15a-30 et seq., include a Summary of Business Record, return items record, and daily cash reconciliation. Funds and records of the check cashing business are required to be kept separate from funds and records of other permissible businesses conducted on the same premises. No differentiation is made for small businesses because the check cashing activities, fees collected and procedures are the same for small as well as large businesses, and the need for Department examiners to monitor all of these factors is the same for all check cashers. The purpose of these requirements is to maintain the integrity of the check cashing industry, to promote healthy competition and to provide services to the general public. Licensees will incur professional expenses to comply with the recordkeeping and auditing requirements of these rules; however, these expenses are not believed to be prohibitive and are necessary to

insure the financial integrity of the check cashing businesses, as well as the protection of the public. Professional expenses are discussed in the Economic Impact above.

### **Smart Growth Impact**

The rules proposed for readoption with amendments will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:24.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

3:24-1.6 Application process; requirements

(a) (No change.)

(b) In addition to the information required to be furnished to the Department by N.J.S.A. 17:15A-33 through 39, the applicant shall supply the following as part of its application for each director, substantial stockholder, officer, owner, partner, **member**, manager and employee of the business to be licensed:

1. - 6. (No change.)

(c) Corporate applicants for a check cashing license shall submit a copy of the Certificate of Incorporation showing the filed or recording stamp of the New Jersey Department

of Treasury, Division of Revenue, and shall identify the registered agent for service of process. Foreign corporations shall submit a New Jersey Certificate of Authority in addition to **their** corporate certificate. **A limited liability company shall submit a filed copy of its operating agreement.**

(d) (No change.)

(e) Corporations using [fictitious] **alternate** names shall file a copy of registration of such name, as recorded, as part of their applications, in addition to the documents listed in (c) above.

(f) – (g) (No change.)

(h) Applicants seeking approval of change of address shall submit:

1. - 2. (No change.)

3. A copy of the executed lease; [and]

4. Necessary permits, variances or other documentation sufficient to demonstrate that the facility is in compliance with all applicable State, county and municipal laws, ordinances and traffic regulations[.]; **and**

**5. Proof of compliance with N.J.S.A. 17:15A-41(e) regarding the requirement that no office or mobile office shall be located within 2,500 feet of an existing office or mobile office.**

(i) (No change.)

**(j) Changes in bank accounts and banking institution information supplied to the Department pursuant to N.J.S.A. 17:15A-44(f) and (g), information submitted as part of an application as set forth in (b) above or the New Jersey motor vehicle registration or other identification of a mobile office and the exact locations where any mobile office unit**



**will be operated, shall be reported in writing to the Department within five business days of the change in the information or commencing operation at a new location.**

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