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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 460 Session of  
2015

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INTRODUCED BY ROSS AND GINGRICH, FEBRUARY 12, 2015

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REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 12, 2015

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AN ACT

1 Amending the act of February 18, 1998 (P.L.146, No.22), entitled  
2 "An act regulating the check-cashing industry; providing for  
3 the licensing of check cashers, for additional duties of the  
4 Department of Banking and for certain terms and conditions of  
5 the business of check cashing; and providing penalties for  
6 money-laundering activities and violations of the act,"  
7 further providing for definitions, for authority of  
8 department, for conditions for licensing and for fees and  
9 charges; providing for recovery of losses due to fraudulent  
10 misrepresentation; and making editorial changes.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. The title of the act of February 18, 1998  
14 (P.L.146, No.22), known as the Check Casher Licensing Act, is  
15 amended to read:

AN ACT

17 Regulating the check-cashing industry; providing for the  
18 licensing of check cashers, for additional duties of the  
19 Department of Banking and Securities and for certain terms  
20 and conditions of the business of check cashing; and  
21 providing penalties for money-laundering activities and  
22 violations of the act.

1 Section 2. The definitions of "department" and "licensee" in  
2 section 103 of the act are amended and the section is amended by  
3 adding definitions to read:

4 Section 103. Definitions.

5 The following words and phrases when used in this act shall  
6 have the meanings given to them in this section unless the  
7 context clearly indicates otherwise:

8 \* \* \*

9 "Department." The Department of Banking and Securities of  
10 the Commonwealth.

11 "Government assistance check." A check issued by the Federal  
12 Government or State government on a continuing periodic basis by  
13 a government agency for the payment to the recipient payee of  
14 Federal or State assistance, Social Security, workers'  
15 compensation, unemployment compensation, railroad retirement  
16 benefits, veterans benefits or housing assistance.

17 "Government check." A check issued by the Federal  
18 Government, State government or local government other than a  
19 government assistance check.

20 "Licensee." A check casher licensed by the Department of  
21 Banking and Securities to engage in the business of cashing  
22 checks at a fixed location or by means of a mobile unit.

23 \* \* \*

24 Section 3. Sections 104 and 304(a) of the act are amended to  
25 read:

26 Section 104. Authority of department.

27 (a) Authority.--The department shall have the authority to:

28 (1) Issue rules, regulations and orders as may be  
29 necessary for the administration and enforcement of this act.

30 (2) Examine any check, document, account, book, record

1 or file relating to a check casher's business or operation  
2 during regular business hours at the check casher's principal  
3 office or to make such other investigation as may be  
4 reasonably necessary to administer and enforce this act.

5 (3) Conduct administrative hearings on any matter  
6 pertaining to this act, issue subpoenas to compel the  
7 attendance of witnesses and the production of checks,  
8 documents, accounts, books and records at any such hearing,  
9 which may be retained by the department until the proceedings  
10 are completed, and administer oaths and affirmations to any  
11 person whose testimony is required. In the event a person  
12 fails to comply with a subpoena issued by the department or  
13 to testify on any matter concerning which that person may be  
14 lawfully interrogated, on application by the department the  
15 Commonwealth Court may issue an order requiring the  
16 attendance and testimony of such person and requiring the  
17 production of checks, documents, accounts, books and records  
18 or may institute contempt of court penalties.

19 (b) Limitation.--The department may not require retail food  
20 stores which must register with the department to register with  
21 the National Mortgage Licensing System.

22 Section 304. Conditions for licensing.

23 (a) Conditions for license.--

24 (1) Except as provided in subsection (b), if the  
25 department finds that the financial responsibility,  
26 experience, character and general fitness of the applicant  
27 warrants the conclusion that the business will be operated  
28 honestly and fairly within the purpose of the act, the  
29 department shall issue a check-casher license in accordance  
30 with this act.

1 (2) A license shall be issued for the business location  
2 specified in the application only and for mobile units to the  
3 site or sites specified.

4 (3) Check cashers shall post a notice of exact fees and  
5 charges, which shall be within the maximum prescribed in this  
6 act. The notice shall be in plain view and in a location  
7 readily apparent to the consumer transacting business at each  
8 check-casher location.

9 \* \* \*

10 Section 4. Section 503(a) and (e) of the act, amended  
11 December 9, 2002 (P.L.1546, No.200), are amended to read:  
12 Section 503. Fees and charges.

13 (a) Allowable fees.--The licensee or any person subject to  
14 any provision of this act may collect the following fees for  
15 cashing a check:

16 (1) A sum not exceeding [2.5%] 1.5% of the face amount  
17 of a government [assistance] check or 0.5% of the face amount  
18 of a government assistance check, provided the payee submits  
19 valid identification in the form of a driver's license, an  
20 identification card issued by the Department of  
21 Transportation or the equivalent; or

22 (2) A sum not exceeding 3% of the face amount of a  
23 payroll check.

24 (3) A sum not exceeding 10% of the face amount of a  
25 personal check.

26 \* \* \*

27 [(e) Definition.--As used in this section, the term  
28 "government assistance check" means a check issued on a  
29 continuing periodic basis by a government agency for payment to  
30 the recipient payee of Federal or State assistance, Social

1 Security, workers' compensation, unemployment compensation,  
2 railroad retirement benefits or veterans' disability.]

3 Section 5. The act is amended by adding a section to read:

4 Section 510. Recovery of losses due to fraudulent  
5 misrepresentation.

6 In the case where a check casher entails financial loss due  
7 to the theft of a government check or government assistance  
8 check, payroll check or personal check due to fraudulent  
9 misrepresentation by a customer, the customer shall be liable to  
10 the check casher for an amount equal to three times any actual  
11 face value of the check or three times any actual damage  
12 sustained by the check casher as a result of the fraudulent  
13 misrepresentation, whichever is greater.

14 Section 6. Section 1101 of the act, amended December 9, 2002  
15 (P.L.1546, No.200), is amended to read:

16 Section 1101. Applicability.

17 This act shall not apply to any insured depository  
18 institution or affiliate or service corporation of any  
19 depository institution supervised or regulated by the Department  
20 of Banking and Securities, the National Credit Union  
21 Administration, the Office of Thrift Supervision, the Federal  
22 Deposit Insurance Corporation, the Comptroller of the Currency  
23 or the Board of Governors of the Federal Reserve or the Federal  
24 Reserve Banks. It also shall not apply to companies licensed by  
25 the Department of Banking and Securities under the act of April  
26 8, 1937 (P.L.262, No.66), known as the Consumer Discount Company  
27 Act, the act of September 2, 1965 (P.L.490, No.249), referred to  
28 as the Money Transmission Business Licensing Law, unless  
29 conducting activities regulated by this act, [the act of  
30 December 12, 1980 (P.L.1179, No.219), known as the Secondary

1 Mortgage Loan Act, and] the act of December 22, 1989 (P.L.687,  
2 No.90), known as the Mortgage Bankers and Brokers and Consumer  
3 Equity Protection Act, and 7 Pa.C.S. Ch. 61 (relating to  
4 mortgage loan industry licensing and consumer protection) in the  
5 normal course of business with specific relation to lending  
6 transactions and when engaged in the activities regulated under  
7 these acts. It also shall not apply to a retail food store  
8 licensed as a food establishment, as defined in [section 2 of  
9 the act of July 7, 1994 (P.L.421, No.70), known as the Food  
10 Act,] 3 Pa.C.S. § 5702 (relating to definitions) or a retail  
11 food store licensed as a public eating or drinking place, as  
12 defined in [section 1 of the act of May 23, 1945 (P.L.926,  
13 No.369), referred to as the Public Eating and Drinking Place  
14 Law,] 3 Pa.C.S. § 5702 that receives less than 1% of its annual  
15 gross revenue from cashing checks. A retail food store location  
16 must register annually with the department, and the provisions  
17 of sections 301(b)(4), 304(c)(3), 503, 507 and 509 shall apply  
18 to such a business entity. Each retail food store location shall  
19 provide the department with the company name, address and  
20 telephone number on a form prescribed by the department and a  
21 \$100 annual registration fee. Upon request, a retail food store  
22 location shall demonstrate to the satisfaction of the department  
23 that it receives less than 1% of its annual gross income revenue  
24 from cashing checks.

25 Section 7. Section 1103 of the act is amended to read:  
26 Section 1103. Disposition of funds.

27 All moneys received by the Treasury Department from the  
28 Department of Banking and Securities from fees, fines,  
29 assessments, charges and penalties, collected or recovered from  
30 check cashers pursuant to the provisions of this act shall be

1 deposited in the Banking [Department] Fund.

2 Section 8. This act shall take effect in 60 days.