

No. 2002-200

AN ACT

SB 460

Amending the act of February 18, 1998 (P.L.146, No.22), entitled "An act regulating the check-cashing industry; providing for the licensing of check cashers, for additional duties of the Department of Banking and for certain terms and conditions of the business of check cashing; and providing penalties for money-laundering activities and violations of the act," further providing for license terms and fees, for fees and charges and for applicability.

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

Section 1. Sections 302(b), 503, 509 and 1101 of the act of February 18, 1998 (P.L.146, No.22), known as the Check Casher Licensing Act, are amended to read:

Section 302. License terms and fees.

* * *

(b) **[Renewal fee.—On or before March 1 of every year, a licensee shall apply for license renewal on a form provided by the department and pay a renewal fee of \$350 for each fixed location or mobile unit. The department shall renew the license if the licensee is in compliance with the provisions of this act.] License renewal.—On May 1 of each year, upon payment of an annual renewal fee of \$350 for each fixed location or mobile unit, the department shall renew the license if the licensee is in compliance with the provisions of this act.**

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Section 503. Fees and charges.

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

(1) A sum not exceeding 2.5% of the face amount of a government assistance check, provided the payee submits valid identification in the form of a driver's license, an identification card issued by the Department of Transportation or the equivalent; or

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

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

(b) New customer fee.—Notwithstanding anything in this section to the contrary, the licensee *or any person subject to any provision of this act* may charge an initial fee not to exceed \$10 to a new customer to cover the cost of investigating the customer's credit.

(c) Receipt of transaction.—The licensee *or any person subject to any provision of this act* shall provide a receipt of the transaction.

(d) Other goods and services.—

(1) The licensee *or any person subject to any provision of this act* shall not require consumers to purchase other goods or services in order to cash a check.

(2) Nothing in this section shall prevent [licensees] *a licensee or any person subject to this act* from offering additional goods and services.

(e) Definition.—As used in this section, the term “government assistance check” means a check issued on a continuing periodic basis by a government agency for payment to the recipient payee of Federal or State assistance, Social Security, workers’ compensation, unemployment compensation, railroad retirement benefits or veterans’ disability.

Section 509. Private remedy.

(a) Liability.—Any person who willfully violates any provision of this act with respect to any consumer is liable to the consumer for an amount equal to three times any actual damage sustained by the consumer as a result of the failure or the sum of \$250, whichever is greater.

(b) Recovery of costs.—In the case of any successful action to enforce liability under subsection (a), the consumer shall recover from the licensee *or any person subject to this act* the costs of the action, together with a reasonable attorney fee as determined by the court.

Section 1101. Applicability.

This act shall not apply to any insured depository institution or affiliate or service corporation of any depository institution supervised or regulated by the Department of Banking, the National Credit Union Administration, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Comptroller of the Currency or the Board of Governors of the Federal Reserve or the Federal Reserve Banks. It also shall not apply to companies licensed by the Department of Banking under the act of April 8, 1937 (P.L.262, No.66), known as the Consumer Discount Company Act, the act of September 2, 1965 (P.L.490, No.249), referred to as the Money Transmission Business Licensing Law, unless conducting activities regulated by this act, the act of December 12, 1980 (P.L.1179, No.219), known as the Secondary Mortgage Loan Act, and the act of December 22, 1989 (P.L.687, No.90), known as the Mortgage Bankers and Brokers Act, in the normal course of business with specific relation to lending transactions and when engaged in the activities regulated under these acts. *It also shall not apply to a retail food store licensed as a food establishment, as defined in section 2 of the act of July 7, 1994 (P.L.421, No.70), known as the Food Act, or a retail food store licensed as a public eating or drinking place, as defined in section 1 of the act of May 23, 1945 (P.L.926, No.369), referred to as the Public Eating and Drinking Place Law, that receives less than 1% of its annual gross revenue from cashing checks. A retail food store location must register annually with the department, and the provisions of sections 301(b)(4), 304(c)(3), 503, 507 and 509 shall apply to such a business entity. Each retail food store location shall provide the department with the company name, address*

and telephone number on a form prescribed by the department and a \$100 annual registration fee. Upon request, a retail food store location shall demonstrate to the satisfaction of the department that it receives less than 1% of its annual gross income revenue from cashing checks.

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

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER