

No. 2016-45

AN ACT

SB 489

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 definitions, for authority of department, for conditions for licensing and for fees and charges; and providing for recovery of losses due to theft and fraudulent misrepresentation.

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

Section 1. The definition of "department" in section 103 of the act of February 18, 1998 (P.L.146, No.22), known as the Check Casher Licensing Act, is amended to read:

Section 103. Definitions.

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

* * *

"Department." The Department of Banking *and Securities* of the Commonwealth.

* * *

Section 2. Sections 104 and 304(a) of the act are amended to read:

Section 104. Authority of department.

(a) *General rule.*—The department shall have the authority to:

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

(2) Examine any check, document, account, book, record or file relating to a check casher's business or operation during regular business hours at the check casher's principal office or to make such other investigation as may be reasonably necessary to administer and enforce this act.

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

(b) Limitation.—*The department may not require retail food stores, which must register with the department, to register with the Nationwide Multistate Licensing System and Registry.*

Section 304. Conditions for licensing.

(a) Conditions for license.—

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

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

(3) Check cashers shall post a notice of exact fees and charges, which shall be within the maximum prescribed in this act. The notice shall be posted in plain view and in a location readily apparent to a consumer transacting business at each business location or site specified in the application.

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Section 3. Section 503(a) and (e) of the act, amended December 9, 2002 (P.L.1546, No.200), are amended to read:

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%] 1.5%** of the face amount of a government **[assistance] check or 0.5% 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.

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(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.] Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

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

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

Section 4. The act is amended by adding a section to read:

Section 510. Recovery of losses due to theft and fraudulent misrepresentation.

If a check casher sustains financial loss due to:

(1) theft by a customer of a government check or government assistance check as those terms are defined in section 503(e), payroll check or personal check; or

(2) fraudulent misrepresentation by a customer,
the customer shall be liable to the check casher for an amount equal to three times any actual face value of the check or three times any actual damage sustained by the check casher as a result of the theft or fraudulent misrepresentation, whichever is greater.

Section 5. This act shall take effect in 60 days.

APPROVED—The 17th day of June, A.D. 2016

TOM WOLF