

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Banking
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

CONCISE EXPLANATORY STATEMENT

Banking Regulation 8 – Check Cashers

The Department of Business Regulation (“Department”) hereby adopts amendments to Banking Regulation 8 effective June 11, 2015 and makes this statement in accordance with R.I. Gen. Laws § 42-35-2.3. The Department makes these amendments in order to consolidate regulations relating to Check Cashers. There is one difference between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-3 and the rule as adopted. Those differences are:

In response to a comment received, the Department added language to the Scope section clarifying that authorized financial institutions and credit unions are exempt from licensure as check cashers but are authorized to cash checks.

Attached is the proposed regulation showing the difference between the proposed text and regulation as adopted.

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BANKING REGULATION 8

CHECK CASHERS

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Section 1 Authority

This regulation is promulgated pursuant to the authority granted in R.I. Gen. Laws § 19-14.4-3.

Section 2 Scope

This regulation applies to check cashers licensed or required to be licensed pursuant to R.I. Gen. Laws § 19-14.4-1 *et seq.* Financial institutions, credit unions, and other insured-deposit-taking institutions which are authorized to do business in Rhode Island including one authorized to do business by operation of an interstate banking statute which allowed its original entry, are not considered check cashers for purposes of R.I. Gen. Laws § 19-14.1 but are authorized to cash checks.

Section 3 Purpose

The purpose of this regulation is to set forth procedures to carry out the provisions of R.I. Gen. Laws §§ 19-14.4-1 *et seq.* entitled "Check Cashing". The actions and information required by this regulation are hereby declared to be necessary and appropriate in the public interest.

Section 4 Definitions

As used in this Regulation:

- A. "Cash sheet" means a daily record of transactions of cash and cash items at the licensed location which shall include, but not be limited to, opening and closing balances.
- B. "Liquid assets" means cash on hand, cash in bank, checks on hand not previously dishonored and marketable securities owned by the licensee, less any loans payable on demand or loans payable within one (1) year or less and any accounts payable by the licensee.

Section 5 Applications

A. Application. All licensees shall make application for a license through the National Mortgage Licensing System (NMLS). Any changes to the information provided in the application must be reported to the Department, within thirty (30) days through an NMLS filing.

B. Interpretation of Community. The Director, in reviewing an application for a license to cash checks shall consider the proposed licensee's community, as required by R.I. Gen. Laws § 19-14.4-2, to include the community as proposed by the applicant in its application or business plan, which community in no event shall be less than a one (1) mile geographic radius of the proposed location.

C. Qualified Individual or Branch Manager. All such persons must have at least five (5) years' experience in check cashing including, without limitation, employment, supervision, or independent work experience. Factors to be considered when assessing the quality of an individual's experience shall include the number, complexity and types of transactions handled in relation to the type of license sought by the application. The Department, will consider experience for a lesser period than five (5) years depending on individual circumstances. Factors which the Department shall consider for such a lesser experience period include but are not limited to the individual's educational experience, the complexity of transactions in relation to the type of license sought by the application and the supervision and oversight over the manager or person designated to operate the licensed business by a person having at least five (5) years of qualified experience.

D. Criminal Background Checks

All officers, directors, owners of 10% or more, Qualified Individuals and Branch Managers must submit the following information to the Division **by mail**

1. An Original and Completed Authorization for Background Check and Release form in the form provided on NMLS;
2. A copy of the individual's valid photo Id, such as an unexpired driver's license or passport;
3. Two (2) completed fingerprint cards (the Division does not provide cards);

4. An Original Certification of Fingerprinting by other agencies form in the form provided on NMLS; and

5. A check in the amount of \$35 per individual made payable to “BCI” for the cost of the background check

E. Change in Ownership

Any change in ownership of twenty-five percent (25%) or more of the voting stock or equity interests of a licensee requires notification to the Department fifteen (15) days after such a change in ownership. With the notice of a change in ownership to the Department, the licensee shall submit information in substantially the same form as a new application relating to the new owner(s) and new directors, officers and managers, including names, addresses and personal background information. If the new owner(s) and new directors, officers and managers have the financial responsibility, experience, character and general fitness as required of an applicant, the Department shall approve such change in control. The Department shall approve or deny such a change in control within thirty (30) days of receipt of all information the Department requires to be filed to make such a determination.

F. Advertising

Each licensee shall include in all advertisements disseminated primarily in Rhode Island words substantially similar to "Rhode Island Licensed Check Casher."

Section 6 **Check Casher Requirements**

A. Security Measures

Every licensee shall provide for the safety and security of its customers and its employees by complying with the following security measures:

1. Install an alarm system that when activated automatically signals either the local police department or a licensed security company, if licensing is required by law, ordinance, rule or regulation. The alarm system must include panic buttons at strategically placed inconspicuous locations within the licensed location.

2. Install a camera surveillance system to monitor the activities of employees and customers at the licensed location.

3. Install bullet proof glass and partitions that meet or exceed Underwriters Laboratories Level II ballistics standards at all check cashing stations, transaction windows, counters and similar areas where the exchange of funds, checks, money orders and other transactions take place. Applicants and licensees are required to provide sufficient documentation such as contractor certification or building inspector certification that such structures and areas meet these requirements. Underwriters Laboratories Level II ballistics standards partitions must extend from floor to ceiling and

be constructed in a manner to not allow an individual to breach such partition to gain access to the check cashing area provided, however, that a reasonably lower partition is allowable if the entire transaction area, including the top portion, is enclosed by such materials.

4. Adopt and implement a security program that provides for a schedule of inspecting, testing and servicing of the security devices installed at the licensed location. Each licensee shall maintain records of each inspection, testing and servicing of the security devices.

B. Liquid Assets

Every licensee shall maintain liquid assets of at least ten thousand dollars (\$10,000) at all times at the licensed location.

C. Cash Sheets

Every licensee shall prepare daily cash sheets for each day's business reflecting all transactions for that day. The cash sheets must be balanced and settled prior to the opening of the next day's business. Cash sheets must record the beginning and ending numbers of money orders issued each day. A closing cash count must be performed which includes all cash and cash items.

D. Log Sheet and Inventory Items

Every licensee shall maintain a written log indicating each transaction, including the amount, for the following:

1. money orders, travelers checks or checks sold or issued;
2. food stamps issued; and
3. utility payments accepted.

E. Dishonored Checks

Every licensee shall maintain a register of all checks, money orders, or drafts that have been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority or represent the proceeds of illegal activity, after having been advised of such by the payor financial institution. The register shall contain, to the extent available, the following, if applicable:

1. date the licensee was advised by the payor institution;
2. the amount of the item;

3. the payee;
4. the name of the payor institution;
5. the item number and date; and
6. the reason for dishonor.

The licensee shall notify the police department in the city or town in which the office of the licensee where the check was cashed is located of the dishonored check, pursuant to statute.

F. Currency and Foreign Transactions Reporting

Every licensee must maintain and comply with Title 31, Code of Federal Regulations, Part 103, as amended, entitled "Financial Recordkeeping and Reporting of Currency and Foreign Transactions." Any records maintained or reports filed pursuant to these federal regulations shall be maintained at the licensed location for at least five (5) years.

G. Inventory and reconciliation

Inventory and reconciliation records relating to money order, travelers checks, other checks, and food stamps issued or sold.

H. Altered Checks

A register of all checks, money orders, or drafts, that have been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or which represent the proceeds of illegal activity, after having been advised as such by the payor financial institution.

I. Money Laundering

A copy of the licensee's written policy and affirmative program to insure compliance with state and federal money laundering statutes

J. Charges

A conspicuously posted notice stating the charges for cashing checks.

K. Financial Statements

A financial statement, prepared at a minimum on a quarterly basis, which evidences compliance to applicable statutory net worth requirements.

Section 7 Severability

If any provision of this regulation or the application thereof to any person or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

Section 8 Effective Date

This regulation is effective as indicated below.

EFFECTIVE DATE: June 11, 2015