

CHAPTER 24
CHECK CASHING

Authority

N.J.S.A. 17:1-8, 17:1-15e, 17:1C-33 et seq. and 17:15A-30 et seq.

Source and Effective Date

R.2005 d.191, effective May 25, 2005.
See: 37 N.J.R. 697(a), 37 N.J.R. 2201(a).

Chapter Expiration Date

Chapter 24, Check Cashing, expires on May 25, 2010.

Chapter Historical Note

Chapter 24, Check Cashing, was adopted as R.1984 d.345, effective August 20, 1984. See: 16 N.J.R. 186(b), 16 N.J.R. 2264(b).

Pursuant to Executive Order No. 66(1978), Chapter 24, Check Cashing, was readopted as R.1989 d.486, effective August 18, 1989. See: 21 N.J.R. 1765(a), 21 N.J.R. 2956(a). Pursuant to Executive Order No. 66(1978), Chapter 24 expired on August 18, 1994.

Chapter 24, Check Cashing, was adopted as new rules by R.1995 d.189, effective April 3, 1995. See: 26 N.J.R. 4863(b), 27 N.J.R. 1442(c).

Pursuant to Executive Order No. 66(1978), Chapter 24, Check Cashing, was readopted as R.2000 d.177, effective April 3, 2000. See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

Chapter 24, Check Cashing, was readopted as R.2005 d.191, effective May 25, 2005. See: Source and Effective Date. See, also, section annotation.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 3:24-1.1 Purpose
- 3:24-1.2 Scope
- 3:24-1.3 Definitions
- 3:24-1.4 Application fees
- 3:24-1.5 Application process; requirements
- 3:24-1.6 (Reserved)

SUBCHAPTER 2. FINANCIAL RESPONSIBILITY

- 3:24-2.1 Proof of net worth; records

SUBCHAPTER 3. PLACE OF BUSINESS

- 3:24-3.1 Compliance with State and local law

SUBCHAPTER 4. CHECK CASHING FEES; POSTING

- 3:24-4.1 Returned check fee; prohibition
- 3:24-4.2 Posting of fees; signs

SUBCHAPTER 5. CONDUCT OF BUSINESS

- 3:24-5.1 Check cashing procedure
- 3:24-5.2 Recordkeeping
- 3:24-5.3 Return items record
- 3:24-5.4 Daily cash reconciliation
- 3:24-5.5 Deposits
- 3:24-5.6 Dual business and deposit record requirements
- 3:24-5.7 Prohibitions

SUBCHAPTER 6. ADDITIONAL REPORTS

- 3:24-6.1 Annual report
- 3:24-6.2 Additional reports

SUBCHAPTER 1. GENERAL PROVISIONS

3:24-1.1 Purpose

The purpose of this chapter is to implement and to augment the requirements of N.J.S.A. 17:15A-30 et seq., "The Check Cashers Regulatory Act of 1993."

3:24-1.2 Scope

These rules are applicable to all licensed check cashers and applicants for licensure.

3:24-1.3 Definitions

Words and terms, when used in this chapter, shall have the meanings as defined below, unless the context clearly indicates otherwise.

"Act" means N.J.S.A. 17:15A-30 et seq., "The Check Cashers Regulatory Act of 1993."

"Appropriate documentation" means a corporate resolution filed with the Secretary of State, Federal taxpayer identification number, filed New Jersey Certificate of Authority, filed trade-name certificate or other readily verifiable official document.

"Cash" (cashing a check) includes both the exchange of money for the presentment of a check, and the acceptance of a replacement check for one which has been returned for insufficient funds.

"Commissioner" means the Commissioner of Banking and Insurance.

"Consideration" means, but is not limited to, a requirement by the check casher that a person make a purchase or otherwise patronize a business operated by the check casher in order to cash a check at the check cashing establishment, or a returned check charge imposed by a bank.

"Department" means the Department of Banking and Insurance.

"Disabled person" means, for the purpose of these rules, a person whose disability either temporarily or permanently prevents him from going into a check cashing establishment for the purpose of cashing a check.

"Essential records" includes all records listed in N.J.S.A. 17:15A-441 and m; N.J.A.C. 3:24-5.3(a); and all corporate resolutions.

“Insolvent” means that the check cashing licensee cannot or does not pay his or her debts as they become due in the normal course of business, or his or her financial statement indicates that the licensee has a negative net worth.

“Payday loan” means an agreement to defer the presentment of a negotiable item, or defer the deposit of an item for collection, or defer debiting the borrower’s account electronically or by any other means, in return for a consideration or other thing of value where the rate, fee or other consideration charged for such forbearance exceeds the “maximum rate permitted by law” as that phrase is used in N.J.S.A. 2C:21-19. “Payday loan” shall include, but not be limited to, such loans made.

1. In person
2. Through an agent
3. By electronic means (including telephone, fax, computer, internet or similar means); or
4. Through response to an advertisement or solicitation made in this State.

“Person” includes corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, unless the context clearly indicates otherwise.

“Refund anticipation loan” means an agreement to lend a borrower funds, or to extend any other consideration to a borrower, in return for a promise by the borrower to repay the loan or other consideration that includes an assignment of the borrower’s Federal and/or state tax refund, where the rate, fee or other consideration charged for such forbearance exceeds the “maximum rate permitted by law” as that phrase is used in N.J.S.A. 2C:21-19. “Refund anticipation loan” includes, but is not limited to, such loans made:

1. In person
2. Through an agent
3. By electronic means (including telephone, fax, computer, internet or similar means); or
4. Through response to an advertisement or solicitation made in this State.

“Title loan” means an agreement to lend a borrower funds, secured by a title to a motor vehicle, which loan is in return for a consideration or other thing of value where the rate, fee or other consideration for such forbearance exceeds the “maximum rate permitted by law” as that phrase is used in N.J.S.A. 2C:21-19. “Title loan” shall include, but not be limited to, such loans made:

1. In person;
2. Through an agent;

3. By electronic means (including telephone, fax, computer, internet or similar means); or

4. Through response to an advertisement or solicitation made in this State.

Amended by R.2000 d.177, effective May 1, 2000.

See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

Inserted “Commissioner” and “Department”.

Amended by R.2006 d.329, effective September 18, 2006.

See: 37 N.J.R. 2917(a), 38 N.J.R. 3773(a).

Rewrote the introductory paragraph and added definitions “Payday loan”, “Refund anticipation loan” and “Title loan”.

3:24-1.4 Application fees

(a) An application fee of \$700.00 shall be charged for the following:

1. Application for a principal office;
2. Application for a full branch office;
3. Application for a limited branch office; and
4. Application for a mobile office.

Amended by R.2000 d.177, effective May 1, 2000.

See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

In (a), increased the fee from \$250.00 to \$300.00 in 1, and increased the fee from \$100.00 to \$250.00 in 5.

Recodified from N.J.A.C. 3:24-1.5 by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Former N.J.A.C. 3:24-1.4, License fees; reporting fee, repealed. Rewrote the section.

3:24-1.5 Application process; requirements

(a) No applicant for a license shall commence operations until a license has been issued.

(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. A personal certification on a form supplied by the Commissioner;
2. A two-inch by two-inch passport style photograph of the persons listed in (b) above;
3. Fingerprints in the manner currently required by the New Jersey State Police or their authorized representative;
4. Application fee(s) as required by N.J.A.C. 3:24-1.4; and
5. Any other information or supporting documentation relating to the operation of the proposed check cashing business which the Commissioner may require.

(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) Individual or partnership applicants using a trade name shall submit a copy of the trade name as filed with the county clerk showing date of recording.

(e) Corporations using 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) A new employee, hired after a license has issued, may begin work pending receipt by the Department of fingerprint results provided all other information is complete and satisfactory.

(g) Applicants seeking approval of a branch, mobile office, change of address or for change of control must have their license in good standing to receive said additional approval.

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

1. A physical description of the premises;
2. Two interior and two exterior photos of the premises;

3. A copy of the executed lease;

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) Applicants who file applications lacking any necessary information shall be notified by letter of the missing information and shall have one year from the date of the letter to submit the information or the application will be deemed withdrawn. If an application is so withdrawn, all application fees shall be retained by the Department and shall not be applied to any re-application.

(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.

Amended by R.2000 d.177, effective May 1, 2000.
See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

In (b), inserted a reference to Form SBI-19 in 3, changed N.J.A.C. reference in 4, and rewrote 6; in (c), substituted a reference to the Department of Treasury, Division of Revenue for a reference to the Secretary of State; and added (g) through (i).

Amended by R.2005 d.191, effective June 20, 2005.

See: 37 N.J.R. 697(a), 37 N.J.R. 2201(a).

In (b), inserted "member," preceding "manager" in the introductory paragraph; in (c), inserted "their" preceding "corporate certificate" in the second sentence and added the third sentence; in (e), substituted "alternate names" for "fictitious names"; in (h), added 5; added (j).

Recodified from N.J.A.C. 3:24-1.6 by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Former N.J.A.C. 3:24-1.5 recodified as N.J.A.C. 3:24-1.4; section was "Application fees". Substituted "personal certification on a form supplied by the Commissioner" for "Certificate of Certified Consent for criminal investigative purposes" in (b)1, substituted "A two-inch by two-inch passport style photograph" for "Photographs" in (b)2, rewrote (b)3, substituted "1.4; and" for "1.5" in (b)4, deleted "; and" from the end of (b)5 and deleted (b)6.

Case Notes

Proximity to similar businesses and incomplete application justify denial of application for partnership check cashing license. *Shulman v. Department of Banking*, 96 N.J.A.R.2d (BKG) 1.

3:24-1.6 (Reserved)

Recodified as N.J.A.C. 3:24-1.5 by R.2006 d.235, effective June 19, 2006.

See: 38 N.J.R. 10(a), 38 N.J.R. 2674(a).

Section was "Application process; requirements".

SUBCHAPTER 2. FINANCIAL RESPONSIBILITY

3:24-2.1 Proof of net worth; records

(a) An applicant shall submit to the Department an unqualified, audited financial statement prepared by a Certified Public Accountant or a public accountant, in accordance with generally accepted accounting principles, sufficient to satisfy the capital and net worth requirements of N.J.S.A. 17:15A-37. This statement shall reflect the financial status of the applicant as of a date not more than 12 months prior to the date of the application. The certified public accountant or public accountant issuing the statement shall be in good standing with their State Board of Accountancy or other appropriate regulatory agency.

(b) For each subsequent application, the applicant may use the initial unqualified, audited financial statement, provided that it is less than 12 months old and that it indicates that the applicant meets the higher net worth and liquid assets necessary for the additional offices sought to be approved.

(c) In the event the accountant does not maintain an office in New Jersey, the licensee's records may, at the option of the Department, be examined at the licensee's main office.

(d) Uncollected checks may not be carried on a financial statement more than 90 days after presentment.

Amended by R.2000 d.177, effective May 1, 2000.

See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

Rewrote (a); in (c), substituted "may, at the option of the Department," for "shall" following "records"; and added (d).

SUBCHAPTER 3. PLACE OF BUSINESS

3:24-3.1 Compliance with State and local law

The applicant shall supply 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.

Amended by R.2000 d.177, effective May 1, 2000.

See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

Deleted (a) designation; and deleted a former (b).

SUBCHAPTER 4. CHECK CASHING FEES; POSTING

3:24-4.1 Returned check fee; prohibition

(a) No licensee shall impose any charge or fee for a returned check on the customer who cashes the check.

(b) A licensee may charge a fee to the maker of the check, sufficient to reimburse the licensee for the charge imposed by the bank which returns the check unpaid.

3:24-4.2 Posting of fees; signs

(a) The licensee shall post and at all times display in a conspicuous place on the premises the license and also the schedule of fees to be charged, which fees shall not exceed the maximums permitted pursuant to N.J.S.A. 17:15A-43. The Department shall determine the number of signs which shall be posted and shall designate those areas in the check cashing facility where these signs will be displayed, depending upon the size of the office and its physical layout. These signs shall be in both the English language and Spanish language except where the Department deems it necessary that a different or additional language be used.

(b) Each sign shall be printed on heavy cardboard or other durable material, with printed information in a minimum of 22 point type with appropriate headings of at least 24 point bold type. These signs shall read as follows:

STATE LICENSED CHECK CASHER MAXIMUM FEES YOU CAN BE CHARGED 2% OF YOUR CHECK

Example:

New Jersey check	\$300.00	
Maximum fee	6.00	2%
Cash to you	\$294.00	

CHECKS PAYABLE TO PERSON UNDER AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) 1% OF YOUR CHECK

Example:

AFDC check	\$300.00	
Maximum fee	3.00	1%
Cash to you	\$297.00	

SUPPLEMENTAL SECURITY INCOME CHECKS (Sub XVI) 1½% OF YOUR CHECK

Example:

SSI check	\$300.00	
Maximum fee	4.50	1½%
Cash to you	\$295.50	

SOCIAL SECURITY OLD AGE AND SURVIVORS CHECKS (Sub II) 1½% OF YOUR CHECK

Example:

SS check	\$300.00	
Maximum fee	4.50	1½%
Cash to you	\$295.50	

Amended by R.2000 d.177, effective May 1, 2000.
See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

In (a), inserted “, which fees shall not exceed the maximums permitted pursuant to N.J.S.A. 17:15A-43” at the end of the first sentence; and in (b), added a sign relating to Social Security Old Age and Survivors checks.

SUBCHAPTER 5. CONDUCT OF BUSINESS

3:24-5.1 Check cashing procedure

(a) In addition to the requirements of N.J.S.A. 17:15A-44c, e and j, each licensee shall:

1. Pay to each customer tendering a check, draft or money order to be cashed, the entire face amount of the instrument in cash less any charges permitted by law, on the same date upon which the instrument is presented;
2. Indicate on each check, draft or money order cashed at the time of cashing, the date on which the item was cashed; and
3. Give each person presenting a check, draft or money order for cashing upon completion of each transaction an

itemized receipt indicating the name of the check casher, the teller number indicating which teller completed the transaction, the amount of the check cashed, the amount of the fee charged to cash the check and the amount of cash given to the person cashing the check.

Amended by R.2000 d.177, effective May 1, 2000.
See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

3:24-5.2 Recordkeeping

(a) In addition to the requirements of N.J.S.A. 17:15A-441, a Summary of Business Record shall be maintained in which the number of checks, drafts, or money orders cashed, their total face amount, and the aggregate fees received, shall be shown for each business day and totaled for each calendar month. If this information is included in a horizontal form of daily cash reconciliation, that record will be acceptable in lieu of a separate summary of business. The summary record shall consist of six categories:

1. All two percent checks cashed;
2. All one percent checks cashed, including AFDC checks;
3. All one and one-half percent checks cashed including SSI and Social Security Old Age and Survivors checks;
4. All no-fee checks cashed;
5. All check cashing customer receipts; and
6. Any other checks cashed which do not fit into categories (a)1 through 5 above.

(b) A viewable photographic record of checks, drafts and money orders cashed, that sets forth all the information pertaining to said checks, drafts and money orders required by N.J.S.A. 17:15A-44d and 1 and (a) above, will be acceptable in lieu of the records required by this section.

1. In such event, the photographic film shall be processed promptly after each roll of film has been exposed, and the viewable records maintained by the licensee for at least three years after the date of the last photograph on the roll.
2. The licensee shall maintain a log indicating the beginning and ending business days covered by each individual roll of processed photographic records.

(c) Each licensee shall reconcile its bank statement at least monthly.

Amended by R.2000 d.177, effective May 1, 2000.
See: 32 N.J.R. 344(a), 32 N.J.R. 1513(b).

In (a)3, inserted a reference to Social Security Old Age and Survivors checks.

3:24-5.3 Return items record

(a) A return items record shall be maintained in which the following information shall be clearly recorded with respect to each check, draft or money order, returned unpaid: