

## CHAPTER 24

## CHECK CASHING

## Authority

N.J.S.A. 17:15A-30 et seq., 17:1-8 and 17:1-8.1.

## Source and Effective Date

R.1995 d.189, effective April 3, 1995.  
See: 26 N.J.R. 4863(b), 27 N.J.R. 1442(c).

## Executive Order No. 66(1978) Expiration Date

Chapter 24, Check Cashing, expires on April 3, 2000.

## 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 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. A new Chapter 24, Check Cashing, was adopted as R.1995 d.189. See: Source and Effective Date.

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## 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 at N.J.S.A. 17:15A-31 unless defined below or 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.

"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.

"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.

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

**3:24-1.4 License fees; reporting fee**

(a) The Department shall charge the following biennial fees to apply for or renew a license pursuant to this chapter:

1. A licensing fee of \$1,200 for a principal office;
2. A licensing fee of \$1,200 for a full branch office; and
3. A licensing fee of \$1,200 for a mobile office.

**3:24-1.5 Application fees**

(a) The following application fees shall be charged:

1. Application for a principal office, \$250.00;
2. Application for a full branch office, \$250.00;
3. Application for a limited branch office, \$250.00;
4. Application for a mobile office, \$250.00, plus \$100.00 for each additional geographic location at which the mobile office will stop;
5. Application for change of control pursuant to N.J.S.A. 17:15A-42, \$100.00; and
6. Application for approval to change the address of an existing office, \$75.00.

**3:24-1.6 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, manager and employee of the business to be licensed:

1. A Certificate of Certified Consent for criminal investigative purposes;
2. Photographs of the persons listed in (b) above;
3. A fingerprint card supplied with application (Form FD-258);
4. Application fee(s) as required by N.J.A.C. 3:24-1.3;
5. Any other information or supporting documentation relating to the operation of the proposed check cashing business which the Commissioner may require; and
6. A check in the amount of \$50.00 for each person for the costs of background investigations, including fingerprinting;

(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 Secretary of State, and shall identify the registered agent for service of process. Foreign corporations shall submit a New Jersey Certificate of Authority in addition to corporate certificate.

(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 fictitious 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.

**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.

**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, sufficient to satisfy the capital and net worth requirements of N.J.S.A. 17:15A-37.

(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 shall be examined at the licensee's main office.

**SUBCHAPTER 3. PLACE OF BUSINESS****3:24-3.1 Compliance with State and local law**

(a) 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.

(b) In the event the applicant is unable to obtain sufficient documentation from a governmental entity, the applicant shall supply the department with a notarized written statement which identifies the measures taken and which certifies that it is in compliance.

#### 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. 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 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	

#### 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 every customer tendering any check, draft or money order to be cashed, the entire face amount of such instrument in cash less any charges permitted by law, on the same date upon which such instrument is presented;
2. Indicate on every check, draft or money order cashed at the time of cashing, the date on which such 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.

##### 3:24-5.2 Recordkeeping

(a) In addition to the requirements of N.J.S.A. 17:15A-44l, 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, such 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 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, which sets forth all the information

pertaining to said checks, drafts and money orders required by N.J.S.A. 17:15A-44d and l and (a) above will be acceptable in lieu of the records required by this section.

1. In such event, the photographic film must 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.

### 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:

1. The date on which each check, draft or money order was originally cashed by licensee;
2. The issuer of each check, draft or money order;
3. The date of each check, draft or money order returned unpaid;
4. The name of the drawer of each check, draft or money order returned unpaid;
5. The name of the payee or last endorser of each check, draft or money order;
6. The amount of each check, draft or money order returned unpaid;
7. The name of the bank on which each check, draft or money order is drawn;
8. The reason for which each check, draft or money order was returned unpaid;
9. The date on which each check, draft or money order was redeposited;
10. The date and manner of payment of each check, draft or money order, with complete details of the disposition made of it, including a record of the specific check, draft or money order utilized in the payment of the original item; and
11. A current record, updated (monthly), showing the efforts and progress being made to collect any unpaid checks, drafts, or money orders, including the receipt of partial payments.

### 3:24-5.4 Daily cash reconciliation

(a) A daily cash reconciliation shall be maintained which shall contain the following information:

1. Cash on hand at opening of business;
2. Checks, drafts or money orders cashed the previous day and on hand at opening of business;
3. Cash received during the day showing in detail the source of funds;
4. The total amount of fees received during the day;
5. The sum of items (a)1 through 4 above;
6. The total deposits made during the day;
7. Other cash paid out during the day showing in detail the nature of the disbursement;
8. The sum of items (a)6 and 7 above;
9. Item (a)5 less item (a)8 above, representing the cash on hand and the total of undeposited checks, drafts or money orders, cashed during the day;
10. The total of cash included in item (a)9 above; and
11. Cash on hand at close of business day with shortages or overages explained (disposition or resolution).

### 3:24-5.5 Deposits

(a) All checks, drafts and money orders shall be deposited no later than the next business day in the financial institution in this State which has been identified to the Department. Use of a bank's night deposit facility, if any, is permitted.

(b) When the number of payroll checks cashed amount to 50 or more, the licensee may present such package of checks to the drawee bank or the maker of the checks and receive in exchange a single draft, provided full details of the transaction are recorded. Separate tapes of these transactions shall be maintained as set forth in N.J.A.C. 3:24-5.2.

(c) All checks, drafts, money orders cashed on any one day and deposited on the same day or next business day shall be deposited under a separate deposit total and not commingled with any other day's business.

(d) A violation of this section shall occur if a licensee instead of depositing all checks, drafts and money orders as required:

1. Cashes all or any of them at another check casher;
2. Exchanges all or any of them for another check or checks; or
3. Negotiates all or any of them in any manner or for any purpose other than that provided in this section.

### 3:24-5.6 Dual business and deposit record requirements

(a) The checks, drafts, money orders or cash of any other business in which the licensee is engaged shall not be commingled with other funds in the licensee's bank account or with the cash or checks on hand.

1. A licensee may apply to the Commissioner in writing for an exception to the requirements set forth in (a) above which prohibits commingling of checks, drafts, money orders or cash of any other business conducted by the licensee on the same premises, with the cash or checks on hand. The Commissioner shall grant an exception based on the following criteria and conditions:

i. The licensee shall continue to maintain a separate bank account for the check cashing business as required by N.J.S.A. 17:15A-44f and N.J.A.C. 3:24-5.6(a);

ii. The licensee shall provide the Department with complete access to all check cashing records, as well as the records of all other businesses, funds of which are commingled with funds of the check cashing business, conducted by the licensee at the licensed location(s) and/or at the approved limited station branch(es);

iii. The licensee shall maintain and utilize a separate payment bank account for transfers of funds and/or payment of funds related to other businesses;

iv. The licensee shall fill out Department Form No. 001-95 on a daily basis for each licensed location and for each limited station branch. Form No. 001-95 shall provide financial accounting deemed sufficient to track the flow of funds and to reconcile cash balances of all activities which result in use of the check cashing drawer for funds. These forms shall be maintained on file for a period of two years; and

v. The check cashing register tape of all activity (including, but not limited to, checks cashed and money order activity) shall be available with Form No. 001-95.

(b) Separate records shall be kept for a check cashing business conducted on the same premises where another business is also operated. In such cases the licensee shall apportion to the check cashing business its share of expense. Reasonable estimates may be used.

Amended by R.1995 d.656, effective December 18, 1995.  
See: 27 N.J.R. 3255(a), 27 N.J.R. 5011(b).

### 3:24-5.7 Prohibitions

(a) In addition to the prohibitions contained in N.J.S.A. 17:15A-30 et seq., no licensee or person acting on behalf of a licensee shall:

1. Cash a check made payable to "cash";
2. Cash a check using any form of consideration other than cash; or
3. Cash a check for anyone other than the payee named on the face of the check, except where the presenter of the check to be cashed has obtained a written, notarized authorization from a disabled payee specifically requesting the presenter to cash the check.

## SUBCHAPTER 6. ADDITIONAL REPORTS

### 3:24-6.1 Annual report; fee

Each check cashing licensee shall file, on or before March 1, an annual report as mandated by N.J.S.A. 17:15A-45. The licensee shall remit a fee of \$100.00 for each such report filed. The Department shall assess a \$50.00 penalty against any licensee for each report the licensee files late.

New Rule, R.1995 d.655, effective December 18, 1995.  
See: 27 N.J.R. 3655(a), 27 N.J.R. 5011(a).

Former 3:24-6.1, "Additional reports; fee", recodified to 3:24-6.2.

### 3:24-6.2 Additional reports; fee

(a) In any case in which the Commissioner finds that reasonable grounds exist for requiring additional record-keeping and reporting, the Commissioner may issue an order requiring any licensee or group of licensees in a geographic area to provide information regarding transactions that involve a total dollar amount or denomination of \$2,500 or more, including the names of the persons participating in those transactions.

(b) Licensees filing a report pursuant to this section shall pay a fee of \$50.00 for each such report filed.

(c) A licensee shall maintain in its files for five years a copy of any Currency Transaction Report it is required to file with the New Jersey Attorney General's office and the Federal government.

Recodified from 3:24-6.1 by R.1995 d.655, effective December 18, 1995.  
See: 27 N.J.R. 3655(a), 27 N.J.R. 5011(a).