

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

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 24, Check Cashing, expires on November 21, 2010. See: 42 N.J.R. 1275(a).

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.

Subchapter 4, Check Cashing Fees; Posting, was renamed Check Cashing Fees; Posting; Returned Checks by R.2010 d.140, effective July 6, 2010. See: 41 N.J.R. 4583(a), 42 N.J.R. 1355(a).

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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 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-44(l) 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".

Amended by R.2010 d.140, effective July 6, 2010.

See: 41 N.J.R. 4583(a), 42 N.J.R. 1355(a).

In definition "Essential records", inserted parentheses around "l" and "m".

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