

17:15A-1

**LEGISLATIVE HISTORY CHECKLIST**  
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"Check Cashers Regulatory Act"

**NJSA:** 17:15A-1

**LAWS OF:** 1993 **CHAPTER:** 383

**BILL NO:** A1323

**SPONSOR(S):** Roberts and Penn

**DATE INTRODUCED:** April 30, 1992

**COMMITTEE:** **ASSEMBLY:** Financial Institutions  
**SENATE:** Commerce

**AMENDED DURING PASSAGE:** Yes Amendments denoted by  
Second reprint enacted asterisks

**DATE OF PASSAGE:** **ASSEMBLY:** June 17, 1993 Re-enacted 1-10-94  
**SENATE:** December 2, 1993 Re-enacted 1-10-94

**DATE OF APPROVAL:** January 11, 1994

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes

**FISCAL NOTE:** Yes

**VETO MESSAGE:** Yes

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No  
Hearing, held during previous Legislature.  
974.90 New Jersey. Legislature. Assembly. Financial Institutions.  
B218 Public hearing on...A756, held 5-14-90 & 6-4-90, Trenton  
1990 and E. Orange, 1990.

KBG:pp

*Public Hearing held 5-17-93 not transcribed*

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1992

By Assemblymen ROBERTS and PENN

1 AN ACT to regulate the business of check cashing and repealing  
2 P.L.1951, c.187 (C.17:15A-1 et seq.).

3

4 BE IT ENACTED by the Senate and General Assembly of the  
5 State of New Jersey:

6 1. This act shall be known and may be cited as "The Check  
7 Cashers Regulatory Act of <sup>1</sup>[1992] 1993<sup>1</sup>."

8 2. As used in this act:

9 "Applicant" means a person who has applied or is in the process  
10 of applying for a license pursuant to this act.

11 <sup>1</sup>"Automated cash machine" means an unmanned  
12 communications terminal which dispenses cash, traveler's checks  
13 or both; does not accept deposits; and through which transactions  
14 with banking institutions are consummated.<sup>1</sup>

15 "Check" includes a check, draft, money order, negotiable order  
16 of withdrawal and <sup>2</sup>[a]<sup>2</sup> similar types of negotiable instruments.

17 "Commissioner" means the Commissioner of Banking.

18 <sup>2</sup>"Controlling interest" means ownership, control or interest in  
19 25% or more of the outstanding and issued voting stock of the  
20 check cashing business.

21 "Customer" means any person who seeks to have a check  
22 cashd by a licensee but does not include the maker of a check  
23 payable to another person.<sup>2</sup>

24 "Department" means the Department of Banking.

25 <sup>2</sup>"Fee" includes any fee, charge, cost, expense, or other  
26 consideration.<sup>2</sup>

27 "License" means a license issued pursuant to this act and held  
28 by a licensee, which license authorizes the licensee to cash  
29 checks for a fee as provided pursuant to this act.

30 "Licensee" means a person who holds, or who should hold, a  
31 license pursuant to this act.

32 <sup>1</sup>"Limited branch office" means a private premises where a  
33 licensee maintains and makes available to the particular group  
34 specified in the authorization, and to that group only, the  
35 facilities for cashing checks, drafts, or money orders on the  
36 designated premises for no more than two days of each week as  
37 designated in the authorization pursuant to subsection c. of  
38 section 12 of this act.<sup>1</sup>

39 "Mobile office" means any vehicle or other moveable means  
40 from which the business of cashing checks is conducted

41 "Natural person" does not include a payee identified on the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined [thus] in matter  
enclosed in brackets [thus] in bill has been adopted as follows:  
Assembly Amendments adopted May 1991  
Assembly Amendments adopted in accordance with Senate's  
amendments on May 1991

1 payee line of a check as a partnership, professional association,  
2 company, corporation, or other business entity.

3 "Office" includes a principal office and a <sup>1</sup>full<sup>1</sup> branch office.

4 "Person" has the meaning given that word in R.S.1:1-2.

5 "Substantial stockholder" means any person who beneficially  
6 owns or controls more than 10% of the outstanding voting shares  
7 of an applicant or a licensee.

8 3. No person shall cash a check for a fee unless that person has  
9 a license. The license shall not be transferable or assignable.

10 4. Any person wishing to be licensed to cash checks for a fee  
11 shall:

12 a. Submit to the commissioner a completed written application  
13 on forms prescribed by the commissioner <sup>2</sup>which shall contain  
14 notice that false statements made therein are punishable<sup>2</sup> and  
15 supported by evidence as required by the commissioner;

16 b. Submit an application fee <sup>1</sup>as prescribed by the  
17 commissioner by regulation in an amount<sup>1</sup> not to exceed <sup>1</sup>[\$3,000]  
18 \$2,000<sup>1</sup>;

19 c. Submit proof of net worth and liquid assets as required  
20 pursuant to section 8 of this act; and

21 d. Execute a statement on the application in which the  
22 applicant consents to allow the department to examine the  
23 records of the bank account or accounts used for its check  
24 cashing business.

25 5. The commissioner shall approve an application for a license  
26 if:

27 a. The applicant has complied with the requirements of section  
28 4 of this act;

29 b. The commissioner finds that the financial responsibility,  
30 experience, character, and general fitness of the applicant  
31 support the belief that the business will be operated honestly and  
32 fairly; <sup>1</sup>[and]<sup>1</sup> <sup>2</sup>and<sup>2</sup>

33 c. The commissioner finds that none of the grounds for  
34 revoking or suspending a license set forth in section <sup>2</sup>[18] <sup>2</sup>19<sup>2</sup> of  
35 this act exist <sup>2</sup>[<sup>1</sup>; and

36 d. The commissioner finds that the applicant has not violated  
37 subsection a. of section 19 of this act within three years of the  
38 date of making an application for a license pursuant to this act<sup>1</sup><sup>2</sup>.

39 6. The application <sup>2</sup>[form]<sup>2</sup> for a license shall <sup>2</sup>[inquire about]  
40 include<sup>2</sup>, but not be limited to, the following:

41 a. <sup>2</sup>[The name and address of the residence and place or places  
42 of business of the applicant, provided that, if the applicant is a  
43 partnership or association, the application form shall inquire  
44 about the name and address of every member thereof, and further  
45 provided that, if the applicant is a corporation, the application  
46 form shall inquire about the name and address of each officer,  
47 director, and substantial stockholder thereof] The name, age,  
48 business address, residence and present and previous occupations  
49 of each applicant or licensee and of each officer, owner, director,  
50 partner, and substantial stockholder of the check cashing business  
51 to be licensed<sup>2</sup>;

52 b. The name and business address of each manager of each  
53 office<sup>1</sup>, mobile office or limited branch office<sup>1</sup> that the  
54 applicant proposes to operate<sup>1</sup> ]<sup>1</sup>;

1 c. The address of each stationary site, if the check cashing  
2 business, or any portion thereof, is to be conducted from a  
3 stationary site or sites;

4 d. The New Jersey motor vehicle registration number or other  
5 identification of the mobile office and the <sup>1</sup>[area in] exact  
6 location or locations, if more than one, at<sup>1</sup> which the applicant  
7 proposes to operate the mobile office, if the check cashing  
8 business, or any portion thereof, is to be conducted from a mobile  
9 office; <sup>2</sup>[and]<sup>2</sup>

10 e. Any other information that the commissioner may  
11 reasonably<sup>1</sup> require <sup>2</sup>; and

12 f. All licensees shall have an affirmative obligation to advise  
13 the commissioner in writing within 5 days of any change in the  
14 information required under this section<sup>2</sup>.

15 7. Each director, substantial stockholder, officer, owner,  
16 partner, manager, and employee in the check cashing business of  
17 a licensee shall submit to being fingerprinted on forms supplied  
18 by the commissioner <sup>2</sup>and shall provide written consent to the  
19 performance of background checks<sup>2</sup>. <sup>2</sup>[The department may  
20 transmit any of these forms to the New Jersey State Police, the  
21 Federal Bureau of Investigation or to any private investigative  
22 service, with a request that those agencies conduct background  
23 investigations.] The commissioner is authorized to exchange  
24 fingerprint data with and receive criminal history record  
25 information from the Federal Bureau of Investigation and the  
26 Division of State Police for use in performing background  
27 checks. The commissioner is authorized to conduct such  
28 additional background checks as he deems appropriate.<sup>2</sup> The  
29 department is authorized to collect from the applicant or  
30 licensee any costs connected with these background  
31 investigations.

32 8. An applicant shall prove, in a manner and form satisfactory  
33 to the commissioner, that the applicant has available for the  
34 operation of its check cashing business at each office <sup>1</sup>or mobile  
35 office<sup>1</sup>, capital or net worth of at least <sup>1</sup>[\$10,000] \$50,000<sup>1</sup>, and  
36 has available for the operation of its check cashing business at  
37 each office <sup>1</sup>or mobile office<sup>1</sup>, liquid assets of at least <sup>1</sup>[\$10,000]  
38 \$50,000<sup>1</sup>.

39 9. a. Each applicant shall engage and each licensee shall  
40 maintain the services of a public accountant, which accountant  
41 shall assist the licensee to maintain the records of the check  
42 cashing business in an orderly and accurate manner.

43 b. The contract between the licensee and the public  
44 accountant shall include a statement by the accountant  
45 consenting to allow the department to examine <sup>2</sup>[the] all<sup>2</sup> records  
46 of the licensee at the accountant's place of business during  
47 normal business hours.

48 c. If a licensee changes the public accountant used to assist in  
49 the maintenance of the licensee's records of the check cashing  
50 business, the licensee shall notify the department within 15 days  
51 of the date a change is made and provide the department with the  
52 information required pursuant to subsection d. of section 10 of  
53 this act

54 10. No applicant for a license shall commence operations until

1 a license has been issued. The commissioner shall not issue a  
2 license unless the following conditions have been met:

3 a. The application for the license has been approved pursuant  
4 to section 5 of this act;

5 b. The applicant's place or places of business have been  
6 <sup>1</sup>[inspected] approved<sup>1</sup> by the department and the department has  
7 determined that the applicant has the necessary equipment to  
8 record transactions and maintain other records as required by this  
9 act;

10 c. The applicant has submitted to the department a statement  
11 that the applicant has a bank account or accounts which will be  
12 used solely for the check cashing business, together with the  
13 number or numbers of those accounts and the name of the  
14 institution in which each account is held; and

15 d. The applicant has submitted to the department the name  
16 and business address of the applicant's public accountant and  
17 evidence acceptable to the commissioner demonstrating  
18 compliance with subsections a. and b. of section 9 of this act.

19 11. a. A license shall be valid <sup>2</sup>[in perpetuity unless] until<sup>2</sup>  
20 surrendered by the licensee, or unless revoked or suspended  
21 pursuant to this act.

22 b. Each licensee shall pay to the department a biennial license  
23 fee of not more than <sup>1</sup>[\$3,000] \$2,000<sup>1</sup> for each office <sup>1</sup>and  
24 mobile office<sup>1</sup> it maintains. <sup>1</sup>There shall not be a biennial  
25 license fee for a limited branch office.<sup>1</sup> The fee shall be due on  
26 January 1 of each alternate calendar year following the effective  
27 date of this act. When the initial license or certificate is issued  
28 in the second year of the biennial period, the fee shall be an  
29 amount equal to one-half the fee for the biennial period.

30 12. a. Except as provided in subsections b. <sup>1</sup>[and] <sup>1</sup>c. <sup>1</sup>and  
31 d.<sup>1</sup> of this section, a licensee shall have and maintain a single  
32 office at one address in the State for the transaction of business.  
33 No licensee shall change the address of an existing office without  
34 prior written approval from the commissioner.

35 b. The commissioner shall authorize <sup>1</sup>[an applicant or] a<sup>1</sup>  
36 licensee <sup>1</sup>, pursuant to an application approved by the  
37 commissioner,<sup>1</sup> to establish and <sup>1</sup>[maintain one or more of the  
38 following types of branch offices:

39 (1) a full branch office, at which may be conducted all of the  
40 business which may be conducted at the principal office;

41 (2) a limited branch office, the business of which shall be  
42 limited to cashing checks for a particular group or groups at one  
43 or more locations, except that such office shall not conduct  
44 business at more than one location on any single day; and

45 (3) a mobile office, the business of which shall be conducted  
46 from a suitable motor vehicle or similar mobile device, and shall  
47 be conducted within a particular geographic area specified to the  
48 department] operate a full branch office or offices at which may  
49 be conducted all of the business which may be conducted at the  
50 principal office if:

51 (1) the licensee provides the name of the person who will  
52 manage the full branch office;

53 (2) the licensee has paid a full branch application fee, as  
54 specified by regulation;

1     (3) the licensee has submitted proof, as required pursuant to  
2 section 8 of this act, that there is sufficient net worth and liquid  
3 assets for the operation of a full branch office;

4     (4) the site of the full branch office has been approved by the  
5 commissioner and the commissioner has determined that the  
6 applicant or licensee has the necessary equipment to record  
7 transactions and maintain other records as required by this act;  
8 and

9     (5) the licensee or applicant has met any additional conditions  
10 which the commissioner may require in the public interest<sup>1</sup>.

11     c. The commissioner shall authorize <sup>1</sup>[an applicant or] a<sup>1</sup>  
12 licensee <sup>1</sup>[to establish and maintain a branch office if:

13         (1) an application for a branch office has been approved, which  
14 application shall require the applicant or licensee to give the  
15 name of the person who will manage the branch office;

16         (2) an applicant or licensee has paid a branch application fee  
17 as specified by regulation;

18         (3) an applicant or licensee has submitted proof, as required  
19 pursuant to section 8 of this act, that there is sufficient net  
20 worth and liquid assets for the operation of a branch office;

21         (4) the site of a proposed branch office has been inspected by  
22 the department and the department has determined that the  
23 applicant or licensee has the necessary equipment to record  
24 transactions and maintain other records as required by this act;  
25 and

26         (5) additional conditions which the commissioner may require  
27 in the public interest, have been met] , pursuant to an application  
28 approved by the commissioner, to operate a limited branch office  
29 or offices, the business of which shall be limited to cashing  
30 checks for a particular group or groups at one or more private  
31 premises, provided that the holder of a limited branch  
32 authorization observes all of the rules and regulations issued by  
33 the commissioner applicable to all licensees except that:

34             (1) the books and records required to be kept may be kept at  
35 the principal office of the licensee; and

36             (2) the requirements of section 8 of this act concerning capital  
37 and net worth shall not apply with respect to a limited branch  
38 office if the licensee is in compliance with section 8 of this act  
39 with respect to its principal office.

40     d. The commissioner shall authorize a licensee, pursuant to an  
41 application approved by the commissioner, to operate a mobile  
42 office, the business of which shall be conducted from a suitable  
43 motor vehicle or similar mobile device, at a designated  
44 geographic location or locations specified to the commissioner in  
45 its application and for the purpose of serving the public in that  
46 specific location or locations if the commissioner finds that:

47             (1) an applicant for a mobile office has met the requirements  
48 of paragraphs (1) through (3) and (5) of subsection b. of this  
49 section;

50             (2) the mobile office facility has been approved by the  
51 commissioner and the commissioner has determined that the  
52 applicant has the necessary equipment to record transactions and  
53 maintain other records as required by this act;

54             (3) the commissioner has approved the one or more geographic

1 locations and the days and hours of operation at each geographic  
 2 location at which the check cashing services of the mobile unit  
 3 are to be made available to the public for the cashing of checks,  
 4 drafts or money orders;

5 (4) the place where the books, records, and all information  
 6 pertaining to its business are to be kept and made available to  
 7 representatives of the department has been specified, which  
 8 location shall not be changed without first advising the  
 9 department in writing of the new location where those books,  
 10 records and information shall be kept;

11 (5) a licensee's application for multiple geographic locations  
 12 for operating a mobile unit is in the public interest; and

13 (6) the holder of a license to operate a mobile unit is in  
 14 compliance with the provisions of Title 39 of the Revised  
 15 Statutes and the ordinances and traffic regulations issued by  
 16 municipal and other authorities. If a municipality requires a  
 17 special permit or license fee for the purpose of operating a  
 18 mobile unit, the applicant or licensee shall obtain that permit or  
 19 license as a condition for the issuance of the authority to operate  
 20 a mobile unit pursuant to this section.

21 e. No office or mobile office shall be located within 2,500 feet  
 22 of an existing office or mobile office, that distance being  
 23 measured as the radius of a circle with the entrance to the  
 24 existing office or mobile office considered the center point from  
 25 which the radius is measured<sup>1</sup>.

26 <sup>2</sup>13. Any sale or transfer of a controlling interest in a  
 27 licensee's or applicant's check cashing business shall be approved  
 28 by the commissioner prior to the transfer or sale, after the  
 29 licensee or applicant has provided written notice of the proposed  
 30 sale or transfer to the commissioner. The commissioner shall  
 31 approve the transfer or sale unless he determines, following an  
 32 opportunity for a hearing, that sufficient grounds exist to deny,  
 33 revoke, or suspend the license.<sup>2</sup>

34 <sup>2</sup>[13.] 14.<sup>2</sup> No licensee shall charge a fee or receive any other  
 35 consideration, directly or indirectly, which is greater than the  
 36 amount permitted pursuant to this section, as follows:

37 a. For cashing a check drawn on a depository institution or  
 38 other financial entity located in this <sup>1</sup>or any other<sup>1</sup> State, <sup>1</sup>[one]  
 39 two<sup>1</sup> percent of the face amount of the check, or <sup>1</sup>[\$.50] \$ .90<sup>1</sup>,  
 40 whichever is greater; <sup>1</sup>[and]<sup>1</sup>

41 b. For cashing a check <sup>1</sup>[drawn on a depository institution or  
 42 other financial entity located outside of this State] payable to a  
 43 recipient of aid to families with dependent children (AFDC)<sup>1</sup>, one  
 44 <sup>1</sup>[and one half]<sup>1</sup> percent of the face amount of the check, or  
 45 <sup>1</sup>[\$.50] \$ .90<sup>1</sup>, whichever is greater.

46 <sup>1</sup>c. For cashing a check payable to a recipient of supplemental  
 47 security income pursuant to Subchapter XVI of the Social  
 48 Security Act, 42 U.S.C. §1381 et seq., one and one half percent of  
 49 the face amount of the check, or \$ .90, whichever is greater;

50 d. On or after the 365th day from the effective date of this  
 51 act, subsequent increases to the fees which may be charged  
 52 pursuant to subsection a. of this section by a licensee for cashing  
 53 a check, draft or money order shall be set by the commissioner by  
 54 regulation.

- 1     e. In setting the fees pursuant to subsection d. of this section,  
2 the commissioner shall consider, but not be limited to, the  
3 following:
- 4     (1) rates charged in the past;
  - 5     (2) the income, cost and expense of the operation of licensees;
  - 6     (3) rates charged by licensed check cashers or other similar  
7 entities located in other states for the same or similar services  
8 and the factors upon which those rates are based;
  - 9     (4) changes in the population served; and
  - 10    (5) a reasonable profit for check cashers.<sup>1</sup>
- 11    <sup>2</sup>[14.] 15.<sup>2</sup> A licensee shall:
- 12    a. Conspicuously display at each office <sup>2</sup>, limited branch  
13 office or mobile office<sup>2</sup> it operates the original license,  
14 certificate or branch authorization, as appropriate, issued by the  
15 commissioner.
  - 16    b. Conspicuously display all signs and notifications which the  
17 commissioner may require.
  - 18    c. Provide each customer, at the time of a transaction, with a  
19 record of each transaction as specified by regulation.
  - 20    d. Produce a photographic record, on such equipment as the  
21 commissioner may prescribe, of all of the checks cashed at the  
22 place of business and maintain a true copy of each such record.
  - 23    e. Endorse each check cashed with the actual name under  
24 which the licensee is doing business and legibly write or stamp  
25 the words "Licensed Casher of Checks" immediately after or  
26 below the licensee's name.
  - 27    f. Conduct all check cashing business through a bank account  
28 or accounts which are used solely for that purpose, and which  
29 have been identified as such to the department.
  - 30    g. Inform the department if any bank account number changes  
31 or if any bank account is closed.
  - 32    h. Maintain adequate records of its check cashing business as  
33 prescribed by the commissioner by regulation.
  - 34    i. Retain for five years essential records, and retain all other  
35 records for a shorter period as prescribed by the commissioner by  
36 regulation. Such records shall be separate from the records of  
37 other businesses in which the licensee may be engaged. Although  
38 separate records are required, it is not required that the  
39 licensee's check cashing business have a different legal identity  
40 from other businesses in which the licensee is engaged.
  - 41    j. Suspend for at least six months the check cashing privileges  
42 of any customer who cashes, in any one calendar year, more than  
43 three checks <sup>1</sup>[, or checks aggregating more than \$3,000,]<sup>1</sup> which  
44 are returned by the payor bank because of insufficient funds, and  
45 notify the department in writing of the name of such customer  
46 and the action taken, except that for the purposes of this  
47 subsection, two or more checks of a single maker which are  
48 returned because of insufficient funds shall be counted as one  
49 check provided they were cashed the same day and deposited in  
50 the licensee's bank account on the same banking day.
  - 51    k. Maintain at all times a capital or net worth of at least  
52 <sup>1</sup>[\$10,000] \$50,000<sup>1</sup> for the operation of the licensee's check  
53 cashing business at each office <sup>1</sup>and mobile <sup>2</sup>[unit<sup>1</sup>] office<sup>2</sup>, and  
54 maintain at all times liquid assets of at least <sup>1</sup>[\$10,000] \$50,000<sup>1</sup>



1 for the operation of the licensee's check cashing business at each  
2 office <sup>1</sup>and mobile <sup>2</sup>[unit<sup>1</sup>] office<sup>2</sup>.

3 <sup>1</sup>l. (1) Maintain on its premises, a record keeping system by  
4 which a licensee may track, and provide for inspection at the  
5 request of the commissioner, <sup>2</sup>[the previous month's]<sup>2</sup> checks  
6 which the licensee cashed and which were made payable to a  
7 payee other than a natural person;

8 (2) The record keeping system required pursuant to paragraph  
9 (1) of this subsection l. shall include, but not be limited to, the  
10 following information:

11 (a) the date of the transaction;

12 (b) the name of the payee;

13 (c) the federal tax payer identification number of the payee;

14 (d) the face amount of the check;

15 (e) the date of the check;

16 (f) the name or names of those presenting the check for  
17 payment;

18 (g) the name of the financial institution on which the check is  
19 drawn and the financial institution's transit routing number; and

20 (h) the amount of the fee charged.

21 m. File with the Attorney General of New Jersey a duplicate  
22 copy of any report a licensee is required to file regarding business  
23 conducted in this State pursuant to 31 U.S.C. §5311 et seq. and 31  
24 C.F.R. §103 et seq.<sup>1</sup>

25 <sup>2</sup>n. Supervise employees engaged in the operation of the check  
26 cashing business to ensure the business is conducted lawfully and  
27 pursuant to the provisions of this act and any order, rule or  
28 regulation made or issued pursuant to this act.<sup>2</sup>

29 <sup>2</sup>[15.] <sup>2</sup>16.<sup>2</sup> Each licensee shall annually, on or before  
30 <sup>1</sup>[February] March<sup>1</sup> 1, file a report with the commissioner giving  
31 the information the commissioner may require concerning its  
32 check cashing business and operations during the preceding  
33 calendar year. In addition to the annual report the commissioner  
34 may require additional regular or special reports as the  
35 commissioner deems necessary to effectuate the purposes of this  
36 act. These reports shall be made under oath or affirmation and  
37 shall be in the form prescribed by the commissioner.

38 <sup>2</sup>[16.] <sup>2</sup>17.<sup>2</sup> The department shall have the right to examine the  
39 books and records, and the place or places of business of any  
40 licensee. The <sup>1</sup>reasonable<sup>1</sup> cost of the examination shall be  
41 borne by the licensee. The department may order that the books  
42 and records be made available, and that the examination take  
43 place, at the office of the licensee's public accountant.

44 <sup>2</sup>[17.] <sup>2</sup>18.<sup>2</sup> No licensee, or any person acting on behalf of a  
45 licensee, shall:

46 a. <sup>1</sup>[Cash a check if the face amount of the check is more than  
47 \$2,500, or cash checks in one day payable to one payee which  
48 aggregate more than \$2,500, except that this limitation shall not  
49 apply to:

50 (1) a check drawn by the United States, a state, a political  
51 subdivision of a state, or a department, agency, authority, or  
52 instrumentality of the United States, a state or a political  
53 subdivision of a state;

54 (2) a certified or cashier's check,

- 1 (3) a check drawn by an insurance company; and  
2 (4) a check drawn by an attorney on the attorney's trust  
3 account;
- 4 b.]<sup>1</sup> Cash a check which is made payable to a payee which is  
5 other than a natural person unless the licensee has on file a  
6 corporate resolution or other appropriate documentation  
7 indicating that the corporation, partnership or other entity has  
8 authorized the presentment of a check on its behalf and the  
9 federal taxpayer identification number of the corporation,  
10 partnership or other entity<sup>1</sup>;
- 11 <sup>1</sup>[c.] b.]<sup>1</sup> Cash a check for anyone other than the payee named  
12 on the face of the check, except that the commissioner may, by  
13 regulation, establish exceptions to this prohibition <sup>1</sup>[for payees  
14 who are ill, handicapped, or infirm]<sup>1</sup>;
- 15 <sup>1</sup>[d.] c.]<sup>1</sup> Cash or advance any money on a postdated check;
- 16 <sup>1</sup>[e.] d.]<sup>1</sup> Fail to give each customer at the end of each  
17 transaction a receipt showing the amount of the check which was  
18 cashed, the amount which was charged for cashing the check, and  
19 the amount of cash which the customer was given;
- 20 <sup>1</sup>[f.] e.]<sup>1</sup> Engage in the business of making loans of money,  
21 credit, goods or things or discounting or buying of notes, bills of  
22 exchange, checks or other evidences of debt, or conduct, or allow  
23 to be conducted, a loan business or the negotiation of loans or the  
24 discounting or buying of notes, bills of exchange, checks or other  
25 evidences of debt in the same premises where the licensee is  
26 cashing checks. For purposes of this subsection, a licensee shall  
27 be deemed to have made a loan if the licensee cashes a check  
28 deposited by a customer whose check cashing privileges were  
29 required to be suspended under subsection j. of section <sup>2</sup>[14] 15<sup>2</sup>  
30 of this act. Notwithstanding the provisions of this subsection,  
31 any person licensed as a pawnbroker in this State shall be eligible  
32 to qualify as a licensee under this act, and upon being so licensed,  
33 may conduct business as a check casher in the same premises in  
34 which that person conducts business as a pawnbroker;
- 35 <sup>1</sup>f. Engage in business at an office or mobile office other than  
36 a business which primarily provides financial services, except as  
37 otherwise provided pursuant to subsection e. of this section<sup>1</sup>;
- 38 <sup>1</sup>[h.] g.]<sup>1</sup> Violate any provision of this act or regulations  
39 promulgated pursuant to this act; or
- 40 <sup>1</sup>[i.] h.]<sup>1</sup> Fail to comply with any order of the commissioner.
- 41 <sup>2</sup>[18.] 19. a.<sup>2</sup> The commissioner may revoke or suspend a  
42 license if, after notice and hearing, the commissioner determines  
43 that the licensee:
- 44 <sup>2</sup>[a.] (1)<sup>2</sup> Has violated any provision of this act or any order,  
45 rule, or regulation made or issued pursuant to this act <sup>2</sup>or has  
46 violated any other law in connection with the operation of the  
47 check cashing business<sup>2</sup>;
- 48 <sup>2</sup>[b.] (2)<sup>2</sup> Has failed to pay any fee, penalty, or other lawful  
49 levy imposed by the commissioner;
- 50 <sup>2</sup>[c.] (3)<sup>2</sup> Has withheld information or made a material  
51 misstatement in the application for the license, or in any branch  
52 application or in any other submission to the department;
- 53 <sup>2</sup>[d.] (4)<sup>2</sup> Has been convicted of an offense involving breach of  
54 trust, moral turpitude or fraudulent or dishonest dealing, or has

1 had a final judgment entered against him in a civil action upon  
2 grounds of fraud, misrepresentation or deceit;

3 <sup>2</sup>[e.] (5)<sup>2</sup> Is associating with, or has associated with, any  
4 person who has been convicted of an offense involving breach of  
5 trust, moral turpitude or fraudulent or dishonest dealing, or who  
6 has had a final judgment entered against him in a civil action  
7 upon grounds of fraud, misrepresentation or deceit;

8 <sup>2</sup>[f.] (6)<sup>2</sup> Has become insolvent or has acted in a way that  
9 indicates the licensee's check cashing business would not be  
10 operated in a financially responsible manner;

11 <sup>2</sup>[g.] (7)<sup>2</sup> Has demonstrated unworthiness, incompetence, bad  
12 faith or dishonesty in transacting business or otherwise; or

13 <sup>2</sup>[f.] (8)<sup>2</sup> Has engaged in any other conduct which would be  
14 deemed by the commissioner to be grounds to deny <sup>2</sup>, revoke or  
15 suspend<sup>2</sup> a license.

16 <sup>2</sup>b. Pending an investigation or a hearing for the suspension or  
17 revocation of any license issued pursuant to this act, the  
18 commissioner may temporarily suspend such license for a period  
19 not to exceed 90 days, if the commissioner finds that such  
20 suspension is in the public interest.<sup>2</sup>

21 <sup>2</sup>[19.] 20.<sup>2</sup> a. Any person who cashes a check for consideration  
22 without having first obtained a license as required by section 3 of  
23 this act shall be liable for a penalty of not more than \$1,000 for  
24 each violation. For the purposes of this section, each check  
25 cashed for consideration without a license shall constitute a  
26 separate violation.

27 b. Any person who violates <sup>2</sup>or causes to be violated<sup>2</sup> any  
28 provision of this act or any order, rule or regulation made or  
29 issued pursuant to this act shall be liable for a penalty, in  
30 addition to all other penalties or forfeitures imposed by this or  
31 any other law, of not more than \$5,000 for each violation. Any  
32 person who shall aid or abet a violation shall be equally liable for  
33 such a penalty as may be imposed upon a principal violator. For  
34 the purpose of this subsection, a violation of any provision of this  
35 act or any order of the commissioner or rule or regulation  
36 promulgated by the commissioner pursuant thereto shall  
37 constitute a separate violation.

38 <sup>2</sup>c. The commissioner may issue an order to any licensee who  
39 violates any provision of this act or regulation promulgated  
40 thereunder, ordering payment of the penalties provided in this act  
41 and corrective action concerning the violation. Any person  
42 aggrieved by any ruling, action, order, or notice of the  
43 commissioner shall be entitled to a hearing. The application for  
44 such a hearing shall be filed in writing with the commissioner  
45 within 15 days of receipt thereof.

46 d. Where any violation of any provision of this act is of a  
47 continuing nature, each day during which the violation remains  
48 uncorrected after the date fixed by the commissioner in any  
49 order or notice for the correction or termination of such  
50 continuing violation shall constitute a separate and distinct  
51 violation, except during the time when an appeal from such an  
52 order is being taken.<sup>2</sup>

53 <sup>2</sup>[c.] e.<sup>2</sup> The commissioner is hereby authorized and  
54 empowered to compromise and settle any claim for a penalty

1 under this section for an amount that appears appropriate and  
2 equitable under the circumstances.

3 <sup>2</sup>[d.] f.<sup>2</sup> The civil penalties provided for in this section, if not  
4 <sup>2</sup>[voluntarily]<sup>2</sup> paid to the commissioner <sup>2</sup>within 30 days of their  
5 issuance<sup>2</sup>, shall be collected in a civil action brought in the name  
6 of the commissioner pursuant to the provisions of "the penalty  
7 enforcement law," N.J.S.2A:58-1 et seq.

8 <sup>2</sup>[e.] g.<sup>2</sup> Penalties imposed pursuant to this act shall not  
9 diminish the remedies which may be available to complainants  
10 through private actions.

11 <sup>2</sup>[20. a. <sup>1</sup>[Any licensee who accepts a consideration for  
12 cashing a check which is in an amount greater than \$2,500, or  
13 which is made payable to a person which is other than a natural  
14 person, shall be guilty of a crime of the third degree.

15 b.]<sup>1</sup> Any <sup>1</sup>[licensee] person<sup>1</sup> who <sup>1</sup>[willfully] knowingly<sup>1</sup>  
16 violates any provision of this act or any rule or regulation  
17 promulgated pursuant to this act, shall be guilty of a crime of the  
18 third degree. Each such <sup>1</sup>[willful] knowing<sup>1</sup> violation shall  
19 constitute a separate offense, and the penalty under this  
20 subsection shall be in addition to any penalty or forfeiture  
21 imposed by this or any other law.

22 <sup>1</sup>[c.] b.<sup>1</sup> Any person who <sup>1</sup>[recklessly] knowingly<sup>1</sup> engages in  
23 any activity which facilitates the commission of a criminal act by  
24 a licensee shall be liable for a crime of the third degree.

25 <sup>1</sup>[d.] c.<sup>1</sup> Any person who <sup>1</sup>[recklessly] knowingly<sup>1</sup> utilizes a  
26 licensee for the furtherance of any unlawful activity shall be  
27 liable for a crime of the third degree.

28 <sup>1</sup>[e.] d.<sup>1</sup> Each violation of this act shall constitute a separate  
29 offense and the penalties imposed under this section shall be in  
30 addition to any other penalties or fines imposed under this act or  
31 any other law.]<sup>2</sup>

32 21. a. Any person holding a license in good standing issued  
33 pursuant to "The Check Cashing Law," P.L.1951, c.187  
34 (C.17:15A-1 et seq.), and who wishes to continue to engage in the  
35 business of cashing checks, shall <sup>1</sup>[comply with the provisions of  
36 this act within 180 days following the effective date of this act.  
37 As to such person, the requirements of subsections b. and c. of  
38 section 5 of this act, section 7 of this act, and subsection b. of  
39 section 10 of this act, shall be deemed satisfied. Such person  
40 shall pay an application fee not to exceed \$250 and shall receive  
41 pro rata credit for any time remaining in the biennial licensing  
42 period under "The Check Cashing Law," P.L.1951, c.187  
43 (C.17:15A-1 et seq.). Such person, upon compliance, shall be  
44 entitled to receive a license pursuant to this act, provided that  
45 application for such license is made within 180 days of the  
46 effective date of this act] , within 90 days of the effective date  
47 of this act, submit to the commissioner a <sup>2</sup>written<sup>2</sup> statement  
48 <sup>2</sup>certified to be true<sup>2</sup> under <sup>2</sup>[oath] penalty of law<sup>2</sup> that the  
49 licensee complies with the provisions of this act; this statement  
50 shall include the information required by <sup>2</sup>[subsection b. of]<sup>2</sup>  
51 section 6 and <sup>2</sup>[subsection d. of]<sup>2</sup> section 10 of this act. Upon  
52 submission of the aforementioned statement under oath, a  
53 licensee's current license shall continue in accordance with the  
54 provisions of subsection a. of section 11 of this act. The licensee

1 shall not be required to comply with subsection e. of section 12 or  
2 subsection f. of section <sup>2</sup>[17] <sup>18</sup><sup>2</sup> of this act<sup>1</sup>.

3 b. <sup>2</sup>[Except as provided in subsection <sup>1</sup>[c.] b.<sup>1</sup> and <sup>1</sup>[d.] c.<sup>1</sup> of  
4 section 20 of this act, this] This<sup>2</sup> act shall not apply to any  
5 federal or State chartered bank, savings bank, savings and loan  
6 association <sup>1</sup>[or] <sup>1</sup>,<sup>1</sup> credit union <sup>1</sup>or to any automated cash  
7 machine<sup>1</sup>.

8 22. Any agreement to waive any requirement contained in this  
9 act shall be unenforceable and void.

10 23. <sup>1a.</sup><sup>1</sup> The commissioner shall promulgate rules and  
11 regulations pursuant to the "Administrative Procedure Act,"  
12 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the  
13 purposes of this act.

14 <sup>1b.</sup> If the commissioner finds that reasonable grounds exist for  
15 requiring additional record keeping and reporting in order to  
16 carry out the purposes of this act, the commissioner may:

17 (1) issue an order requiring any group of licensees in a  
18 geographic area to provide information regarding transactions  
19 that involve a total dollar amount or denomination of \$2,500 or  
20 more, including the names of the persons participating in those  
21 transactions; and

22 (2) establish by regulation a reasonable fee for filing any  
23 report required by this subsection.<sup>1</sup>

24 24. P.L.1951, c.187 (C.17:15A-1 et seq.) is repealed.

25 25. This act shall take effect on the <sup>1</sup>[180th] 90th<sup>1</sup> day  
26 following enactment <sup>1,</sup><sup>1</sup> except section 23 shall take effect  
27 immediately.

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32 The "Check Cashers Regulatory Act of 1993."

1 effective date of this act.

2 b. Except as provided in subsection c. and d. of section 20 of  
3 this act, this act shall not apply to any federal or State chartered  
4 bank, savings bank, savings and loan association or credit union.

5 22. Any agreement to waive any requirement contained in this  
6 act shall be unenforceable and void.

7 23. The commissioner shall promulgate rules and regulations  
8 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
9 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this  
10 act.

11 24. P.L.1951, c.187 (C.17:15A-1 et seq.) is repealed.

12 25. This act shall take effect on the 180th day following  
13 enactment except section 23 shall take effect immediately.

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16 SPONSORS' STATEMENT

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18 This bill provides a new regulatory framework for the business  
19 of cashing checks. It requires any person who charges a fee or  
20 receives a consideration, directly or indirectly, for cashing a  
21 check to be licensed by the State and prohibits the transfer or  
22 assignment of such license.

23 The bill requires the Commissioner of Banking to establish  
24 procedures and forms by which application may be made for a  
25 license to be a check casher. As part of the application process,  
26 an applicant has to prove the availability of a net worth or  
27 capital of at least \$10,000 and liquid assets of at least the same  
28 amount for each office to be operated.

29 The bill requires a licensed check casher to hire a public  
30 accountant and agree in writing that the Department of Banking  
31 may examine the licensee's books and records at the  
32 accountant's place of business.

33 The bill provides for the operation of check cashing business at  
34 main offices, branch offices and moveable offices. Each office  
35 requires a separate application, application fee, proof of net  
36 worth and liquid assets, inspection for appropriate equipment, and  
37 approval.

38 The bill prohibits a licensee from cashing a check if the payee  
39 is not a natural person or, with certain exceptions, if the face  
40 amount of the check is greater than \$2,500. The following checks  
41 are permitted to exceed the \$2,500 limit: government checks, an  
42 insurance company check, a certified or cashier's check, or a  
43 check drawn by an attorney on the attorney's trust account.

44 The bill permits a licensee to charge a fee of one percent of  
45 the face amount of the check if the check is drawn on a financial  
46 entity located in this State, and a fee of one and one-half percent  
47 of the face amount of the check if the check is drawn on a  
48 financial entity located outside this State.

49 The bill provides a facilitated application and licensing process  
50 for persons licensed to engage in the business of cashing checks  
51 under "The Check Cashing Law," P.L. 1951, c.187 (C.17:15A-1 et  
52 seq.).

1 The bill spells out violations and imposes civil and criminal  
2 penalties for violations of the act or of rules and regulations  
3 promulgated pursuant to the act.

4 The bill repeals "The Check Cashing Law," P.L.1951, c.187  
5 (C.17:15A-1 et seq.).

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10 The "Check Cashers Regulatory Act of 1992."

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1323

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 17, 1993

The Assembly Financial Institutions Committee favorably reports, with committee amendments, Assembly, No. 1323.

This bill, as amended, provides a new regulatory framework for the business of cashing checks. It requires any person who charges a fee or receives a consideration, directly or indirectly, for cashing a check to be licensed by the State and prohibits the transfer or assignment of such license.

The bill requires the Commissioner of Banking to establish procedures and forms by which application may be made for a license to be a check casher. As part of the application process, an applicant has to prove the availability of a net worth or capital of at least \$50,000 and liquid assets of at least the same amount for each office, except a limited branch office, to be operated.

The bill requires a licensed check casher to hire a public accountant and agree in writing that the Department of Banking may examine the licensee's books and records at the accountant's place of business.

The bill provides for the operation of check cashing businesses at main offices, full branch offices, limited branch offices and mobile offices. Each office requires a separate application, application fee, proof of net worth and liquid assets (except for a limited branch office), and approval of its location and equipment.

The bill permits a licensee to charge a fee of two percent of the face amount of the check or \$.90, whichever is greater, if the check is drawn on a financial entity located in this or any other State, a fee of one percent of the face amount of the check if the check is payable to a recipient of Aid to Families with Dependent Children (AFDC) or \$.90, whichever is greater and a fee of one and one half percent of the face amount of the check if the check is payable to a recipient of supplemental security income pursuant to Title IV of the Social Security Act, 42 U.S.C. 1381 et seq., or \$.90, whichever is greater.

The bill requires a licensee to set up and maintain a separate record keeping system with respect to checks which are cashed for a payee which is not a natural person, i.e., a corporate or business entity, and requires that certain information with respect to the checks cashed be kept and made available to the commissioner upon request.

The bill requires each licensee to file a duplicate copy with the Attorney General of New Jersey of any report a licensee is required to file pursuant to 31 U.S.C. §5311 et seq. and 31 C.F.R. §103 et seq., regarding transactions in an amount over \$10,000.

The bill permits the commissioner, upon a finding that reasonable grounds exist for requiring additional record keeping and reporting in order to carry out the purposes of the act, to issue an order requiring certain licensees to provide information regarding transactions of \$2,000 or more and to establish reasonable fees for filing such reports with the department.



The bill provides a facilitated application and licensing process for persons already licensed to engage in the business of cashing checks under "The Check Cashing Law," P.L.1951, c.187 (C.17:15A-1 et seq.).

The bill spells out violations and imposes civil and criminal penalties for violations of the act or of rules and regulations promulgated pursuant to the act.

The bill repeals "The Check Cashing Law," P.L.1951, c.187 (C.17:15A-1 et seq.).

Amendments to the bill require: costs of departmental examinations of licensees to be reasonable; each office, except a limited branch office, to have a capital or net worth and liquid assets in an amount of \$50,000; and a check casher to have on file certain information concerning payees other than natural person and to collect additional information on a monthly basis with respect to the cashing of checks for a payee other than a natural person.

Other amendments to the bill: reduce the application and biennial renewal fee from \$3,000 to \$2,000 and exempt a limited branch office from the biennial fee; increase the fee a check casher may charge for cashing a check to 2 percent of the face amount of the check, except for checks made payable to a recipient of aid to families with dependent children or supplemental security income; change the elements of intent in violations of the act from "willfully" and "recklessly" to "knowingly"; provide an exemption from the provisions of the act to automated cash machines; delete the prohibitions against cashing a check in an amount greater than \$2,500 or for a payee other than a natural person; and prohibit a licensee from locating a office closer than 2,500 feet from an existing check cashing office or from engaging in any business at the check cashing office other than business which primarily provides financial services.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1323

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1993

The Senate Commerce Committee reports favorably Assembly, No. 1323 [1R].

This bill repeals "The Check Cashing Law" of 1951 and provides a new regulatory framework for the business of cashing checks. It requires any person who charges a fee for cashing a check to be licensed by the Department of Banking and prohibits the transfer or assignment of such license.

An applicant for a license has to prove the availability of a net worth or capital of at least \$50,000 and liquid assets of at least the same amount for each office, except a limited branch office, to be operated, and execute a statement to allow the department to examine the bank accounts which will be used solely for the check cashing business. The Commissioner of Banking must approve an application for a license if he finds that the financial responsibility, experience, character, and general fitness of the applicant support the belief that the business will be operated honestly and fairly; that none of the grounds for revoking or suspending a license apply to the applicant; and that the applicant has not, within the prior three years, cashed a check for consideration without a license.

The bill requires a licensed check casher to hire a public accountant and agree in writing that the department may examine the licensee's books and records at the accountant's place of business.

The bill provides for the operation of check cashing businesses at main offices, full branch offices, limited branch offices and mobile offices. Each office requires a separate proof of net worth and liquid assets (except for a limited branch office), and approval of its location and equipment, including necessary equipment to record transactions and maintain records required by this bill. Each licensee must pay to the department a biennial license fee of not more than \$2,000 for each office it maintains, excluding limited branch offices. A limited branch office is a private premises where the licensee makes available to a particular group, and to that group only, the facilities for cashing checks on the designated premises for no more than two days each week.

The bill prohibits a licensee from charging a fee in excess of: two percent of the face amount of the check or \$.90, whichever is greater, if the check is drawn on a financial institution or entity located in this or any other state; one percent of the face amount of the check or \$.90, whichever is greater, if the check is payable to a recipient of Aid to Families with Dependent Children (AFDC), and a fee of one and one half percent of the face amount of the check, or \$.90, whichever is greater, if the check is payable to a recipient of supplemental security income pursuant to Title IV of the Social Security Act. On or after a year following the effective

date of the bill, subsequent increases to these fees are required to be set by the commissioner by regulation pursuant to guidelines established by the bill.

A licensee is required, among numerous other requirements, to: give each customer a receipt showing the amount of the check which was cashed, the charge for cashing such and the amount of cash which the customer received; produce a photographic record of all checks cashed and maintain a true copy of each such record; conduct all check cashing business through bank accounts which are used solely for that purpose; retain all essential records for five years; suspend for at least six months the check cashing privileges of any customer who cashes, in any one calendar year, more than three bad checks; set up and maintain a separate record keeping system with respect to checks which are cashed for a payee which is not a natural person, i.e., a corporate or business entity; keep certain information with respect to the checks cashed and make it available to the commissioner upon request; and file a duplicate copy with the Attorney General of New Jersey of any report a licensee is required to file pursuant to federal law regarding transactions in an amount over \$10,000. The commissioner may, upon a finding that reasonable grounds exist for requiring additional record keeping and reporting in order to carry out the purposes of the bill, issue an order requiring certain licensees to provide information regarding transactions of \$2,500 or more and to establish reasonable fees for filing such reports with the department. In addition, a licensee is prohibited from: cashing a check which is made payable to a payee which is not a natural person unless the licensee has on file a corporate resolution or other appropriate document indicating that the corporation or other entity has authorized the cashing of checks on its behalf and the federal taxpayer identification number of the corporation or other entity; cashing a check for any one other than the payee of the check; cashing a post dated check; locating an office closer than 2,500 feet from an existing check cashing office; and engaging in the business of making loans of money, credit, goods or other things on the same premises where the licensee is cashing checks (except for a pawnbroker).

The commissioner may revoke or suspend a license for violations of the provisions of the bill and the bill imposes civil and criminal penalties for violations of the provisions of the bill.

The bill provides a facilitated application and licensing process for persons already licensed to engage in the business of cashing checks under "The Check Cashing Law," P.L.1951, c.187 (C.17:15A-1 et seq.).

Banks, other financial institutions, and automated cash machines are exempt from the provisions of the bill.

FISCAL NOTE TO  
[FIRST REPRINT]  
ASSEMBLY, No. 1323  
STATE OF NEW JERSEY

DATED: July 8, 1993

Assembly Bill No. 1323(1R) of 1992 provides a new regulatory framework for the business of cashing checks and repeals "The Check Cashing Law," P.L.1951, c.187 (C.17:15A-1 et seq.), currently in effect. It requires any person who charges a fee or receives a consideration, directly or indirectly, for cashing a check to be licensed by the State and prohibits the transfer or assignment of such a license. The bill increases the license application fee from the present \$1,000 to a maximum of \$2,000 and the biennial renewal fee from \$1,000 to a maximum of \$2,000.

According to the Department of Banking and the Office of Management and Budget, this bill will not have a fiscal impact since it merely refines the statute currently in place.

The Office of Legislative Services (OLS) does not concur with the Office of Management and Budget's and the Department of Bankings's statement since the provisions in the bill authorize an increase in the fee for a cashier license from \$1,000 to \$2,000 and an increase in the biennial licensee fee from \$1,000 to \$2,000. Since there are currently 143 check cashers throughout the State, OLS projects new additional revenues of \$71,500 will be received annually if fees for licensees are increased to the maximum amount authorized by the bill. Since information is currently not available concerning the number of new check cashier applicants that annually apply, OLS was not able to project this anticipated increase.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

January 10, 1994

ASSEMBLY BILL NO. 1323

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1323 (First Reprint) with my recommendations for reconsideration.

This bill would impose a comprehensive system of regulations and oversight on the check-cashing industry. There is no question that this legislation is long overdue. As we have seen from the recent hearings held by the State Commission of Investigation, criminals throughout this State have begun to use check-cashing services as a convenient means of laundering their proceeds. Moreover, check-cashing establishments are more and more becoming the financial institution of choice for many of our citizens in our most economically distressed areas -- areas in which banks are sometimes hesitant to locate. The time has therefore come to bring the check-cashing industry into a sensible regulatory mechanism, not only to strengthen our ability to stem money laundering, but to protect the interests of the consumers as well.

I am pleased, therefore, that the Legislature has presented me with a bill that would impose sensible and effective regulatory oversight over this industry.

In taking this step, however, we must guarantee the people of this State that we are doing it the right way. I believe this is a good bill, and I fully agree with the approach it takes toward the goal of better and more effective regulation. But I believe it could be strengthened in a number of respects: we need to make the licensing application process more exacting, we should authorize

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EXECUTIVE DEPARTMENT

full criminal background checks on those who apply for a license, we ought to regulate the sale of check-cashing businesses to third parties, and we should provide more sensible civil and criminal penalties. Accordingly, I am hereby returning this bill to the Legislature with the recommendation that it adopt amendments consistent with these suggestions.

For these reasons, I herewith return Assembly Bill No. 1323 (First Reprint) and recommend that it be amended as follows:

- Page 1, Section 2, line 16: Delete "a"
- Page 1, Section 2, lines 17-18: After line 17 insert new lines  
" "Controlling interest" means ownership, control or interest in 25% or more of the outstanding and issued voting stock of the check cashing business.  
"Customer" means any person who seeks to have a check cashed by a licensee but does not include the maker of a check payable to another person."
- Page 1, Section 2, line 18-19: After line 18 insert new lines  
" "Fee" includes any fee, charge, cost, expense, or other consideration."
- Page 2, Section 4, line 6: After "commissioner" insert "which shall contain notice that false statements made therein are punishable"
- Page 2, Section 5, line 24: After "'[and]'" insert "and"
- Page 2, Section 5, line 26: Delete "18" insert "19"
- Page 2, Section 5, lines 27-30: Delete "; and" on line 27;  
delete lines 28-30
- Page 2, Section 6, line 31: Delete "form"; delete "inquire about" insert "include,"
- Page 2, Section 6, lines 33-39: After "a." delete remainder of line 33; delete lines 34-38 in entirety; on line 39 delete "director, and substantial stockholder thereof" insert "The name, age, business address, residence and present and previous occupations of each applicant or licensee and of each officer, owner, director, partner, and substantial stockholder of the check cashing business to be licensed"
- Page 2, Section 6, line 5: Delete "and"

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- Page 2, Section 6, line 53: After "require" insert "; and f. All licensees shall have an affirmative obligation to advise the commissioner in writing within 5 days of any change in the information required under this section"
- Page 3, Section 7, line 3: After "commissioner" add "and shall provide written consent to the performance of background checks"
- Page 3, Section 7, lines 3-6: After "commissioner." delete remainder of line 3 and lines 4-6 in entirety, insert "The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in performing background checks. The commissioner is authorized to conduct such additional background checks as he deems appropriate."
- Page 3, Section 9, line 23: After "examine" delete "the" insert "all"
- Page 3, Section 11, line 51: Delete "in perpetuity unless" insert "until"
- Page 6, After Section 12: After line 3 insert new Section 13 "13. Any sale or transfer of a controlling interest in a licensee's or applicant's check cashing business shall be approved by the commissioner prior to the transfer or sale, after the licensee or applicant has provided written notice of the proposed sale or transfer to the commissioner. The commissioner shall approve the transfer or sale unless he determines, following an opportunity for a hearing, that sufficient grounds exist to deny, revoke, or suspend the license."
- Page 6, Section 13, line 4: Delete "13." insert "14."
- Page 6, Section 14, line 35: Delete "14." insert "15."
- Page 6, Section 14, line 36: After "office" insert ", limited branch office or mobile office"
- Page 7, Section 14, line 22: Delete "unit" insert "office"
- Page 7, Section 14, line 25: Delete "unit" insert "office"
- Page 7, Section 14, line 28: Delete "the previous month's"
- Page 7, Section 14, lines 48-49: After line 48 insert "n. Supervise employees engaged in the operation of the check cashing business to ensure the business is conducted lawfully and pursuant to the provisions of this act and any order, rule or regulation made or issued pursuant to this act."

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<u>Page 7, Section 15, line 49:</u>	Renumber Section 15 as Section 16.
<u>Page 8, Section 16, line 4:</u>	Renumber Section 16 as Section 17.
<u>Page 8, Section 17, line 10:</u>	Delete "17." insert "18."
<u>Page 8, Section 17, line 49:</u>	Delete "14" insert "15"
<u>Page 9, Section 18, line 7:</u>	Delete "18." insert "19.a"
<u>Page 9, Section 18, line 10:</u>	Delete "a." insert "(1)"
<u>Page 9, Section 18, line 11:</u>	After "act" insert "or has violated any other law in connection with the operation of the check cashing business"
<u>Page 9, Section 18, line 12:</u>	Delete "b." insert "(2)"
<u>Page 9, Section 18, line 14:</u>	Delete "c." insert "(3)"
<u>Page 9, Section 18, line 17:</u>	Delete "d." insert "(4)"
<u>Page 9, Section 18, line 21:</u>	Delete "e." insert "(5)"
<u>Page 9, Section 18, line 26:</u>	Delete "f." insert "(6)"
<u>Page 9, Section 8, line 29:</u>	Delete "g." insert "(7)"
<u>Page 9, Section 18, line 31:</u>	Delete "h." insert "(8)"
<u>Page 9, Section 18, line 32:</u>	After "deny" insert ", revoke or suspend"
<u>Page 9, Section 18, After 32:</u>	After line 32 insert "b. Pending an investigation or a hearing for the suspension or revocation of any license issued pursuant to this act, the commissioner may temporarily suspend such license for a period not to exceed 90 days, if the commissioner finds that such suspension is in the public interest."
<u>Page 9, Section 19, line 33:</u>	Delete "19." insert "20."
<u>Page 9, Section 19, line 39:</u>	After "violates" insert "or causes to be violated"
<u>Page 9, Section 19, After 49:</u>	Insert new sub-sections c, and d, "c. The commissioner may issue an order to any licensee who violates any provision of this act or regulation promulgated thereunder, ordering payment of the penalties provided in this act and corrective action concerning the violation. Any person aggrieved by any ruling, action, order, or notice of the commissioner shall be entitled to a hearing. The application for such a hearing shall be filed in writing with the commissioner within 15 days of receipt thereof." "d. Where any violation of any provision of this act is of a



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continuing nature, each day during which the violation remains uncorrected after the date fixed by the commissioner in any order or notice for the correction or termination of such continuing violation shall constitute a separate and distinct violation, except during the time when an appeal from such an order is being taken."

Page 9, Section 19, line 50: Delete "c." insert "e."  
Page 9, Section 19, line 54: Delete "d." insert "f."  
Page 10, Section 19, line 1: Delete "voluntarily"; after "commissioner" insert "within 30 days of their issuance"  
Page 10, Section 19, line 5: Delete "e." insert "g."  
Page 10, Section 20, lines 8-28: Delete in entirety  
Page 10, Section 21, line 44: After "a" insert "written"; After "statement" insert "certified to be true", delete "oath" insert "penalty of law"  
Page 10, Section 21, lines 46-47: Delete "subsection b. of" and delete "subsection d. of"  
Page 10, Section 21, line 52: Delete "17" insert "18"  
Page 10, Section 21, lines 53-54: Delete "Except as provided in subsection '[c.] b.'" and '[d] c.'" of section 20 of this act, this" insert "This"

Respectfully

/s/ Jim Florio

GOVERNOR

[seal]

Attest:

/s/ William Harla

Deputy Chief Counsel to the Governor