

LOUISIANA REVISED STATUTES

TITLE 6

BANKS AND BANKING

CHAPTER 12. Currency Exchange Services

(Current through 2016 Regular Legislative Session)

§1001. Title

This Chapter shall be known and may be cited as “The Louisiana Check-Cashing Law”.

§1002. Definitions

For the purposes of this Chapter:

(1)(a) “Check-casher” means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

(b) “Check-casher” does not mean either one of the following:

(i) An individual, partnership, unincorporated association, or corporation that charges no fee to the presenter or payor for the cashing of a check, draft, money order, or traveler’s check.

(ii) An individual, partnership, unincorporated association, or corporation that cashes a check, draft, money order, or traveler’s check, or other commercial paper if the fee charged does not exceed two dollars and the currency exchange is incidental to the person’s primary business.

(2) “Commissioner” means the commissioner of financial institutions.

(3) “Currency exchange” means the cashing of checks, drafts, money orders, or traveler’s checks, or other commercial paper serving the same purpose by a check-casher.

(4) “Licensee” means a check-casher licensed by the commissioner to engage in business in accordance with this Chapter.

§1003. License; certificates

Beginning January 1, 2000, a person engaging in currency exchange shall obtain a license from the commissioner. A person may engage in such business at more than one location with one license. The commissioner shall issue a certificate for each currency exchange location in addition to the license.

§1004. Application for license and change of control

A. An application for a license under this Chapter shall be made under oath and on a form prescribed by the commissioner.

B. The application form shall provide space for and require disclosure of the following information:

(1)(a) If the applicant is an individual, the full name and address of the individual's residence and principal place of business.

(b) If the applicant is a partnership or association, the full name and address of every member's residence and of the principal place of business of the partnership or association.

(c) If the applicant is a corporation, the corporation's full name and business address of the corporation's principal place of business and the full name and residential address of each of the officers of the corporation.

(2) The name of the currency exchange operation.

(3) The street address of each currency exchange location operated by the applicant.

(4) The applicant's occupations or professions for the ten years preceding the date of application.

(5) The applicant's present and previous activities in currency exchange services in

(6) A criminal history disclosure on the applicant.

(7) The nature of business conducted at any location to be issued a certificate.

C. If the applicant is a partnership, association, or corporation, the information required by Paragraphs (4), (5), and (6) of Subsection B of this Section shall be supplied for each partner, officer, and director, as appropriate.

D. (1) No person shall acquire or control a license through the acquisition or control of more than fifty percent of the ownership interest in a licensee without first having obtained written approval from the commissioner, pursuant to an application for a change of control in ownership of the licensee, filed in the manner and on a form prescribed by the commissioner and accompanied by a fee of three hundred dollars. Any person who acquires controlling interest in a licensee without first having filed an application for change of control with the commissioner shall be deemed to be operating without proper authority and subject to the penalties of this Part.

(2) For the purposes of this Section, a person acquires or controls the licensee when at least one of the following conditions exists:

(a) The person, directly or acting through one or more other persons, owns, controls, or has the power to vote more than fifty percent of any class of stock of the corporation.

(b) The person controls in any manner the election of a majority of the directors of the corporation.

(c) The commissioner determines, after notice and an opportunity for hearing, that the person directly or indirectly exercises a controlling influence over the management or the policies of the licensee.

(3) When the licensee is a limited liability company or a limited liability partnership, the licensee is acquired or controlled if one of the following occurs:

(a) There is a change of members or general partners.

(b) An existing member or general partner acquires or controls the licensee as provided in Paragraph (2) of this Subsection.

(c) The commissioner determines that there has been a significant change in the membership or partnership interests, including but not limited to a change in ownership or control, directly or indirectly affecting twenty-five percent or more of the total interest of the licensee.

(4) A corporation that is a licensee shall notify the commissioner within sixty days of a stockholder becoming a principal stockholder, which is defined for purposes of this Section as owning ten percent or greater of the outstanding stock of the corporation.

E. Any person required to be licensed pursuant to this Chapter shall, prior to application for licensure, be duly registered with the secretary of state and be in possession of a certificate of authority to transact business in this state pursuant to the provision of R.S. 9:3422, R.S. 12:304, or R.S. 12:1345, as applicable.

§1004.1. License fees; online renewal

A. The applicant shall pay to the commissioner a nonrefundable application fee of three hundred fifty dollars with the initial application, plus an additional fee of fifty dollars for each currency exchange location in this state, not exceed three thousand dollars.

B. (1) The licensee shall pay an annual license renewal fee on or before the first day of December of each year for license to engage in currency exchange during the following calendar year of two hundred fifty dollars plus an additional fee of fifty dollars for each currency exchange location in this state, not to exceed three thousand dollars.

(2) If the commissioner has not received the annual renewal fee from a licensee by the sixteenth day of January, as determined by the postmarked date, he shall notify the licensee by United States mail and assess a late fee of one hundred dollars.

(3) If the commissioner has not received the annual renewal fee and late fee by March thirty-first, the license to engage in currency exchange and all certificates issued for currency exchange locations shall lapse without a hearing or notification, and the license and certificates shall not be reinstated. However, the person whose license and certificates have lapsed may apply for a new license and certificates.

4) After the date the licensing system provided for in Subsection C of this Section is available for use, any filing or notification required by the commissioner shall be made through the online-system. Thereafter, the provisions of this Subsection shall expire and no longer have any effect.

C. (1) Beginning January 1, 2015, and thereafter, a licensee may submit through the Nationwide Mortgage Licensing System and Registry his renewal application on or before December thirty-first of each year in a manner and form prescribed by the commissioner.

(2) The renewal application shall be accompanied by a renewal fee of two hundred fifty dollars plus an additional fee of fifty dollars for each currency exchange location in this state, not to exceed three thousand dollars, payable on or before December thirty-first of each year. A renewal application submitted through the Nationwide Licensing System and Registry after December thirty-first and before March first of the following year shall be charged a late fee of one hundred dollars.

(3) If the renewal application is submitted timely on or before December thirty-first, the license shall remain in force and effect until the renewal application is either approved or denied by the commissioner. Nothing in this Paragraph shall preclude the commissioner from implementing any administrative or enforcement actions authorized by this Title for violations of this Chapter or for any material misrepresentation that may have occurred prior to the renewal date of a license.

(4) If the commissioner has not received the renewal fee and late fee before March first, the license to engage in currency exchange shall lapse without hearing or notification, and the license shall not be reinstated. However, the person whose license has lapsed may apply for a new license.

§1004.2. Enforcement powers of the commissioner

A. The commissioner may, in his discretion, conduct such investigations as he deems necessary to ascertain possible violations of this Chapter or any rule, regulation, or order promulgated or issued in connection therewith. Any person who is engaged in or is engaging in or is about to engage in any act or practice which is prohibited by this Chapter or any rule, regulation, or order promulgated or issued in connection therewith, or any person who has failed to act or is failing to act or is about to fail to act under any affirmative duty imposed by this Chapter or any rule, regulation, or order promulgated or issued in connection therewith, shall be subject to appropriate action by the commissioner. Such action shall include but shall not be limited to the issuance of orders to cease and desist or to assess civil money penalties, entering into compliance agreements, seeking injunctive relief from a court of competent jurisdiction, or any combination thereof.

B. The commissioner, in addition to or in place of suspension or revocation of a license, may fine up to five hundred dollars for each violation any person who violates any provision of this Chapter.

C. The commissioner may maintain a civil action in a court of competent jurisdiction to recover such fines, together with any costs and attorney fees incident to such action.

§1005. Qualifications

The commissioner shall evaluate the financial responsibility, financial condition, business experience, and the character and general fitness of the applicant. The commissioner may investigate and consider the qualifications of officers and directors of an applicant to determine whether this qualification has been met.

§1006. Approval or denial of application

A. No later than the sixtieth day after the date a complete application has been received, the commissioner shall approve or deny the application and so notify the applicant.

B. (1) The commissioner shall issue a license to the applicant and a certificate for each currency exchange location if the application has been approved, the qualifications have been met, and the requisite fees have been paid.

(2) If the commissioner denies the application, the commissioner shall notify the applicant in writing of the reasons for denial.

(3) An applicant may appeal the decision of the commissioner pursuant to the Administrative Procedure Act.

C. (1) Any person whose application or renewal application for licensure under this Chapter has been denied for any reason may not reapply for a license under this Chapter until after at least three years from the date of the order of denial unless the commissioner, in his sole discretion, prescribes an earlier or later date.

(2) For purposes of this Subsection:

(a) The term “order” shall mean the date of the commissioner’s notification of denial of the person’s application.

(b) The term “person” shall include the applicant, its owners, and its members if the applicant is a limited liability company, its partners if the applicant is a partnership, its officers and directors if the applicant is a corporation, and any other person determined by the commissioner, in his sole discretion, to be closely related to the person.

§1007. Change of name or location

A. In the event that a licensee wishes to change its name, trade name, or assumed name and such change is not due to a change in ownership or legal entity, the licensee shall notify the

commissioner in writing thirty days prior to such change and submit a fee of fifty dollars per certificate not to exceed three thousand dollars. If the licensee fails to notify the commissioner or remit the required fee within the required thirty days, the commissioner may assess the licensee an amount not to exceed one hundred dollars as a penalty.

B. If a licensee adds a new location or changes the location of a currency exchange, the licensee shall notify the commissioner thirty days prior to such change and submit a fee of fifty dollars per certificate not to exceed three thousand dollars. If a licensee fails to notify the commissioner or remit the required fee within the required thirty days, the commissioner may assess the licensee an amount not to exceed one hundred dollars as a penalty.

C. If the application is approved, the commissioner shall issue a certificate for the new location or locations.

§1008. Suspension or revocation of license; hearing; surrender of license; administrative fines

A. The commissioner may suspend or revoke any license if the commissioner determines any one or more of the following has occurred:

(1) The licensee, or any officer or director of a corporate licensee, has violated any provision of this Chapter.

(2) The licensee or any officer or director of a corporate licensee has violated any provision of law which would indicate that the person is untrustworthy or is not qualified to operate a currency exchange, such as acts of fraud, misrepresentation, and other similar acts.

(3) The commissioner discovers facts that existed when the initial or renewal application for the license was made which would have warranted denial of the license.

(4) The licensee has failed to pay a fine assessed pursuant to this Chapter.

B. (1) A license shall not be suspended or revoked or a fine assessed until after a hearing.

(2) The commissioner shall give the licensee not less than twenty days from the mailing of written notice by certified mail, addressed to the principal place of business of the licensee, of the time and place of hearing.

(3) Any order of the commissioner suspending or revoking a license or assessing a fine shall state the grounds upon which the suspension, revocation, or fine is based and shall state an effective date for the suspension or revocation, or a date by which the fine shall be paid.

C. (1) A suspended or revoked license shall be surrendered by the licensee along with all location certificates to the commissioner in person or by first class mail within seven calendar days of the effective date of the suspension or revocation.

(2) The surrender shall not affect the licensee's civil or criminal liability for acts committed before the surrender, nor shall the surrender affect the liability on the bond required by this Chapter.

(3) The licensee shall not be entitled to a refund of license fees paid.

D. Each transaction in violation of a provision or requirement of this Chapter shall constitute a separate violation.

§1009. Regulation of fees; unreasonable fees; display of fees

A. Notwithstanding any other provision of law to the contrary, no check-casher licensed or regulated under this Chapter shall directly or indirectly charge or collect fees or other consideration for rendering currency exchange services in excess of the following:

(1) Two percent of the total amount of the check presented for cashing or five dollars, whichever is greater, for checks issued by or drawn upon the account of a public welfare or public assistance agency of the United States, the state of Louisiana, or any political subdivision of the state.

(2) Ten percent of the total amount of the check presented for cashing or five dollars, whichever is greater, for all other checks or for money orders.

B. All fees charged by a licensee for rendering currency exchange services shall be prominently displayed on the premises of the currency exchange location in such manner as the commissioner requires.

§1010. Repealed by Acts 2004, No. 370, § 1

§1011. Powers; limitations; prohibitions

A licensee shall not accept money or currency for deposit or act as bailee or agent for any person to hold money or currency in escrow for others for any purpose. However, a licensee may act as agent for a person licensed under the Sale of Checks and Money Transmission Act, Chapter 13 of this Title.

§1012. Violations; criminal penalties; civil liability

A. A violation of any provision or requirement of this Chapter is a misdemeanor and shall be punishable by a fine of not less than two hundred and fifty dollars but not more than five hundred dollars, imprisonment for a term of not more than six months, or both. Each transaction in violation of any provision or requirement of this Chapter shall constitute a separate offense.

B. The commissioner, through an administrative action or the district attorney of any judicial district, may maintain an action to enjoin violations of this Chapter.

C. Costs and reasonable attorney fees shall be awarded to the commissioner or a district attorney in all injunctive actions when the commissioner or district attorney successfully enforces this Chapter.

§1013. Books of account; examinations

A. The licensee shall maintain sufficient books, accounts, and records that will enable the commissioner to determine if the licensee is complying with the provisions of this Chapter and with the rules adopted by the commissioner.

B. A licensee shall preserve the books, accounts, and records for at least two years after making the final entry.

C. (1) The commissioner, through his employees, may examine the records of a licensee at any time during normal business hours without prior notice.

(2) If the licensee's records are located outside this state, the licensee, at the commissioner's option, shall make them available to the commissioner at a location within this state convenient to the commissioner, or pay the reasonable and necessary expenses for the commissioner or his representatives to examine them at the place where they are maintained. The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.

§1013. 1 Cashing federal and state treasury checks; records retention

A. No licensee shall cash a United States Treasury tax refund check or state tax refund check in an amount of one thousand dollars or greater unless the person requesting that the check be cashed submits any one of the following:

(1) A valid current Louisiana driver's license that contains a photograph of the person presenting the driver's license.

(2) A valid current driver's license of another state that contains a photograph and the date of birth of the person submitting the driver's license

(3) A valid current special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card.

(4) A valid current passport or visa issued by the federal government or another country or nation, that contains a permanently attached photograph and the date of birth of the person submitting the passport or visa.

(5) A valid current military or federal identification card issued by the federal government containing a photograph and the date of birth of the person submitting the identification card.

B. (1) No form of identification required by Subsection A of this Section shall be accepted as proof of identification if it is expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit

additional identification that contains the name, date of birth, and photograph of the person. A duplicate driver's license shall be considered lawful identification for the purposes of this Section, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person.

(2) An education institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purposes of this Section.

C. Each licensee shall maintain the following records and information for each United States Treasury tax refund check or state tax refund check in the amount of one thousand dollars or greater cashed by the licensee:

(1) The date on which the check is cashed.

(2) The number of the check and the face amount of the check.

(3) The name of the drawer of the check that is cashed.

(4) The name, home address, and the date of birth of the person for whom the check is cashed and a copy of the photo identification presented as required in this Section.

(5) A copy of the front and back of the check that is cashed.

D. Notwithstanding the provision of R.S. 6:1013(B), each licensee shall maintain the records and information required by the Section for at least three years from the date on which the check is cashed.

§1014. Rules and regulations

The commissioner shall promulgate such rules and regulations as he deems necessary to administer and enforce this Chapter, pursuant to the Administrative Procedure Act.

§1015. False advertising

A. A licensee may not advertise, print, display, publish, distribute, or broadcast any statement or representation that is false, misleading, or deceptive or that omits material information.

B. A licensee shall post accurate information concerning the check-cashing fees or percentages charged in a prominent location on the premises.

§1016. Applicability

This Chapter shall not apply to any bank, trust company, savings bank, savings and loan association, or credit union

LOUISIANA REVISED STATUTES

TITLE 6.

BANKS AND BANKING

CHAPTER 4. Prohibited Practices; Sanctions

(Current through 2016 Regular Legislative Session)

§423. Check-cashing facility; location of business limited

A. No license shall be granted for the operation of a check-cashing facility which will be situated within three hundred feet or less of any official gaming establishment or designated docking facility of a riverboat licensed to conduct gaming activities or gaming operations pursuant to Chapter 4 or 5 of Title 27 of the Louisiana Revised Statutes of 1950. As to official gaming establishments, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the official gaming establishment to the nearest point of the facility. As to docking facilities, this distance shall be measured in a straight line from the nearest point of the docking facility to the nearest point of the check-cashing facility.

B. The subsequent construction, erection, development, or movement of an official gaming establishment or designated docking facility which causes a check-cashing facility to be located within the prohibited distance shall not be cause for revocation, withholding, denial, or nonrenewal of a license.

C. For purposes of this Section, “check-cashing facility” means a facility whose primary business is the cashing of checks, drafts, money orders, or travelers checks for a fee. The term does not include a bank, trust company, savings bank, savings and loan association, or credit union.

D. The provisions of this Section shall not apply to an individual, partnership, unincorporated association, or corporation that charges no fee to the presenter or payor for the cashing of a check, draft, money order, or traveler’s check.

Notice

Please note that the excerpted version of this statute contained herein is unofficial and should not be relied on when making legal determinations affecting a person’s rights or obligations without first consulting with competent legal counsel. A complete, but unofficial, copy of the entire Louisiana Revised Statutes is available through the State of Louisiana on the Louisiana Legislature’s website located at www.legis.louisiana.gov.