

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 65

Short Title: Regulate Check Cashing.

(Public)

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Sponsors: Senators Jordan; Parnell and Kerr.

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Referred to: Commerce.

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January 26, 1995

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE CHECK CASHING BUSINESSES.

3 The General Assembly of North Carolina enacts:

4 Section 1. Effective October 1, 1995, Chapter 53 of the General Statutes is  
5 amended by adding the following new Article to read:

6 **"ARTICLE 22.**

7 **"CHECK CASHING BUSINESSES.**

8 **"§ 53-275. Definitions.**

9 As used in this Article, unless the context clearly requires otherwise, the term:

10 (1) 'Check cashing service' means any person or entity engaged in the  
11 business of cashing checks, drafts, or money orders for a fee, service  
12 charge, or other consideration.

13 (2) 'Commission' means the North Carolina Banking Commission.

14 (3) 'Commissioner' means the Commissioner of Banks.

15 (4) 'Licensee' means a person or entity licensed to engage in a check  
16 cashing business under this Article.

17 (5) 'Person' means an individual, partnership, association, or corporation.

18 **"§ 53-276. License required.**

19 No person or other entity may engage in the business of cashing checks, drafts, or  
20 money orders for consideration without first obtaining a license under this Article.

1 **"§ 53-277. Exemptions.**

2 This Article shall not apply to:

- 3 (1) A bank, savings institution, credit union, or farm credit system  
4 organized under the laws of the United States or any state; and  
5 (2) Any person or entity principally engaged in the bona fide retail sale of  
6 goods or services, who either as an incident to or independently of a  
7 retail sale or service and not holding itself out to be a check cashing  
8 service, from time to time cashes checks, drafts, or money orders for a  
9 fee or other consideration, where not more than two dollars (\$2.00) is  
10 charged for the service.

11 **"§ 53-278. Application for license; investigation; application fee.**

12 (a) An application for licensure under this Article shall be in writing, under oath,  
13 and on a form prescribed by the Commissioner. The application shall set forth:

- 14 (1) The name and address of the applicant;  
15 (2) If the applicant is a firm or partnership, the name and address of each  
16 member of the firm or partnership;  
17 (3) If the applicant is a corporation, the name and address of each officer,  
18 director, registered agent, and principal;  
19 (4) The addresses of the locations of the business to be licensed; and  
20 (5) Such other information concerning the financial responsibility,  
21 background, experience, and activities of the applicant and its members,  
22 officers, directors, and principals as the Commissioner requires.

23 (b) The Commissioner may make such investigations as the Commissioner deems  
24 necessary to determine if the applicant has complied with all applicable provisions of this  
25 Article and State and federal law.

26 (c) The application shall be accompanied by payment of a five hundred dollar  
27 (\$500.00) application fee and a five hundred dollar (\$500.00) investigation fee. These  
28 fees are not refundable or abatable, but, if the license is granted, payment of the  
29 application fee shall satisfy the fee requirement for the first license year or remaining part  
30 thereof.

31 (d) Licenses shall expire annually and may be renewed upon payment of a license  
32 fee of five hundred dollars (\$500.00) plus a one hundred dollar (\$100.00) fee for each  
33 branch location certificate issued under a license, and compliance with this Article and  
34 applicable State and federal law.

35 **"§ 53-279. Liquid assets required; other qualifications; denial of license; appeal to**  
36 **Commission.**

37 (a) Every licensee and applicant shall have and maintain liquid assets of at least  
38 twenty-five thousand dollars (\$25,000) per licensee.

39 (b) Upon the filing and investigation of an application, and compliance by the  
40 applicant with G.S. 53-277, G.S. 53-278, and this section, the Commissioner shall issue  
41 and deliver to the applicant the license applied for to engage in business under this  
42 Article at the locations specified in the application, provided that the Commissioner finds  
43 that the financial responsibility, character, reputation, experience, and general fitness of

1 the applicant and its members, officers, directors, and principals are such as to warrant  
2 belief that the business will be operated efficiently and fairly, in the public interest, and in  
3 accordance with law. If the Commissioner fails to make such findings, no license shall  
4 be issued, and the Commissioner shall notify the applicant of the denial and the reasons  
5 therefor. The applicant shall be entitled to an informal hearing on the denial provided the  
6 applicant requests the hearing in writing within 30 days after the Commissioner has  
7 mailed the notice required under this subsection to the applicant. In the event of a  
8 hearing, which shall be held in the offices of the Commissioner of Banks in Raleigh, the  
9 Commissioner shall reconsider the application and, after hearing, issue a written order  
10 granting or denying the application.

11 **"§ 53-280. Maximum fees for service; fees posted; endorsement of checks cashed.**

12 (a) No check cashing business licensed under this Article shall directly or  
13 indirectly charge or collect fees or other consideration for check-cashing services in  
14 excess of the following:

- 15 (1) Two percent (2%) of the face amount of the check or five dollars  
16 (\$5.00), whichever is greater, for checks issued by the federal  
17 government, State government, or any agency of the State or federal  
18 government, or any county or municipality of this State;  
19 (2) Ten percent (10%) of the face amount of the check or five dollars  
20 (\$5.00), whichever is greater, for personal checks; or  
21 (3) Five percent (5%) of the face amount of the check or money order or  
22 five dollars (\$5.00), whichever is greater, for all other checks, or for  
23 money orders.

24 (b) A licensee shall ensure that in every location conducting business under a  
25 license issued under this Article, there is conspicuously posted and at all times displayed  
26 a notice stating the fees charged for cashing checks, drafts, and money orders. A licensee  
27 shall further ensure that notice of the fees currently charged at every location shall be  
28 filed with the Commissioner.

29 (c) Checks, drafts, and money orders cashed at every location conducting business  
30 under a license issued under this Article shall be deposited or presented for payment  
31 within three days of the date the check is cashed for the customer. A licensee shall  
32 endorse every check, draft, or money order presented by the licensee for payment in the  
33 name of the licensee.

34 **"§ 53-281. Record keeping, receipt requirements.**

35 (a) Every person required to be licensed under this Article shall maintain in its  
36 offices such books, accounts, and records as the Commissioner may reasonably require.  
37 The Commissioner may examine the books, accounts, and records in order to determine  
38 whether the person is complying with this Article and rules adopted pursuant thereto.  
39 The books, accounts, and records shall be maintained separate from any other business in  
40 which the person is engaged, and shall be retained for a period prescribed by the  
41 Commissioner.

1 (b) The licensee shall ensure that each customer cashing a check shall be provided  
2 a receipt showing the name or trade name of the licensee, the transaction date, amount of  
3 the check, and the fee charged.

4 **"§ 53-282. Prohibited practices.**

5 No person required to be licensed under this Article shall:

- 6 (1) Charge fees in excess of those authorized under this Article;  
7 (2) Engage in the business of making loans of money, credit, goods, or  
8 things; or discounting notes, bills of exchange, items, or other evidences  
9 of debt; or accepting deposits or bailments of money or items;  
10 (3) Hold checks cashed by customers for more than three days before  
11 depositing or presenting the checks for payment;  
12 (4) Cash items in a face amount exceeding two thousand five hundred  
13 dollars (\$2,500);  
14 (5) Use or cause to be published or disseminated any advertising  
15 communication which contains any false, misleading, or deceptive  
16 statement or representation;  
17 (6) Conduct business at premises or locations other than locations licensed  
18 by the Commissioner;  
19 (7) Engage in unfair, deceptive, or fraudulent practices;  
20 (8) Cash a check, draft, or money order made payable to a payee other than  
21 a natural person unless the licensee has previously obtained appropriate  
22 documentation from the executive entity of the payee clearly indicating  
23 the authority of the natural person or persons cashing the check, draft, or  
24 money order on behalf of the payee.

25 **"§ 53-283. Suspension and revocation of license; grounds; procedure.**

26 (a) The Commissioner may suspend or revoke any license or licenses issued  
27 pursuant to this Article if, after notice and opportunity for hearing, the Commissioner  
28 issues written findings that the licensee has:

- 29 (1) Violated this Article or applicable State or federal law or rules;  
30 (2) Made a false statement on the application for a license under this  
31 Article;  
32 (3) Refused to permit investigation by the Commissioner authorized under  
33 this Article;  
34 (4) Failed to comply with an order of the Commissioner;  
35 (5) Demonstrated incompetency or untrustworthiness to engage in the  
36 business of check cashing; or  
37 (6) Been convicted of a felony or misdemeanor involving fraud,  
38 misrepresentation, or deceit.

39 (b) The Commissioner may not suspend or revoke any license issued under this  
40 Article unless the licensee has been given notice and opportunity for hearing in  
41 accordance with Article 3A of Chapter 150B of the General Statutes.

42 **"§ 53-284. Cease and desist orders.**

1       If the Commissioner determines that a person required to be licensed under this  
2 Article has violated this Article or rules adopted pursuant to it, then the Commissioner  
3 may, upon notice and opportunity for hearing in accordance with Article 3A of Chapter  
4 150B of the General Statutes, order the person to cease and desist from the violations and  
5 to comply with this Article. The Commissioner may enforce compliance with an order  
6 issued pursuant to this section by the imposition and collection of civil penalties  
7 authorized under this Article.

8 **"§ 53-285. Civil penalties and restitution.**

9       The Commissioner may order and impose civil penalties upon any person required to  
10 be licensed under this Article for violations of this Article or rules adopted thereunder.  
11 Civil penalties shall not exceed one thousand dollars (\$1,000) per violation. All civil  
12 money penalties collected under this Article shall be deposited in the General Fund. The  
13 Commissioner may also order repayment of unlawful or excessive fees charged to  
14 customers.

15 **"§ 53-286. Criminal penalties.**

16       Any person who acts as a check casher without obtaining a license under this Article  
17 shall be guilty of a Class I felony. Each transaction involving the unlawful cashing of a  
18 check shall constitute a separate offense.

19 **"§ 53-287. Commissioner to adopt rules.**

20       The Commissioner may adopt rules necessary to carry out the purposes of this Article,  
21 to provide for the protection of the public, and to assist licensees in interpreting and  
22 complying with this Article.

23 **"§ 53-288. Commission may review rules, orders, acts by Commissioner.**

24       The Commission shall have full authority to review any rule, regulation, order, or act  
25 of the Commissioner done pursuant to or with respect to the provisions of this Article and  
26 any person aggrieved by any such rule, regulation, order, or act may appeal to the  
27 Commission for review upon giving notice in writing within 20 days after such rule,  
28 regulation, order, or act complained of is adopted, issued, or done."

29               Sec. 2. This act is effective upon ratification.