

HOUSE BILL 1196

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CF SB 939

By: **Delegates Washington, Ivey, Barron, Charles, and Williams**

Introduced and read first time: February 7, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Check Cashing Services – Registration and**
3 **Dissemination of Information**

4 FOR the purpose of repealing an exemption for certain check cashing services from certain
5 provisions of law governing the licensure of check cashing services; authorizing a
6 person to provide check cashing services without obtaining a certain license by
7 registering with the Commissioner of Financial Regulation under certain
8 circumstances; requiring a person to provide the Commission with certain
9 information in a certain form to register as a check cashing service; requiring a
10 person who registers under certain provisions of this Act to reregister on or before a
11 certain date each year; providing that certain provisions of law do not apply to a
12 person who registers under certain provisions of this Act; altering the information
13 that a certain licensee is required to post conspicuously in a certain manner at
14 certain locations; requiring a certain licensee to post a certain brochure in a certain
15 manner at certain locations; requiring that the brochure include a certain link;
16 making a conforming change; requiring the Office of the Commissioner of Financial
17 Regulation to provide certain notice to certain persons; authorizing the
18 Commissioner to order a registrant to cease and desist from a course of conduct
19 under certain circumstances; authorizing the Commissioner to suspend or revoke the
20 registration of a registrant under certain circumstances; requiring the Commissioner
21 to consider certain factors before suspending or revoking the registration of a
22 registrant; requiring the Commissioner, before taking a certain action, to provide a
23 registrant an opportunity for a hearing; providing for the effective dates of this Act;
24 and generally relating to check cashing services.

25 BY repealing and reenacting, with amendments,
26 Article – Financial Institutions
27 Section 12–102, 12–105(a), 12–118, 12–121, 12–122, and 12–123
28 Annotated Code of Maryland
29 (2011 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Financial Institutions
3 Section 12–105.1
4 Annotated Code of Maryland
5 (2011 Replacement Volume and 2019 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That the Laws of Maryland read as follows:

8 **Article – Financial Institutions**

9 12–102.

10 (a) This subtitle does not apply to check cashing services:

11 (1) [(i) For which a fee of up to 1.5% of the face amount of the payment
12 instrument is charged per payment instrument; and

13 (ii) That are incidental to the retail sale of goods or services by the
14 person that is providing the check cashing services;

15 (2)] In which a customer presents a payment instrument for the exact
16 amount of a purchase; or

17 [(3)] (2) Involving foreign currency exchange services or the cashing of a
18 payment instrument drawn on a financial institution other than a federal, State, or other
19 state financial institution.

20 (b) (1) This subtitle does not apply to a transaction that is subject to the
21 Maryland Consumer Loan Law (Title 12, Subtitle 3 of the Commercial Law Article and
22 Title 11, Subtitle 2 of this article), including a transaction in which an additional fee is
23 charged to defer the presentment or deposit of a payment instrument until a subsequent
24 date.

25 (2) A check cashing service is not subject to the Maryland Consumer Loan
26 Law if:

27 (i) The fee charged for the check cashing service does not exceed the
28 fee permitted under this subtitle;

29 (ii) No additional fee is charged to defer the presentment or deposit
30 of the payment instrument; and

31 (iii) The check cashing service is not subject to renewal or extension
32 by any means.

33 12–105.

1 (a) Except as provided in § 12-102(a) OR § 12-105.1 of this subtitle, a person
2 may not provide check cashing services unless the person is licensed under this subtitle or
3 is an exempt entity.

4 **12-105.1.**

5 (A) A PERSON MAY PROVIDE CHECK CASHING SERVICES WITHOUT
6 OBTAINING A LICENSE UNDER THIS SUBTITLE BY REGISTERING WITH THE
7 COMMISSIONER AS A CHECK CASHING SERVICE IF THE PERSON:

8 (1) CHARGES A FEE OF UP TO 1.5% OR \$1, WHICHEVER IS GREATER,
9 OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT PER PAYMENT INSTRUMENT;

10 (2) PROVIDES CHECK CASHING SERVICES FOR FEWER THAN 10
11 CHECKS PER MONTH PER BUSINESS LOCATION;

12 (3) IS REGISTERED AS A CHECK CASHER MONEY SERVICE BUSINESS
13 WITH THE U.S. DEPARTMENT OF TREASURY;

14 (4) CONDUCTS CHECK CASHING SERVICE TRANSACTIONS WITHIN
15 THE INTERIOR OF THE BUSINESS LOCATION AND NOT THROUGH THE USE OF A
16 MOBILE UNIT OR AN EXTERIOR DRIVE-UP OR WALK-UP WINDOW;

17 (5) DOES NOT ADVERTISE CHECK CASHING SERVICES IN ANY MANNER
18 OTHER THAN IN THE INTERIOR OF THE BUSINESS LOCATION;

19 (6) HAS CONSPICUOUSLY POSTED A NOTICE WITH THE FOLLOWING
20 INFORMATION, IN 48 POINT TYPE OR LARGER, AT EACH BUSINESS LOCATION AT
21 WHICH THE PERSON PROVIDES CHECK CASHING SERVICES:

22 (I) THE FEES CHARGED FOR CHECK CASHING SERVICES; AND

23 (II) HOW TO CONTACT THE OFFICE OF THE COMMISSIONER OF
24 FINANCIAL REGULATION WITH COMMENTS OR COMPLAINTS; AND

25 (7) PROVIDES A RECEIPT TO EACH CHECK CASHING SERVICES
26 CUSTOMER THAT INCLUDES:

27 (I) THE DATE OF THE TRANSACTION;

28 (II) THE FACE VALUE OF THE CHECK CASHED;

29 (III) THE FEE CHARGED; AND

1 (IV) THE NET DOLLAR AMOUNT PAID TO THE CUSTOMER.

2 (B) TO REGISTER AS A CHECK CASHING SERVICE, A PERSON SHALL PROVIDE
3 TO THE COMMISSIONER, IN A FORM REQUIRED BY THE COMMISSIONER:

4 (1) THE PERSON'S NAME AND ADDRESS AND, IF THE PERSON IS NOT
5 AN INDIVIDUAL:

6 (I) THE NAMES AND ADDRESSES OF EACH OWNER WHO OWNS
7 MORE THAN 5% OF THE PERSON; AND

8 (II) THE OFFICERS AND DIRECTOR OR PRINCIPAL OF THE
9 PERSON;

10 (2) THE ADDRESSES AT WHICH CHECK CASHING SERVICES WILL BE
11 PROVIDED; AND

12 (3) ANY OTHER INFORMATION DETERMINED TO BE NECESSARY BY
13 THE COMMISSIONER.

14 (C) A PERSON WHO REGISTERS UNDER THIS SECTION SHALL REREGISTER
15 ON OR BEFORE DECEMBER 31 EACH YEAR, BEGINNING IN THE YEAR FOLLOWING
16 INITIAL REGISTRATION.

17 (D) SECTIONS 12-106 THROUGH 12-120 OF THIS SUBTITLE DO NOT APPLY
18 TO A PERSON WHO REGISTERS UNDER THIS SECTION.

19 12-118.

20 (A) A licensee shall conspicuously post, in 48 point or larger type, at each place of
21 business at which, or mobile unit from which, the licensee provides check cashing services[,
22 a]:

23 (1) A notice of the fees for check cashing services; AND

24 (2) THE PHONE NUMBER OF THE COMMISSIONER FOR CUSTOMERS
25 TO FILE COMPLAINTS.

26 (B) (1) A LICENSEE SHALL CONSPICUOUSLY POST AT EACH PLACE OF
27 BUSINESS AT WHICH, OR MOBILE UNIT FROM WHICH, THE LICENSEE PROVIDES
28 CHECK CASHING SERVICES, A BROCHURE THAT STATES THE FOLLOWING:

29 "WHAT YOU NEED TO KNOW AS A MARYLAND CONSUMER

1 **CHECK CASHING SERVICES BUSINESSES CASH CHECKS FOR CONSUMERS WHO**
2 **MAY OR MAY NOT HAVE AN ACCOUNT WITH A FINANCIAL INSTITUTION. WITH THE**
3 **EXCEPTION OF FINANCIAL INSTITUTIONS, MARYLAND REQUIRES ALL CHECK**
4 **CASHERS TO BE LICENSED. LICENSED CHECK CASHERS AND FINANCIAL**
5 **INSTITUTIONS ARE LIMITED TO THE FOLLOWING AMOUNTS OF FEES THAT THEY CAN**
6 **CHARGE TO CASH CHECKS:**

7 **2% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$3, IF THE**
8 **PAYMENT INSTRUMENT IS ISSUED BY THE FEDERAL GOVERNMENT OR A STATE OR**
9 **LOCAL GOVERNMENT;**

10 **10% OF THE FACE AMOUNT OF A PAYMENT INSTRUMENT OR \$5, IF THE**
11 **PAYMENT INSTRUMENT IS A PERSONAL CHECK; OR**

12 **4% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$5, FOR**
13 **ANY OTHER PAYMENT INSTRUMENT.**

14 **AND A ONE-TIME MEMBERSHIP FEE MAY NOT EXCEED \$5.**

15 **CHECK CASHING SERVICES**

16 **YOU CAN ALSO SHOP AROUND FOR ALTERNATIVES TO CASH YOUR CHECK**
17 **SUCH AS OPENING A DEPOSIT ACCOUNT WITH A LOCAL FINANCIAL INSTITUTION.**
18 **ALTHOUGH HAVING A DEPOSIT ACCOUNT OFFERS CONVENIENCE AND SECURITY, IT**
19 **IS IMPORTANT TO REMEMBER THAT FEES AND CHARGES CAN REDUCE THE AMOUNT**
20 **OF MONEY YOU HAVE ON DEPOSIT. FINANCIAL INSTITUTIONS MUST DISCLOSE THEIR**
21 **FEES TO YOU AT THE TIME OF OPENING AN ACCOUNT. THE MOST EFFECTIVE WAYS**
22 **NOT TO BE CHARGED FEES OR TO LIMIT THESE FEES ARE TO READ ALL THE**
23 **DISCLOSURES THAT COME WITH YOUR ACCOUNT, ASK QUESTIONS DURING THE**
24 **ACCOUNT OPENING PROCESS, AND PAY CLOSE ATTENTION TO YOUR AVAILABLE**
25 **BALANCE”.**

26 **(2) THE BROCHURE REQUIRED UNDER PARAGRAPH (1) OF THIS**
27 **SUBSECTION SHALL ALSO INCLUDE A LINK TO A WEBSITE THAT PROVIDES A LIST OF**
28 **LICENSED CHECK CASHING SERVICE BUSINESSES.**

29 12–121.

30 Subject to the hearing provisions of § 12–123 of this subtitle, the Commissioner may
31 order a licensee **OR REGISTRANT** to cease and desist from a course of conduct if the course
32 of conduct results in an evasion or violation of the subtitle or a regulation adopted under
33 this subtitle.

1 12–122.

2 (a) Subject to the hearing provisions of § 12–123 of this subtitle, the
3 Commissioner may suspend or revoke the license of any licensee **OR REGISTRATION OF**
4 **ANY REGISTRANT** if the licensee **OR REGISTRANT**, or any owner, director, officer,
5 member, partner, stockholder, employee, or agent of the licensee **OR REGISTRANT**:

6 (1) Makes any material misstatement in an application for a license **OR**
7 **REGISTRATION**;

8 (2) Is convicted under the laws of the United States or of any other state
9 of:

10 (i) A felony; or

11 (ii) A misdemeanor that is directly related to the fitness and
12 qualification of the person to provide check cashing services;

13 (3) In connection with any check cashing service:

14 (i) Commits any fraud;

15 (ii) Engages in any illegal or dishonest activities; or

16 (iii) Misrepresents or fails to disclose any material facts to anyone
17 entitled to that information;

18 (4) Violates any provision of this subtitle or any rule or regulation adopted
19 under this subtitle, or any other law regulating check cashing services in the State; or

20 (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any
21 other quality that indicates that the business of the licensee **OR REGISTRANT** has not been
22 or will not be conducted honestly, fairly, equitably, and efficiently.

23 (b) In determining whether the license of the licensee **OR REGISTRATION OF**
24 **THE REGISTRANT** should be suspended or revoked for a reason listed in subsection (a)(2)
25 of this section, the Commissioner shall consider:

26 (1) The nature of the crime;

27 (2) The relationship of the crime to the activities authorized by the license
28 **OR REGISTRATION**;

29 (3) With respect to a felony, the relevance of the conviction to the fitness
30 and qualification of the licensee **OR REGISTRANT** to provide check cashing services;

1 (4) The length of time since the conviction; and

2 (5) The behavior and activities of the licensee **OR REGISTRANT** since the
3 conviction.

4 12–123.

5 (a) Before the Commissioner takes any action under § 12–121, § 12–122, or §
6 12–126 of this subtitle, the Commissioner shall give the licensee **OR REGISTRANT** an
7 opportunity for a hearing before the Commissioner.

8 (b) Notice of the hearing shall be given and the hearing shall be held in
9 accordance with Title 10, Subtitle 2 of the State Government Article.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Office of the
11 Commissioner of Financial Regulation shall notify any person affected by Section 1 of this
12 Act of the requirements provided in Section 1 of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take
14 effect October 1, 2020.

15 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
16 3 of this Act, this Act shall take effect July 1, 2020.