

# SENATE BILL No. 16

January 12, 2005, Introduced by Senator CLARK-COLEMAN and referred to the Committee on Banking and Financial Institutions.

A bill to regulate check cashing businesses; to provide for licensing and fees; to prescribe the powers and duties of certain state agencies and officials; and to provide for penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the "check  
2 cashing licensing act".

3           Sec. 2. As used in this act:

4           (a) "Applicant" means a person seeking a license under this  
5 act.

6           (b) "Check" means a check, draft, money order, food stamp,  
7 government warrant, or other instrument for the transmission or  
8 payment of money.

9           (c) "Commissioner" means the commissioner of the department.

1 (d) "Department" means the office of financial and insurance  
2 services.

3 (e) "Licensee" means a person licensed by the commissioner  
4 under this act.

5 (f) "Person" means an individual, partnership, association,  
6 corporation, limited liability company, or other legal entity  
7 except a governmental agency.

8 Sec. 3. Except as provided in section 4, a person shall not  
9 engage in the business of cashing checks for a fee or other  
10 consideration without first obtaining a license under this act.

11 Sec. 4. (1) This act does not apply to the cashing of checks  
12 by any of the following:

13 (a) A state or national bank or a state or federal credit  
14 union, savings and loan association, or savings bank.

15 (b) A department or agency of a state or the United States.

16 (c) A foreign bank agency, as defined by section 1202 of the  
17 banking code of 1999, 1999 PA 276, MCL 487.11202.

18 (d) A corporation or limited liability company with offices or  
19 franchises in at least 20 states engaged in the business of cashing  
20 checks.

21 (2) This act does not apply to the receipt of money by an  
22 incorporated telegraph company at an office of the company for  
23 immediate transmission by telegraph.

24 Sec. 5. (1) A person seeking a license to engage in the  
25 business of cashing checks in this state shall file an application  
26 with the commissioner in writing and under oath that includes all  
27 of the following:

1 (a) The name and exact address of the applicant and the name  
2 and address of 1 of the following:

3 (i) If the applicant is a corporation, its officers and  
4 directors.

5 (ii) If the applicant is an association, its officers and  
6 directors.

7 (iii) If the applicant is a partnership, its partners.

8 (iv) If the applicant is a limited liability company, either  
9 its manager or managers if managed by a manager or managers, or its  
10 members.

11 (v) If the applicant is any other legal entity, its manager or  
12 other person designated to control the operation of that legal  
13 entity.

14 (b) A copy of a certificate of an assumed name, if applicable.

15 (c) One of the following, as applicable:

16 (i) If the applicant is a corporation, a copy of the articles  
17 of incorporation and bylaws.

18 (ii) If the applicant is a partnership, a copy of any  
19 partnership agreement and partnership certificate.

20 (iii) If the applicant is a limited liability company, a copy of  
21 the articles of organization and operating agreement.

22 (iv) If the applicant is an association, a copy of any  
23 organizational documents of the association.

24 (2) At the time of filing the application, the applicant shall  
25 do all of the following:

26 (a) Pay to the department a nonrefundable license fee of  
27 \$300.00 for 1 business location, and \$150.00 for each additional

1 business location.

2 (b) Furnish financial statements to the department, in a form  
3 satisfactory to the commissioner, showing the applicant has working  
4 capital in excess of \$5,000.00 for each of the applicant's business  
5 locations and cash in excess of \$25,000.00.

6 (c) Furnish a \$5,000.00 surety bond for each of the  
7 applicant's business locations issued by a bonding company or  
8 insurance company authorized to do business in this state and in a  
9 form satisfactory to the commissioner, to secure the performance of  
10 the obligations of the applicant with respect to the receipt of  
11 money in connection with the cashing of checks.

12 (d) File an appointment of the commissioner as the agent for  
13 service of process in this state.

14 Sec. 6. After the applicant files the application and complies  
15 with section 5(2), the department shall investigate the financial  
16 responsibility, financial and business experience, and character  
17 and general fitness of the applicant. If the department finds these  
18 factors and qualities meet the requirements of this act and  
19 reasonably warrant the belief that the applicant's business will be  
20 conducted honestly, fairly, equitably, carefully, efficiently, and  
21 in a manner commanding the confidence and trust of the community,  
22 the commissioner shall issue to the person a license to engage in  
23 the business of cashing checks.

24 Sec. 7. On or before January 1 of each year, a licensee shall  
25 pay a license renewal fee of \$300.00 for its principal business  
26 location, and \$150.00 for each additional business location, and  
27 submit a renewal application in the form prescribed by the

1 commissioner. The commissioner shall renew the license if, after  
2 considering all relevant factors and any comments or complaints  
3 about the licensee, the commissioner determines the licensee is in  
4 compliance with this act.

5 Sec. 8. (1) A licensee shall conduct the business of cashing  
6 checks only at locations approved by the commissioner.

7 (2) A license issued under this act is not transferable, but  
8 with the prior written approval of the commissioner, the licensee  
9 may change its name or principal address.

10 Sec. 9. A licensee shall not contract for, receive, impose,  
11 assess, or collect a charge or fee for the cashing of a check that  
12 exceeds 1 of the following percentages of the face amount of the  
13 check, as applicable:

14 (a) Five percent for a payroll, pension, or government check.

15 (b) Seven percent for a check from an insurance company,  
16 including, but not limited to, a private health or disability  
17 insurance plan payment.

18 (c) Ten percent for a personal check, money order, or other  
19 check.

20 Sec. 10. (1) The commissioner shall not deny, suspend, or  
21 revoke a license issued under this act before notice is sent to the  
22 applicant or licensee setting forth in writing the reasons for the  
23 denial, suspension, or revocation. Within 5 days after receipt of  
24 the notice, the applicant or licensee may make written demand for a  
25 hearing. The commissioner with reasonable promptness shall hear and  
26 determine the matter as provided by the administrative procedures  
27 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the applicant or

1 licensee considers itself aggrieved by the order of the  
2 commissioner, the applicant or licensee may appeal within 30 days  
3 from the date of the order to the circuit court in the manner  
4 provided by the administrative procedures act of 1969, 1969 PA 306,  
5 MCL 24.201 to 24.328. If an appeal is taken from an order revoking  
6 a license, the effect of the order may be stayed by the court  
7 pending the final determination of the appeal.

8 (2) The commissioner may conduct investigations and hearings  
9 as the commissioner considers necessary to determine whether a  
10 licensee or other person has violated this act, or whether a  
11 licensee has conducted business in a manner that justifies  
12 suspension or revocation of its license.

13 (3) The commissioner may subpoena witnesses, documents,  
14 papers, books, records, and other evidence in a matter over which  
15 the commissioner has jurisdiction, control, or supervision. The  
16 commissioner may administer oaths and affirmations to a person  
17 whose testimony is required.

18 Sec. 11. The commissioner shall promulgate rules that are  
19 necessary for the administration of this act under the  
20 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
21 24.328.

22 Sec. 12. A licensee shall maintain accurate and complete  
23 books, accounts, and records of its check cashing business in a  
24 form satisfactory to the commissioner, and shall preserve the  
25 books, accounts, and records for not less than 3 years.

26 Sec. 13. (1) A person who violates this act is guilty of a  
27 misdemeanor, punishable by a fine of not more than \$500.00, or

1 imprisonment for not more than 90 days, or both.

2           (2) Each transaction in violation of this act constitutes a  
3 separate offense.