



Senate Bill No. 227

Public Act No. 06-35

AN ACT CONCERNING CHECK CASHERS, MONEY TRANSMITTERS AND OTHER NONMORTGAGE LICENSEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36a-559 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No license shall be assignable nor shall any license be transferable to cover a place of business not located in either the same or an adjacent city or town. [Such] Any change in a licensee's place of business either within the same or to an adjacent city or town shall be in accordance with section 36a-562, as amended by this act. The license shall be kept conspicuously posted in the place of business of the licensee. Every license shall remain in force and effect until the same has been surrendered, revoked or suspended, or has expired in accordance with the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act. Any license which is revoked or suspended shall be immediately surrendered to the commissioner. If any change occurs in the personnel of the partners, principals, directors, officers or managers of any licensee, the licensee shall forthwith notify the commissioner, and the commissioner may require a statement under oath giving such information as the commissioner may reasonably require with respect to such change.

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Sec. 2. Section 36a-562 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

[Whenever the licensee wishes to change the] Prior to changing a licensee's place of business either within the same city or town or to an adjacent city or town, the licensee shall [give written notice thereof] apply to the commissioner, who shall investigate the facts and, if the commissioner finds (1) that allowing the licensee to engage in business in the proposed location is not detrimental to the convenience and advantage of the community, and (2) that the proposed location is reasonably accessible to borrowers under existing loan contracts, the commissioner shall [enter an order permitting] approve the change. [and shall amend the license accordingly.] If the commissioner does not so find, the commissioner shall [enter an order denying the licensee such permission] deny the application.

Sec. 3. Subsection (b) of section 36a-580 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The provisions of this section and sections 36a-581 to 36a-589, inclusive, as amended by this act, shall not apply to: (1) Checks, drafts or money orders cashed without consideration or charge; (2) checks, drafts or money orders cashed as an incident to the conduct of any other lawful business where not more than fifty cents is charged for cashing such check, draft or money order; or (3) any institution subject to and under the general supervision of any agency of the United States or any Connecticut bank [subject to the general supervision of the commissioner] or Connecticut credit union.

Sec. 4. Section 36a-581 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

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(a) Except as provided for in section 36a-580, as amended by this act, no person shall engage in the business of cashing checks, drafts or money orders for consideration without obtaining a license to operate a general facility or a license to operate a limited facility for each location where such business is to be conducted.

(b) Each licensee of a limited facility shall continuously maintain at least one operating general facility. A licensee of a limited facility shall not pay any compensation or consideration to any employer.

(c) An application for a check cashing license or renewal of such license shall be in writing, under oath and on a form provided by the commissioner. The application shall set forth: (1) The name and address of the applicant; (2) if the applicant is a firm or partnership, the names and addresses of each member of the firm or partnership; (3) if the applicant is a corporation, the names and addresses of each officer, director, authorized agent and each shareholder owning ten per cent or more of the outstanding stock of such corporation; (4) if the applicant is a limited liability company, the names and addresses of each manager and authorized agent of such limited liability company; (5) each location where the check cashing business is to be conducted and the type of facility that will be operated at that location; (6) the business plan, which shall include the proposed days and hours of operation; (7) the amount of liquid assets available for each location which shall not be less than the amount specified in subdivision (7) of subsection (e) of this section; (8) for each limited facility, a copy of the executed contract evidencing the proposed arrangement between the applicant and the employer; and (9) any other information the commissioner may require.

(d) A licensee shall not change the name or the location specified on its license unless, prior to such change in name or location, the licensee files an application with the commissioner accompanied by the applicable name change fee or location transfer fee specified in section

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36a-582, as amended by this act, and receives the approval of the commissioner. A licensee of a limited facility shall not change its approved days and hours of operation unless, prior to any such change, the licensee files an application with and receives the approval of the commissioner. No licensee shall use any name other than the name specified on the license issued by the commissioner.

(e) Upon the filing of the required application and the applicable [application and] license and location fees, the commissioner shall investigate the facts and may issue a license if the commissioner finds that (1) the applicant is in all respects properly qualified and of good character, (2) if the applicant is a firm or partnership, each member of the firm or partnership is in all respects properly qualified and of good character, (3) if the applicant is a corporation, each officer, director, authorized agent and each shareholder owning ten per cent or more of the outstanding stock of such corporation is in all respects properly qualified and of good character, (4) if the applicant is a limited liability company, each manager and authorized agent is in all respects properly qualified and of good character, (5) granting such license would not be against the public interest, (6) the applicant has a feasible plan for conducting business, and (7) the applicant has available and shall continuously maintain liquid assets of at least ten thousand dollars for each general facility location and at least two thousand five hundred dollars for each limited facility location specified in the application.

(f) An applicant or licensee shall promptly notify the commissioner, in writing, of any change in the information provided in its initial or renewal application for licensure or most recent renewal of such license.

Sec. 5. Section 36a-582 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

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(a) Each applicant for a check cashing license shall pay to the commissioner a nonrefundable initial [application] license fee of [one] two thousand dollars and a nonrefundable [license] location fee of [one] two hundred dollars for each location, except that if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay to the commissioner a nonrefundable initial license fee of one thousand dollars and a nonrefundable location fee of one hundred dollars for each location. Each licensee shall pay to the commissioner a nonrefundable (1) name change fee of one hundred dollars for each application to change a name, and (2) location transfer fee of one hundred dollars for each application to transfer a location. Each license issued pursuant to section 36a-581, as amended by this act, shall expire at the close of business on [June] September thirtieth of [each] the odd-numbered year following its issuance unless such license is renewed, provided any license that is renewed effective July 1, 2007, shall expire on September 30, 2009, unless renewed. Each licensee shall, on or before [June twentieth of each year] September first of the year in which the license expires, pay to the commissioner a renewal [application] license fee of [seven hundred fifty] one thousand five hundred dollars and a renewal [license] location fee for each location of [fifty] one hundred dollars for the succeeding [year] two years, commencing [July] October first. In the case of a license that expires on June 30, 2007, each licensee shall, on or before June 1, 2007, pay to the commissioner a renewal license fee of one thousand six hundred eighty-eight dollars and a renewal location fee of one hundred thirteen dollars. Any renewal application filed with the commissioner after September first, or in the case of a license that expires on June 30, 2007, after June 1, 2007, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. Each licensee shall file with the commissioner, not later than September first of each even-numbered year, the information required by subdivision (7) of subsection (c) of section 36a-581, as

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amended by this act.

(b) If the commissioner determines that a check filed with the commissioner to pay [an application or] a license or location fee has been dishonored, the commissioner shall automatically suspend the license or approval or a renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew such license and an opportunity for a hearing on such actions in accordance with section 36a-51.

(c) Each applicant or licensee shall pay the expenses of any examination or other investigation under sections 36a-580 to 36a-589, inclusive, as amended by this act.

(d) No abatement of the [application or] license or location fee shall be made if the license is surrendered, cancelled, revoked or suspended prior to the expiration of the period for which it was issued.

Sec. 6. Subsection (b) of section 36a-587 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any of the provisions of sections 36a-580 to 36a-589, inclusive, as amended by this act, or any regulation adopted pursuant to said sections, or any licensee or any owner, director, officer, member, partner, shareholder, trustee, employee or agent of such licensee has committed any fraud, engaged in dishonest activities or made any misrepresentation, the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52.

Sec. 7. Section 36a-599 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective*

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October 1, 2006):

(a) Each application for an original license shall be accompanied by a nonrefundable investigation fee of five hundred dollars and a license fee of [one] two thousand dollars, except that if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay a nonrefundable investigation fee of five hundred dollars and a license fee of one thousand dollars. Each application for a renewal license shall be accompanied by a license fee of [one] two thousand dollars, or in the case of a license that expires on June 30, 2007, a license fee of two thousand two hundred fifty dollars. The license fee shall be refunded if the application for an original license is denied, the commissioner refuses to issue a renewal license or an application for a license or renewal license is withdrawn prior to issuance of a license or renewal license by the commissioner. Each licensee shall pay to the commissioner a nonrefundable name change fee of one hundred dollars for each application to change a name. No licensee shall use any name other than the name specified on the license issued by the commissioner.

(b) A license issued pursuant to sections 36a-595 to 36a-610, inclusive, as amended by this act, shall [remain in full force and effect through the] expire at the close of business on September thirtieth [day of June] of the odd-numbered year following its [date of] issuance, unless renewed or earlier surrendered, suspended or revoked pursuant to said sections, provided any license that is renewed effective July 1, 2007, shall expire on September 30, 2009.

Sec. 8. Subsection (a) of section 36a-601 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) A license may be renewed for the ensuing [twelve-month] twenty-four-month period upon the filing of an application containing

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all information required by section 36a-598, as amended by this act. [including the information required by subdivisions (6), (7), (8) and (9) of subsection (a) of said section if not previously filed with the commissioner.] Such renewal application shall be filed [no later than a date specified each year by the commissioner in writing to the licensee] on or before September first of the year in which the license expires, or in the case of an application for renewal of a license that expires on June 30, 2007, on or before June 1, 2007. Any renewal application filed with the commissioner after September first, or in the case of a license that expires on June 30, 2007, after June 1, 2007, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. If an application for a renewal license has been filed with the commissioner on or before the date the license expires, [the commissioner has specified,] the license sought to be renewed shall continue in full force and effect until the issuance by the commissioner of the renewal license applied for or until the commissioner has notified the licensee in writing of the commissioner's refusal to issue such renewal license together with the grounds upon which such refusal is based. The commissioner may refuse to issue a renewal license on any ground on which the commissioner might refuse to issue an original license.

Sec. 9. Section 36a-602 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As a condition for the issuance and retention of the license, applicants for a license and licensees shall file with the commissioner a surety bond, the form of which shall be approved by the Attorney General, issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the commissioner, cover claims that arise during the period the license remains in full force and effect and the succeeding two years after such

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license has been surrendered, revoked or suspended or has expired, in accordance with the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act, and be in the principal sum of (1) three hundred thousand dollars for any applicant and any licensee that engages in the business of issuing Connecticut payment instruments with an average daily balance of outstanding Connecticut payment instruments during the two previous reporting quarters of three hundred thousand dollars or less or any licensee that engages in the business of money transmission with an average weekly amount of money or monetary value received or transmitted, whichever amount is greater, during the two previous reporting quarters of one hundred fifty thousand dollars or less; (2) five hundred thousand dollars for any licensee that engages in the business of issuing Connecticut payment instruments with an average daily balance of outstanding Connecticut payment instruments during the two previous reporting quarters of greater than three hundred thousand dollars but less than five hundred thousand dollars or any licensee that engages in the business of money transmission with an average weekly amount of money or monetary value received or transmitted, whichever amount is greater, during the two previous reporting quarters of greater than one hundred fifty thousand dollars but less than two hundred fifty thousand dollars; and (3) one million dollars for any licensee that engages in the business of issuing Connecticut payment instruments with an average daily balance of outstanding Connecticut payment instruments during the two previous reporting quarters equal to or greater than five hundred thousand dollars or any licensee that engages in the business of money transmission with an average weekly amount of money or monetary value received or transmitted, whichever amount is greater, during the two previous reporting quarters of two hundred fifty thousand dollars or greater. The proceeds of the bond, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of any claimants against the licensee to serve the faithful

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performance of the obligations of the licensee with respect to the receipt, handling, transmission or payment of money or monetary value in connection with the sale and issuance of payment instruments or transmission of money in the event of the bankruptcy of the licensee, and shall be immune from attachment by creditors or judgment creditors. The commissioner may proceed on such bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50. In the event a license has been surrendered, revoked or suspended or has expired, in accordance with the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act, the commissioner, in the commissioner's discretion, may lower the required principal sum of the bond based on the licensee's level of business and outstanding Connecticut payment instruments.

(b) The surety company may cancel the bond at any time by a written notice to the licensee, stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. A surety bond shall not be cancelled unless the surety company notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. The commissioner shall automatically suspend the license on the date the cancellation takes effect, unless the surety bond has been replaced or renewed, all of the principal sum of such surety bond has been invested as provided in subsection (c) of this section, or the surety bond has been replaced in part and the remaining part of the principal sum of such surety bond has been invested as provided in subsection (c) of this section or unless the licensee has ceased business and has voluntarily surrendered the license. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew such license and an opportunity for a hearing on such actions in accordance with section 36a-51.

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(c) In lieu of all or part of the principal sum of such surety bonds, applicants for a license and licensees may invest such sum as provided in this subsection. The book or market value, whichever is lower, of such investments shall be equal to the amount of the bond required by subsection (a) of this section less the amount of the bond filed with the commissioner by the applicant or licensee. Such applicants and licensees shall keep such investments [may be:]

[(1) Deposits] with such banks, Connecticut credit unions or federal credit unions as such applicants or licensees may designate and the commissioner may approve, and [in accordance with such regulations as the commissioner may adopt; or]

[(2) Interest-bearing] subject to such conditions as the commissioner deems necessary for the protection of consumers and in the public interest. As used in this subsection, "investments" means: (1) Dollar deposits; and (2) interest-bearing bills, notes, bonds, debentures or other obligations issued or guaranteed by (A) the United States or any of its agencies or instrumentalities, or (B) any state, or any agency, instrumentality, political subdivision, school district or legally constituted authority of any state if such investment is of prime quality.

[(d)] The investments [provided for in subsection (c) of this section] shall secure the same obligation as would a surety bond filed under this section. [As long as a licensee continues business in the ordinary course, it] The investments shall be held at such banks or credit unions to cover claims during the period the license remains in full force and effect and the succeeding two years after such license has been surrendered, revoked or suspended or has expired in accordance with the provisions of sections 36a-595 to 36a-610, inclusive, as amended by this act. The licensee shall be permitted to collect interest on such investments and at any time to exchange, examine, and compare such investments. The investments made pursuant to this section, even if

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commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of any claimants against the licensee to serve the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission or payment of money in connection with the sale and issuance of Connecticut payment instruments or transmission of money in the event of the bankruptcy of the licensee, and shall be immune from attachment by creditors or judgment creditors.

Sec. 10. Subsection (a) of section 36a-664 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) Except as provided in subdivision (2) of this subsection, no such license, and no renewal thereof, shall be granted unless the applicant has filed a surety bond with the commissioner written by a surety authorized to write such bonds in this state, provided any applicant that files applications for licenses for more than one location shall file a single bond. For every applicant, the principal amount of the bond shall be the greater of (A) forty thousand dollars, or (B) twice the amount of the highest total payments received by the applicant from Connecticut debtors in connection with the applicant's debt adjustment activity in any month during the preceding twelve months ending [March] July thirty-first of each year. Each licensee shall submit to the commissioner evidence that the bond complies with the provisions of this subdivision by September first of each year.

(2) If a licensee or applicant for renewal of a license establishes that such licensee or applicant is unable to comply with the bond required by subdivision (1) of this subsection, it may submit to the commissioner, by July first, a request for an alternative to such requirement. If the commissioner finds that the financial responsibility, character, reputation, integrity and general fitness of the applicant so warrant, the commissioner may permit the applicant or licensee to

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supplement the maximum surety bond that it can obtain, provided the principal amount of the surety bond shall be a minimum of forty thousand dollars, with such other bonds or insurance policies, in such amounts, for such period and subject to such conditions as the commissioner may approve. Any such bond or insurance policy shall be written or issued by a surety or insurance company authorized to write such bonds or sell such insurance in this state.

(3) The form of any surety bond submitted pursuant to this section shall be approved by the Attorney General. Any surety bond filed under this section shall be conditioned upon the licensee faithfully performing any and all written agreements with debtors, truly and faithfully accounting for all funds received by the licensee in the licensee's capacity as a debt adjuster, and conducting such business consistent with the provisions of sections 36a-655 to 36a-665, inclusive, as amended by this act. Any debtor who may be damaged by failure to perform any written agreements, or by the wrongful conversion of funds paid to a licensee, may proceed on any such surety bond against the principal or surety thereon, or both, to recover damages. The commissioner may proceed on any such surety bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50. The proceeds of any bond or insurance policy, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the licensee in the event of bankruptcy of the licensee and shall be immune from attachment by creditors and judgment creditors. Any bond or insurance policy required by this section shall be maintained during the entire period of the license granted to the applicant, and the aggregate liability under any such bond or insurance policy shall not exceed the principal amount of the bond or the limit of liability of the insurance policy.

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Sec. 11. Subdivision (1) of subsection (b) of section 36a-801 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(b) (1) Any person desiring to act within this state as a consumer collection agency shall make a written application to the commissioner for such license in such form as the commissioner prescribes. Such application shall be accompanied by (A) a financial statement prepared by a certified public accountant or a public accountant, the accuracy of which is sworn to under oath before a notary public by the proprietor, a general partner or a corporate officer or a member duly authorized to execute such documents, (B) a license fee of eight hundred dollars, or in the case of an initial application that is filed not earlier than one year before the date such license will expire, a license fee of four hundred dollars, and (C) an investigation fee of one hundred dollars. The commissioner shall cause to be made such inquiry and examination as to the qualifications of each such applicant as the commissioner deems necessary. Each applicant shall furnish satisfactory evidence to the commissioner that the applicant is a person of good moral character and is financially responsible. If the commissioner is satisfied that such applicant is in all respects properly qualified and trustworthy and that the granting of such license is not against the public interest, the commissioner may issue to such applicant a license, in such form as the commissioner may adopt, to act within this state as a consumer collection agency. Any such license issued by the commissioner shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless such license is renewed, provided any license that is renewed effective May 1, 2003, shall expire on September 30, 2005. The commissioner may renew such application, in the commissioner's discretion, upon filing of a proper renewal application accompanied by a license fee of eight hundred dollars, or in the case of an application for renewal of a license that expires on April 30, 2003, a license fee of one thousand dollars, and satisfactory

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proof that such applicant at that time possesses the required qualifications for the license. Such renewal application shall be filed with the commissioner on or before September first of the year in which the license expires, or in the case of a license that expires on April 30, 2003, on or before April 1, 2003. Any renewal application filed with the commissioner after September first, or in the case of a license that expires on April 30, 2003, after April 1, 2003, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. Whenever an application for a license, other than a renewal application, is filed under sections 36a-800 to 36a-810, inclusive, as amended by this act, by any person who was a licensee under said sections 36a-800 to 36a-810, inclusive, and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee. To further the enforcement of this section and to determine the eligibility of any person holding a license, the commissioner may, as often as the commissioner deems necessary, examine the licensee's books and records, and may, at any time, require the licensee to submit such a financial statement for the examination of the commissioner, so that the commissioner may determine whether the licensee is financially responsible to carry on a consumer collection agency business within the intents and purposes of sections 36a-800 to 36a-810, inclusive, as amended by this act. Any financial statement submitted by a licensee shall be confidential and shall not be a public record unless introduced in evidence at a hearing conducted by the commissioner. The applicant or licensee shall notify the commissioner, in writing, of any change in the information provided in its initial application for license or most recent renewal application for such license, as applicable, not later than ten business days after the occurrence of the event that results in such information becoming inaccurate.

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Approved May 8, 2006