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Overview

The Connecticut check cashing industry provides regulated, low-cost financial services to State residents, many of whom do not otherwise have access to basic financial services in their communities. For many unbanked families, check cashers are the primary source for vital financial services.

The Connecticut check cashing industry is closely regulated by the State Department of Banking pursuant to comprehensive statutory and regulatory scheme. Regulation has fostered consumer protection and the safety and soundness within the industry. Current regulations, however, are limiting the industry's ability to adapt to changing market forces, which is negatively impacting the industry and jeopardizing licensees.

Fee Increase to 3% Licensees are regulated in the fees that they can charge. Connecticut's 2% base check cashing fee is among the lowest in the U.S. Over the last several years, the industry has seen an increase in operating costs and a decline in check transactions due to migration of checks to electronic payment systems. Most recently, the State of Connecticut Department of Labor moved all unemployment benefits payments to a mandatory direct deposit/prepaid debit card program. As a result of these factors, the industry is presently experiencing the worst decline in business it has ever seen. An increase in the current fee structure to 3% is needed.

Elimination of $6,000 Cap Check cashers are currently barred from cashing checks exceeding $6,000, with certain exceptions (e.g., government checks, insurance claim payments and checks payable to businesses). The $6,000 cap unnecessarily limits business and serves no significant law enforcement or other State interest. Check cashers are already subject to a host of federal anti-money laundering and currency transaction reporting regulations. With the exception of New York (which has a $15,000 cap), virtually all other states have no such caps. The cap is unnecessary and is an unreasonable limitation on the types of checks licensees may accept, and should be eliminated.

Increase in Liquidity Requirement to $50,000 The industry also supports an increase in the existing $10,000 liquid asset requirement to $50,000. An increase in the liquid asset requirement would help ensure that licensees are sufficiently capitalized, and would limit underfunded and potentially risky businesses from entering the industry. In order not to create a hardship, however, existing licensees should be given at least three (3) years to come into compliance.

In sum, although the check cashing industry remains vital, the industry is clearly in need of regulatory relief to help ensure that licensees earn a fair return on their investments, and to ensure the availability of basic financial services to their customers. Additionally, it is important for consumer protection and law enforcement goals that the regulated industry is supported – otherwise, consumer transactions may tend to flow to unregulated channels not subject to Department of Banking oversight.

The Role of Check Cashers

Connecticut's licensed check cashers provide access to needed financial services and products, including check cashing, money order sales, remittances and utility bill payment services, stored value card sales, and other ancillary financial services. The State's check casher industry is significant, both in terms of the number of companies conducting business and the number of consumers who rely on the services they provide. Consumers rely on check cashers because they offer convenient locations, expanded hours of operation, friendly service and a unique mix of financial services and products at competitive prices.

Check cashers serve many low and moderate income consumers. Due to bank minimum deposit requirements, high overdraft and returned check fees, and other costs associated with maintaining depository accounts, many Connecticut residents either cannot or choose not to maintain a depository account at a bank. The "unbanked" rely on check cashers for most of their basic financial service needs. Check cashers serve a vital social and economic function for a significant segment of the State's population.[1] It is clearly in the State's interest to help ensure the continued viability of the regulated check cashing industry.

An Increase in the Base Fee Rate to 3% is Necessary

Until the State's adoption of the Check Casher Law in 1991, the check cashing industry was essentially unregulated in Connecticut. Recognizing the vital services check cashers provide to their customers, the State's Legislature followed the legislative action previously taken by neighboring states like New York and New Jersey by enacting laws regulating the check cashing industry.

The present check cashing fee rate was established by the Department in 1995, and has not been increased in more than 16 years. Under the current regulation, licensees may charge a primary or base fee of up to 2% of the face amount, or $1.00, whichever is greater, on payroll and all other non-public assistance checks. *Regs. Conn. State Agencies.* § 36a-585-1. (The fee rate on public assistance checks is set by statute at 1%.)

Declines in Check Numbers, Revenue and Profitability

Since 1995 when the present rate was initially established, the industry has experienced significant declines in revenue and profitability. These declines are attributable to various factors, including increased costs related to banking, labor, insurance, real estate taxes, technology and regulatory compliance, and others factors. During this same period, the industry has seen an increase in the number of licensed locations, yet an overall decrease in the number of checks processed per location. The reduction in the number of check transactions is due primarily to the migration of transactions to

[1] Sherrie L. W. Rhine, William H. Greene, and Maude Toussaint-Comeau, *The Importance of Check-Cashing Businesses to the Unbanked: Racial/Ethnic Differences*, The Review of Economics and Statistics, February 2006, 88(1): 146-157.

electronic payments systems, including direct deposit and stored value cards for delivery of government benefits and employee wages.

Loss of Unemployment Benefits Checks

In early 2011, the Connecticut Department of Labor moved unemployment benefits payments to a mandatory direct deposit/prepaid debit card program – eliminating payment by paper checks. Loss of these checks has resulted in an immediate decrease in industry revenues and profits – and has forced many licensees to terminate employees and/or close locations. Since February, licensees have experienced decreases in revenues of 20% to 25%, or even more.

Fee Rates in Other States

An additional factor that should be considered are the rates being charged in other states. Connecticut's 2% rate is among the very lowest in the U.S. Other neighboring states, with the exception of New York,[2] have set their rates considerably higher:

Maine - 5% or $5 minimum (32 M.R.S.A. §6138)
Vermont - 5% or $5 minimum (Vt.S.A. 8 §2519)
Rhode Island - 5% or $5 minimum (R.I.S.A. §19-14.4-4)
Massachusetts - no statutory fee cap (M.G.L.A. 169A §1 *et. seq.*)
Pennsylvania – 3% (63 P.S. §2323)

In 2010, the Commissioner of the New Jersey Department of Banking approved an increase from 2% to 2.21% (N.J.A.C. 3:24-4.1). The State of Illinois also recently increased its rate fro 2% to 2.25%. Other states with a significant check cashing industry include California at 3% or $3 minimum (Cal.Civ.Code § 1789.35), and Florida at 5% or $5 minimum (F.S.A. §560.309). *Twenty-six states impose no restriction on check cashing fees.*

Regulatory Relief is Appropriate

Due to the economic pressures there is an acute need for regulatory relief increasing the base check cashing fee rate. In light of the increased operational expenses and decreased business volumes, and in comparing industry fee rates in other states, an increase in the maximum fee rate from 2% to 3% is warranted.

The $6,000 Cap Should be Eliminated

Under Sec. 36a-584(b), a check casher licensee may not cash checks exceeding $6,000, with the exception of government checks, attorney trust checks, insurance claim checks,

[2] New York's 1.83% rate is generally not appropriate for comparison; due to its larger population and demographic differences, New York State reports a significantly greater per location volume in check cashing transactions than Connecticut. Moreover, the New York rate is modified annually based on changes in the Consumer Price Index (CPI).

certified bank checks, and all checks not payable to individuals (i.e., checks payable to business entities). This limitation is arbitrary and should be eliminated.

When it adopted a statutory scheme governing the check cashing industry, Connecticut borrowed extensively from New York's much older law. At that time, New York did not permit its check cashers to accept checks exceeding $2,500. See Article IX-A of New York Banking Law §373(i). Exceptions were provided for cashing "government" checks, certified checks, insurance checks and attorney trust account checks. Id. Connecticut incorporated wholesale those provisions of New York's statute. C.G.S.A. §36a-584(b).

Since 1991, New York has amended its law to permit cashing checks up to $15,000. Further, New York modified its check cashing statute to permit the cashing of checks payable to business entities without any dollar limitation. These changes reflect the recognition that the licensed check cashing industry has been so strictly regulated in the northeast that there is little, if any, risk in permitting it to cash checks in larger denominations.

In 2005, the Connecticut Department of Banking wisely reviewed the limitation, increasing the limit from $2,500 to $6,000, and eliminating the cap altogether with respect to checks where the "payee is not an individual." Since that time, numerous checks up to $6,000 have been cashed by licensees, and we are aware of no significant regulatory issues or problems resulting from the increase. The present statute, which permits licensees to cash some checks over $6,000 but not others, and which permits the cashing of any check payable to non-natural payees, appears to be rather arbitrary. The current cap serves no significant State interest.

Existing recordkeeping and reporting regulations are working to prevent fraud or money laundering within the industry. Check cashers are bound by the rigorous obligations imposed by the Bank Secrecy Act ("BSA"). 31 U.S.C. 1051 *et seq.* That federal law requires the filing of currency transaction reports ("CTRs") for all transactions involving more than $10,000 in cash.

Additionally, licensees are required to file Suspicious Activity Reports (SARs), on certain types of suspected money laundering activity pertaining to money order purchases and wire transfers, and are encouraged to file SARs on a voluntary basis on check cashing transactions. Additionally, licensees are required under the federal Bank Secrecy Act to maintain Anti-Money Laundering programs and employee training.

The existing $6,000 is an artificial limit which was adopted without any apparent basis and which is not consistent with the present day consumer needs. Quite simply, the $6,000 cap has limited consumer choice and the business opportunities for check cashers. Many consumers seek to cash checks in excess of $6,000 in the normal course. Some examples of checks that must be turned away by Connecticut check cashers include: corporate pension checks, profit sharing and 401(k) distributions, combined payroll and vacation checks, union wage checks, paycheck to employees who are paid once a month, checks to consultants and brokerage fees to real estate brokers.

In sum, the $6,000 cap is unnecessary due to existing regulations, and it is an unreasonable restraint that serves no cognizable State interest. We request that steps be taken to amend the current legislation to eliminate the cap, or in the alternative, to increase the amount.

Increase of the Liquid Asset Requirement

The industry also supports an increase in the existing $10,000 liquid asset requirement to $50,000.

Currently, the Check Cashing Law requires that new licensees maintain only $10,000 in liquid assets. This low threshold allows minimally capitalized businesses to gain entry. Also, this means that new licensees can locate next to established ones, without generating meaningful increases in the overall volume of business, negatively affecting profits. An increase in the liquid asset requirement would help ensure that licensees are sufficiently capitalized, and would limit underfunded and potentially risky businesses from entering the industry.

Any increase in liquidity requirements should be implemented over a period of time to allow existing licensees to come into compliance and avoid hardship. For example, when the State of New Jersey increased its liquidity requirement in 1993, licensees were permitted a three-year period to comply.

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In sum, we believe that the following amendments to the current regulatory structure are necessary:

- An amendment to regulation Sec. 36a-585-1, increasing the current base check cashing fee rate from 2% to 3%. (The current statutory 1% fee rate on public assistance checks, set forth under Sec. 36a-584(a), would remain unchanged.)
- An amendment to statute Sec. 36a-584(b), eliminating the current $6,000 cap.
- An amendment to statute Sec. 36a-581(e), increasing the liquid asset requirement from $10,000 to $50,000.