

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

License Fees

Readoption With Amendments: N.J.A.C. 3:23

Proposed: July 15, 2002 at 34 N.J.R. 2364(a)

Adopted November 18, 2002 by Holly C. Bakke, Commissioner,
Department of Banking and Insurance

Filed November 18, 2002 as R. 2002 d.403, **without change**

Authority: N.J.S.A. 17:1-8, 17:1-15e, 17:15C-9(c), 17:15A-40, 17:16C-8, 17:16C-82,
17:16D-4 and 45: 22-4 and 11

Effective Date: November 18, 2002, Readoption;
December 16, 2002, Amendments

Expiration Date: November 18, 2007

Summary of Public Comment and Agency Responses:

The Department received one written comment on the proposal from New Jersey Check Cashers Association (NJCCA) which raised a number of issues.

COMMENT: The commenter stated that the Department's record on information sharing with the industry does not support a request for additional fees from licensed check cashers. The commenter stated that in the last several months, it had made numerous requests for monthly and annual lists of pending check casher licenses and that the Department no longer provides this information on a consistent basis.

RESPONSE: The Department now has available on its website a means to search for different types of licensees by licensee's name. In addition, the Department is in the process of

implementing changes to provide for the periodic posting of lists of licensees by licensed category on the website. Dependence on paper lists should be eliminated with website access.

COMMENT: The commenter recommends that the Department implement express regulations and policies for the purpose of providing the industry with information relating to results of the Department's examination of check casher licensees, including the types and numbers of regulatory violations. The commenter states that its objective is to identify any recurring violations or problems in order to more thoroughly educate its members, thereby ensuring compliance with applicable State and Federal laws and regulations

RESPONSE: The Department appreciates the association's desire to educate its members on issues of violations and compliance. The Department, however, has the regulatory function of examining the industry and notifying those not in compliance. Examinations are confidential. Results of examinations, even in a generic format, are not provided to any of the types of licensees examined.

COMMENT: The commenter is of the view that the existing fee of \$1,200 for the biennial fee and \$600.00 for the annual fee are adequate and reasonable, and no fee increase is currently warranted. The commenter further stated that there are no substantial regulatory changes which would have resulted in increased administrative costs to the Department and necessitated a fee increase.

RESPONSE: The Department proposed the increase in fees as a result of increased regulatory costs to the Department. The Department notes that there are increased responsibilities for its

oversight of check cashers as a result of regulatory changes implemented by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCen) and the recently enacted USA Patriots' Act. The process of enhancing the Department's website to include licensee listings, application forms, etc. is also an additional cost. The Department also notes that the proposed increase is below the statutory cap. Furthermore, check casher fees were last increased in 1995. Based on the forgoing, the Department believes that the increase in licensing fees for check cashers is warranted.

COMMENT: The commenter stated that the proposed fee increase singles out check casher licensees, while exempting all other types of licensees under N.J.A.C. 3:23, including money transmitters, motor vehicle installment sellers, home financing agencies, home repair contractors, home repair salesperson, insurance premium finance companies, and pawnbrokers.

RESPONSE: The Department notes that the biennial fees for all the other licensees except money transmitters/foreign money transmitters are at the statutory maximum and cannot be raised without legislative change. The license fees for money transmitter and foreign money transmitters were last increased in 1998. Check cashers fees were last increased in 1995.

COMMENT: The commenter stated that the Department's failure to respond in the matter of non-operating licenses or otherwise defective licenses issued under the "lapse" period in the 2,500 foot statute (N.J.S.A. 17:15A-41(e)) does not support a further increase in licensing fees.

The commenter also addressed the issue of dormant licenses and the practice whereby licensees “lock-up” geographic areas by utilizing inactive licenses. The commenter is of the view that the Department has not taken any action to remedy the problem.

RESPONSE: The Department believes that the increase in fees is necessary for the enhancement of the Department’s website and to cover the costs of increased regulatory responsibility to ensure compliance with Federal requirements. On the issue of lapsed and defective licenses, the Association’s disagreement with the Department’s positions on these matters has no relationship to the proposed fee increase. The Department applied the law and court opinions as written at the time. On the issue of dormant licenses, the Department agrees with the commenter that licenses issued should be used for the purpose for which they are issued, and is considering appropriate regulatory changes.

COMMENT: The commenter also stated that the Department has failed to act on the issue of the banking industry termination of check cashers as customers, pointing out that the check cashers provide financial services to many minority communities no longer serviced by the banking industry.

RESPONSE: The Department understands the association’s concern on the issue of the banking industry termination of check cashers as customers. The Department is not in a position to require banks to accept check cashers as customers.

COMMENT: The commenter also addressed the issue of unlicensed and illegal check cashers and suggested that the Department regularly investigate reports of unlicensed check cashers, take appropriate action to fine them, and shut them down.

RESPONSE: The issue of unlicensed and illegal check cashers is a serious matter. The Department will continue to take all appropriate steps to ensure that unlicensed check cashers are not permitted to operate. The Department encourages the Association to report promptly any instance of unlicensed activity that comes to its attention.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 3:23.

Full text of the adopted amendment follows: