
UTAH CODE TITLE 7, CHAPTER 23, CHECK CASHING REGISTRATION ACT

7-23-101 Title.

This chapter is known as the "Check Cashing Registration Act."

Enacted by Chapter 144, 1999 General Session

7-23-102. Definitions.

As used in this chapter:

- (1) "Business of a check casher" means:
 - (a) cashing a check for consideration; or
 - (b) extending a deferred deposit loan.
- (2) "Check" is as defined in Section 70A-3-104.
- (3) "Check casher" means a person that engages in the business of a check casher.
- (4) "Deferred deposit loan" means a transaction where:
 - (a) a person:
 - (i) presents to a check casher a check written on that person's account; or
 - (ii) provides written or electronic authorization to a check casher to effect a debit from that person's account using an electronic payment; and
 - (b) the check casher:
 - (i) provides the maker an amount of money that is equal to the face value of the check or the amount of the debit less any fee or interest charged for the transaction; and
 - (ii) agrees not to cash the check or process the debit until a specific date.
- (5) (a) "Electronic payment" means any electronic method by which a check casher:
 - (i) accepts a payment from a person; or
 - (ii) makes a payment to a person.(b) "Electronic payment" includes a payment made through:
 - (i) an automated clearing house transaction;
 - (ii) an electronic check;
 - (iii) a stored value card; or
 - (iv) an Internet transfer.
- (6) "Rollover" means the extension or renewal of the term of a deferred deposit loan.

Amended by Chapter 236, 2003 General Session

7-23-103. Registration -- Rulemaking.

- (1) (a) It is unlawful for a person to engage in the business of a check casher in Utah or with a Utah resident unless the person:
 - (i) registers with the department in accordance with this chapter; and
 - (ii) maintains a valid registration.(b) It is unlawful for a person to operate a mobile facility in this state to engage in the business of a check casher.
- (2) (a) A registration and a renewal of a registration expires on April 30 of each year unless on or before that date the person renews the registration.
 - (b) To register under this section, a person shall:
 - (i) pay an original registration fee established under Subsection 7-1-401(8); and
 - (ii) submit a registration statement containing the information described in Subsection (2)(d).
 - (c) To renew a registration under this section, a person shall:
 - (i) pay the annual fee established under Subsection 7-1-401(5); and
 - (ii) submit a renewal statement containing the information described in Subsection (2)(d).
 - (d) A registration or renewal statement shall state:
 - (i) the name of the person;
 - (ii) the name in which the business will be transacted if different from that required in Subsection (2)(d)(i);
 - (iii) the address of the person's principal business office, which may be outside this state;
 - (iv) the addresses of all offices in this state at which the person conducts the business of a check casher;
 - (v) if the person conducts the business of a check casher in this state but does not maintain an office in this state, a brief description of the manner in which the business is conducted;
 - (vi) the name and address in this state of a designated agent upon whom service of process may be made;
 - (vii) disclosure of any injunction, judgment, administrative order, or conviction of any crime involving moral turpitude with respect to that person or any officer, director, manager, operator, or principal of that person; and
 - (viii) any other information required by the rules of the department.
 - (e) (i) The commissioner may impose an administrative fine determined under Subsection (2)(e)(ii) on a person if:
 - (A) the person is required to be registered under this chapter;
 - (B) the person fails to register or renew a registration in accordance with this chapter;
 - (C) the department notifies the person that the person is in violation of this chapter for failure to be registered; and

- (D) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (2)(e)(i)(C).
- (ii) Subject to Subsection (2)(e)(iii), the administrative fine imposed under this section is:
- (A) \$500 if the person:
- (I) has no office in this state at which the person conducts the business of a check casher; or
- (II) has one office in this state at which the person conducts the business of a check casher; or
- (B) if the person has two or more offices in this state at which the person conducts the business of a check casher, \$500 for each office at which the person conducts the business of a check casher.
- (iii) The commissioner may reduce or waive a fine imposed under this Subsection (2)(e) if the person shows good cause.
- (3) If the information in a registration or renewal statement required under Subsection (2) becomes inaccurate after filing, a person is not required to notify the department until:
- (a) that person is required to renew the registration; or
- (b) the department specifically requests earlier notification.
- (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department may make rules consistent with this section providing for the form, content, and filing of a registration and renewal statement.

Amended by Chapter 87, 2007 General Session

7-23-104 Posting of fee schedules for cashing checks.

- (1) A check casher shall post a complete schedule of all fees for cashing a check in a conspicuous location on its premises that can be viewed by a person cashing a check.
- (2) The schedule of fees required to be posted under Subsection (1) shall state the fees using dollar amounts.

Enacted by Chapter 144, 1999 General Session

7-23-105 Operational requirements for deferred deposit loans.

- (1) If a check casher extends a deferred deposit loan, the check casher shall:
- (a) post in a conspicuous location on its premises that can be viewed by a person seeking a deferred deposit loan:
- (i) a complete schedule of any interest or fees charged for a deferred deposit loan that states the interest and fees using dollar amounts;
- (ii) a number the person can call to make a complaint to the department regarding the deferred deposit loan; and
- (iii) a list of states where the check casher is registered or authorized to offer deferred deposit loans through the Internet or other electronic means;
- (b) enter into a written contract for the deferred deposit loan;
- (c) conspicuously disclose in the written contract:
- (i) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;
- (ii) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;
- (iii) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;
- (iv) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 12 weeks after the day on which the deferred deposit loan is executed; and
- (v) (A) the name and address of a designated agent required to be provided the department under Subsection 7-23-103(2)(d)(vi); and
- (B) a statement that service of process may be made to the designated agent;
- (d) provide the person seeking the deferred deposit loan a copy of the deferred deposit contract;
- (e) orally review with the person seeking the deferred deposit loan the terms of the deferred deposit loan including:
- (i) the amount of any interest rate or fee;
- (ii) the date on which the full amount of the deferred deposit loan is due;
- (iii) that under Subsection (3)(a), a person receiving a deferred deposit loan may make a partial payment in increments of at least \$5 on the principal owed on the deferred deposit loan without incurring additional charges above the charges provided in the written contract;
- (iv) that under Subsection (3)(b), a person receiving a deferred deposit loan may rescind the deferred deposit loan on or before 5 p.m. of the next business day without incurring any charges;
- (v) that under Subsection (4)(b), the deferred deposit loan may not be rolled over without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan; and
- (vi) that under Subsection (4)(c), the deferred deposit loan may not be rolled over if the rollover requires the person to pay the amount owed by the person under the deferred deposit loan in whole or in part more than 12 weeks after the day on which the deferred deposit loan is executed; and
- (f) comply with the following as in effect on the date the deferred deposit loan is extended:
- (i) Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq., and its implementing federal regulations;
- (ii) Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691, and its implementing federal regulations;
- (iii) Bank Secrecy Act, 12 U.S.C. Sec. 1829b, 12 U.S.C. Sec. 1951 through 1959, and 31 U.S.C. Sec. 5311 through 5332, and its implementing regulations; and

(iv) Title 70C, Utah Consumer Credit Code.

(2) If a check casher extends a deferred deposit loan through the Internet or other electronic means, the check casher shall provide the information described in Subsection (1)(a) to the person receiving the deferred deposit loan:

- (a) in a conspicuous manner; and
- (b) prior to the person entering into the deferred deposit loan.

(3) A check casher that engages in a deferred deposit loan shall permit a person receiving a deferred deposit loan to:

- (a) make partial payments in increments of at least \$5 on the principal owed on the deferred deposit loan at any time prior to maturity without incurring additional charges above the charges provided in the written contract; and
- (b) rescind the deferred deposit loan without incurring any charges by returning the deferred deposit loan amount to the check casher on or before 5 p.m. the next business day following the deferred deposit loan transaction.

(4) A check casher that engages in a deferred deposit loan may not:

- (a) collect additional interest on a deferred deposit loan with an outstanding principal balance 12 weeks after the day on which the deferred deposit loan is executed;
- (b) roll over a deferred deposit loan without the person receiving the deferred deposit loan requesting the rollover of the deferred deposit loan;
- (c) roll over a deferred deposit loan if the rollover requires a person to pay the amount owed by the person under a deferred deposit loan in whole or in part more than 12 weeks from the day on which the deferred deposit loan is first executed; or
- (d) threaten to use or use the criminal process in any state to collect on the deferred deposit loan.

(5) Notwithstanding Subsections (4)(a) and (4)(d), a check casher that is the holder of a check used to obtain a deferred deposit loan that has been dishonored may use the remedies and notice procedures provided in Chapter 15, Dishonored Instruments, except that the issuer, as defined in Section 7-15-1, of the check may not be:

- (a) asked by the holder to pay the amount described in Subsection 7-15-1(6)(a)(iii) as a condition of the holder not filing a civil action; or
- (b) held liable for the damages described in Subsection 7-15-1(7)(b)(vi).

Amended by Chapter 87, 2007 General Session

7-23-105.1 Electronic disbursement and collections.

If a check casher collects payment on a deferred deposit loan through an electronic payment, the check casher shall, on the day the loan is executed:

- (1) credit the amount of the deferred deposit loan through an electronic payment to the person receiving the deferred deposit loan; or
- (2) make the amount of the deferred deposit loan immediately available to the person receiving the deferred deposit loan.

Enacted by Chapter 236, 2003 General Session

7-23-106 Enforcement by department -- Rulemaking.

(1) Subject to the requirements of Title 63, Chapter 46b, Administrative Procedures Act, the department may:

- (a) receive and act on complaints;
- (b) take action designed to obtain voluntary compliance with this chapter;
- (c) commence administrative or judicial proceedings on its own initiative to enforce compliance with this chapter; or
- (d) take action against any check casher that fails to:
 - (i) respond to the department, in writing within 30 business days of the day on which the check casher receives notice from the department of a complaint filed with the department; or
 - (ii) submit information as requested by the department.

(2) The department may:

- (a) counsel persons and groups on their rights and duties under this chapter;
- (b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to:
 - (i) restrict or prohibit lending or servicing practices that are misleading, unfair, or abusive;
 - (ii) promote or assure fair and full disclosure of the terms and conditions of agreements and communications between check cashers and customers; or
 - (iii) promote or assure uniform application of or to resolve ambiguities in applicable state or federal laws or federal regulations; and
- (c) employ hearing examiners, clerks, and other employees and agents as necessary to perform the department's duties under this chapter.

Amended by Chapter 87, 2007 General Session

7-23-107 Examination of books, accounts, and records by the department.

(1) At least annually the department shall, for each premise engaging in the business of a check casher:

- (a) examine the books, accounts, and records; and
- (b) make investigations to determine compliance with this chapter.

(2) In accordance with Section 7-1-401, the check casher shall pay a fee for an examination conducted under Subsection (1).

Amended by Chapter 87, 2007 General Session

7-23-108 Penalties.

(1) A person who violates this chapter or who files materially false information with a registration or renewal under Section 7-23-103 is:

- (a) guilty of a class B misdemeanor, except for a violation of:
 - (i) Subsection 7-23-105(1)(f)(i), (ii), or (iii); or
 - (ii) rules made under Subsection 7-23-106(2)(b); and

- (b) subject to revocation of a person's registration under this chapter.
- (2) Subject to Title 63, Chapter 46b, Administrative Procedures Act, if the department determines that a person is engaging in the business of cashing checks in violation of this chapter, the department may:
 - (a) revoke that person's registration under this chapter;
 - (b) issue a cease and desist order from committing any further violations;
 - (c) prohibit the person from continuing to engage in the business of a check casher;
 - (d) impose an administrative fine not to exceed \$1,000 per violation, except that:
 - (i) a fine imposed under Subsection 7-23-103(2)(e) shall comply with Subsection 7-23-103(2)(e); and
 - (ii) the aggregate total of fines imposed under this chapter against a person in a calendar year may not exceed \$30,000 for that calendar year; or
 - (e) take any combination of actions listed under this Subsection (2).

Amended by Chapter 87, 2007 General Session

7-23-109 Civil liability.

Nothing in this chapter is intended to limit any civil liability that may exist against a check casher for:

- (1) breach of contract;
- (2) violation of federal law; or
- (3) other unlawful act.

Enacted by Chapter 144, 1999 General Session

7-23-110 Exemptions.

The following are not subject to the requirements of this chapter:

- (1) a depository institution;
- (2) a depository institution holding company;
- (3) an institution directly or indirectly owned or controlled by one or more:
 - (a) depository institutions; or
 - (b) depository institution holding companies; or
- (4) a person that cashes a check in a transaction:
 - (a) that is incidental to the retail sale of goods or services; and
 - (b) for consideration that does not exceed the greater of:
 - (i) 1% of the amount of the check; or
 - (ii) \$1.

Enacted by Chapter 144, 1999 General Session