

**STATE OF MISSISSIPPI
DEPARTMENT OF BANKING AND CONSUMER FINANCE
CONSUMER FINANCE DIVISION**

MISSISSIPPI CHECK CASHERS ACT

REGULATIONS



Compiled and Adopted by
Department of Banking and Consumer Finance
For licensees governed by
Mississippi Check Cashers Act

John S. Allison, Commissioner
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STATE OF MISSISSIPPI
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Section 1. Purpose

These Regulations are promulgated pursuant to Section 75-67-501 et seq., Mississippi Code of 1972, as amended, known as the “Mississippi Check Cashers Act”, to establish Administrative Regulations required by the Department of Banking and Consumer Finance. Section 75-67-515(1) authorizes the Department to adopt reasonable administrative regulations, not inconsistent with the law, in order to enforce the Mississippi Check Cashers Act. These Regulations are not intended to create any private right, remedy, or cause of action in favor of any customer or against any licensee nor are these Regulations intended to apply to any business transactions of a licensee not covered by Mississippi Law. While these Regulations are intended to and do supersede all prior Regulations issued by the Department of Banking and Consumer Finance regarding the check cashing industry, these Regulations are intended only to clarify the existing law. In order to ensure compliance with the provisions set forth in the Mississippi Check Cashers Act, the following regulations have been implemented.

Section 2. Records

“Records” or “documents” means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original. Records may be in the form of traditional hard copies, computer printouts or magnetic media if readily accessible for viewing on a screen with the capability of being promptly printed upon request.

Section 3. Delayed Deposit Transaction

(1) Records

- (a) Licensee shall maintain all files and records at its licensed office.
- (b) Licensee shall maintain a separate file for each customer containing documentation for all delayed deposit transactions.
- (c) Licensee shall maintain a daily journal/register containing a record of all delayed deposit transactions in consecutively numbered order. This daily journal/register shall include at least the customer name and transaction date and may be maintained either manually or by computer. In lieu of maintaining a daily journal/register, Licensee may maintain a register with a copy of each agreement in consecutively numbered order.

Licensee must be able to account for any voided agreements or lapse in numbering sequence.

- (d) The check number must be clearly disclosed on each check cashing agreement.

(e) The date of the transaction and the maturity date must be stated on each check cashing agreement.

(f) A new check must be used for each check cashing agreement. (i.e. the same check may not be reused on subsequent check cashing transactions)

(2) Processing Fee

The processing fee must be disclosed in the delayed deposit agreement. Section 75-67-519(7), Mississippi Code of 1972, as amended, authorizes the Commissioner to establish a maximum processing fee. Therefore, Thirty Dollars (\$30.00) is set as the maximum amount a licensee may charge for a check returned for any reason, including, without limitation, insufficient funds, closed account or stop payment. Such fee is considered a one-time charge; regardless of the number of times the check associated with the written agreement has been processed.

(3) Processing Fee Records

Licensee must maintain a daily journal/register of all processing fees charged along with the following information:

- A copy of the check
- Amount of the processing fee
- Customer name
- Date of transaction
- Check number
- Amount of check
- Documentation verifying the financial institution's refusal to pay

(4) Computation of Annual Percentage Rate and Fee

Pursuant to Section 75-67-519(3), the fee charged in a delayed deposit transaction must be disclosed as a dollar amount and as an annual percentage rate (APR) in the written agreement.

Example of APR Computation for an \$82.00 advance:

Fee ÷ amount financed x 365 (or 360) ÷ number of days = APR

Example of an \$82.00 delayed deposit transaction due in 14 days, when a \$100.00 check is held:

$$\frac{\$18.00}{\$82.00} \times \frac{365}{14} = 572.26 \% \text{ APR}$$

**Computation of the Maximum Fee:
(18% of the face amount of a check, when a \$100.00 check is held)**

Example of \$82.00 advance:	82.00 X .18 = 14.76
	14.76 X .18 = 2.66
	2.66 X .18 = .48
	.48 X .18 = .10
	<hr/>
Total Fee	18.00

(5) Rollover Fee

Licensee shall not accept a fee to renew or extend any delayed deposit check (i.e. rollover). Therefore, the agreement may not be renewed; it must be collected in full.

(6) Checks Written on Joint Bank Accounts

Each party on a joint bank account may write checks in an amount not to exceed an aggregate total of Four Hundred Dollars (\$400.00) per party. However, a separate delayed deposit agreement must accompany each check.

(7) Multiple Checks

Licensee may accept multiple checks on a customer with the aggregate amount not to exceed Four Hundred Dollars (\$400.00). However, a separate delayed deposit agreement must accompany each check.

(8) Payment Plan

Licensee may set up a payment plan for customers in default. However, if a customer defaults and Licensee agrees to accept a payment plan and customer later defaults in the payment plan, the Licensee may cash the check but may not receive more than the original amount of the check, plus the processing fee set forth in Section 3 paragraph (2) hereunder. Licensee must maintain supporting evidence of all payments received.

(9) Wage Assignments

Licensee shall not encumber a customer's wages in the form of a wage assignment. Nothing contained herein shall prevent a licensee from garnishing wages pursuant to a court order.

(10) Acceptance of Credit Cards as Payment

Licensee may accept a credit card as payment on the due date. The Licensee may not swipe the customer's credit card at the beginning of a transaction thus encumbering the customer's funds and later completing the transaction on the due date.

Section 4. Checks Cashed for a Fee and Required Records

Licensee shall keep a copy of each check cashed along with the following information:

Date of transaction

Fee charged expressed as a percentage rate, per Section 75-67-517 MCA

Fee charged expressed as a dollar amount

Customer signature acknowledging fees charged

Section 5. Disclosure of Fees and Rates

Pursuant to Section 75-67-515(4) Mississippi Code of 1972, as amended, a Licensee shall post the maximum fees allowed to be charged for cashing checks. The sign must disclose fees charged on a delayed deposit transaction and fees charged for cashing checks even if you do not conduct both types of business. In addition to this information, you must also disclose an example of a one hundred dollar (\$100.00) delayed deposit transaction on a seven (7), fourteen (14), and thirty (30) day basis.

The sign must be at least 20"x 20" and the print must be large and bold in order to allow customers to easily read the information. Such sign must be displayed in a conspicuous place and in easy view of all persons who enter the place of business. The following is an example of the required sign:

The following is a list of maximum fees allowable for services that may be offered at this check cashing business:		
Government checks: 3% of the face amount of the check or five dollars (\$5.00), whichever is greater		
Personal checks: 10% of the face amount of the check or five dollars (\$5.00), whichever is greater		
All other checks or money orders: 5% of the face amount of the check or five dollars (\$5.00), whichever is greater		
Delayed deposit check: 18% of the face amount of the check		
The following is an example of the maximum fee allowed on a \$100.00 delayed deposit transaction:		
<u>Number of Days</u>	<u>Annual Percentage Rate</u>	<u>Total Dollar Amount</u>
7	1144.53%	\$121.95
14	572.26%	\$121.95
30	267.05%	\$121.95
Mississippi law prohibits this Check Casher from accepting a fee to renew or extend any delayed deposit check. Therefore, a delayed deposit check must be deposited or the check face value paid in full before another check may be cashed.		
This Check Casher is licensed and regulated by the Mississippi Department of Banking and Consumer Finance. If you have any unresolved problem with a transaction at this location, you are entitled to assistance. Please call or write: Mississippi Department of Banking and Consumer Finance, P.O. Drawer 23729, Jackson, MS 39225-3729; Phone 1-800-844-2499.		

Any of the above information that is not currently posted may be posted on a separate sign using the dimensions described above.

Section 6. Advertisement

Section 75-67-505(1), Mississippi Code of 1972, as amended, states in part that “A person may not engage in the business as a check casher or otherwise portray himself as a check casher unless the person has a valid license authorizing engagement in the business.” Therefore, the displaying of external signage outside a business, advertisement via print, broadcast or electronic media announcing or referencing a check cashing service constitutes a person’s intent to portray himself as a Check Casher and not incidental to any other service offered and therefore, must obtain a license to participate in a check cashing business.

This section also refers to a person who is principally engaged in the retail sales of goods and services who otherwise would be exempt from licensure, pursuant to Section 75-67-507, but who advertises that a check cashing service is provided at the person’s place of business, must also obtain a license unless the references to the check cashing services are incidental to the principal purpose of the advertisement. Thus, those persons exempt under Section 75-67-507 are not allowed to advertise the sole fact that they perform a check cashing service in any one type of advertisement.

Section 7. Violations

The Commissioner shall enforce these Regulations. Any violation of and/or failure to comply with these Regulations may result in the assessment of a Civil Money Penalty not to exceed Five Hundred Dollars (\$500.00) for each violation or revocation of the Licensee’s license, or both, in accordance with Mississippi law.