

Part 3 Chapter 3: Mississippi Check Cashers Act

Rule 3.1 Purpose. These regulations are promulgated pursuant to Section 75-67-501 et seq., Miss. Code Ann., 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), Miss. Code Ann., 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.

Source: *Miss. Code Ann. §75-67-501; Miss. Code Ann. §75-67-515(1); Effective date February 20, 2003*

Rule 3.2 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.

Source: *Miss. Code Ann. §75-67-501; Miss. Code Ann. §75-67-515(1); Effective date February 20, 2003*

Rule 3.3 Delayed Deposit Transaction

1. Records

- a. Licensee shall maintain all files and records at its licensed office.
- b. Licensee shall maintain a separate file folder for each customer containing documentation for all delayed deposit transactions.
- c. Licensee shall maintain a daily journal containing a record of all delayed deposit transactions in consecutively numbered order. The daily journal 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, Licensee may maintain a file with a copy of each delayed deposit agreement in consecutively numbered order. This number shall be printed on the agreement. 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 delayed deposit agreement.
- e. The date of the transaction and the maturity date must be stated on each delayed deposit agreement.
- f. A new check must be used for each delayed deposit agreement. (i.e. the same check shall not be reused on subsequent check cashing transactions).

2. Processing Fee

The Processing Fee authorized by §75-67-519(7), Miss. Code Ann., shall be disclosed in the delayed deposit agreement. 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. The Processing Fee is considered a one-time charge; regardless of the number of times the check associated with the delayed deposit agreement has been processed.

3. Processing Fee Journal

Licensee must maintain a daily journal of all Processing Fees charged along with the following information:

- a. Copy of check
- b. Amount of Processing Fee
- c. Customer name
- d. Date of transaction
- e. Check number
- f. Amount of check
- g. Documentation verifying the financial institution's refusal to pay

4. Computation of Annual Percentage Rate

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

Example:

\$100.00 delayed deposit transaction due in 14 days, when a \$120.00 check is held:

$$\begin{aligned} & \$20.00/\$100.00 \times 365/14 = 521.43 \text{ APR} \\ & \text{Fee} \div \text{amount financed} \times 365 \text{ (or 360)} \div \text{number of days} = \text{APR} \end{aligned}$$

5. Rollover Fee

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

6. Checks Written on Joint Bank Accounts

Each individual on a joint bank account may write checks in an amount not to exceed an aggregate total of Five Hundred Dollars (\$500.00) per individual. 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 Five Hundred Dollars (\$500.00). However, a separate delayed deposit agreement must accompany each check.

8. Payment Plan

Licensee may set up a payment plan for customers in default. 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 these regulations. Licensee shall 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. However, 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 shall 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.

Source: *Miss. Code Ann. §75-67-501; Miss. Code Ann. §75-67-515(1); Miss. Code Ann. 75-67-519(3); Effective date February 20, 2003*

Rule 3.4 Checks Cashed for a Fee and Required Records. Licensee shall maintain a copy of each check cashed along with the following information:

1. Date of transaction
2. Fee charged expressed as a percentage rate, §75-67-517 Miss. Code Ann.
3. Fee charged expressed as a dollar amount
4. Customer signature acknowledging fees charged

Source: *Miss. Code Ann. §75-67-501; Miss. Code Ann. §75-67-515(1); Miss. Code Ann. §75-67-517; Effective date February 20, 2003*

Rule 3.5 Disclosure of Fees and Rates. Pursuant to §75-67-515(4) Miss. Code Ann., a Licensee shall display a sign disclosing the maximum fees allowed to be charged for cashing checks. 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:

1. Government checks: 3% of the face amount of the check or five dollars (\$5.00), whichever is greater
2. Personal checks: 10% of the face amount of the check or five dollars (\$5.00), whichever is greater
3. All other checks or money orders: 5% of the face amount of the check or five dollars (\$5.00), whichever is greater
4. Delayed deposit transaction: \$20.00 per \$100.00 advanced for checks \$250.00 and under
\$21.95 per \$100.00 advanced for checks over \$250.00

<u>Amount Advanced</u>	<u>Fee</u>	<u>Face Amount of Check</u>
\$100.00	\$20.00	\$120.00
\$200.00	\$40.00	\$240.00
\$300.00	\$65.85	\$365.85
\$400.00	\$87.80	\$487.80

Mississippi law prohibits this check cashing business from accepting a fee to renew or extend any delayed deposit transaction. Therefore, a delayed deposit check must be deposited or the check face value paid in full prior to entering into another delayed deposit transaction.

This check cashing business 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. Licensee is only required to post fees for the type of services offered.

Source: *Miss. Code Ann. §75-67-501; Miss. Code Ann. §75-67-515(1); Miss. Code Ann. §75-67-515(4); Effective date December 1, 2012*

Rule 3.6 Advertisement. §75-67-505(1), Miss. Code Ann., 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.

Persons that are principally engaged in the retail sale of goods and exempt from licensing under §75-67-507(c), Miss. Code Ann. are prohibited from advertising they offer check cashing services.

Source: *Miss. Code Ann. §75-67-501; Miss. Code Ann. §75-67-515(1); Miss. Code Ann. §75-67-507; Miss. Code Ann. §75-67-505(1); Effective date February 20, 2003*

Rule 3.7 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.

Source: *Miss. Code Ann. §75-67-501; Miss. Code Ann. §75-67-515(1); Effective date February 20, 2003*