SENATE BILL 939

I1 0lr3239
CF HB 1196

By: **Senator Hayes**
Introduced and read first time: February 3, 2020
Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Financial Institutions – Check Cashing Services – Registration and Dissemination of Information

FOR the purpose of repealing an exemption for certain check cashing services from certain provisions of law governing the licensure of check cashing services; authorizing a person to provide check cashing services without obtaining a certain license by registering with the Commissioner of Financial Regulation under certain circumstances; requiring a person to provide the Commission with certain information in a certain form to register as a check cashing service; requiring a person who registers under certain provisions of this Act to reregister on or before a certain date each year; providing that certain provisions of law do not apply to a person who registers under certain provisions of this Act; altering the information that a certain licensee is required to post conspicuously in a certain manner at certain locations; requiring a certain licensee to post a certain brochure in a certain manner at certain locations; requiring that the brochure include a certain link; making a conforming change; requiring the Office of the Commissioner of Financial Regulation to provide certain notice to certain persons; providing for the effective dates of this Act; and generally relating to check cashing services.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 12–102, 12–105(a), and 12–118
Annotated Code of Maryland
(2011 Replacement Volume and 2019 Supplement)

BY adding to
Article – Financial Institutions
Section 12–105.1
Annotated Code of Maryland
(2011 Replacement Volume and 2019 Supplement)

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Financial Institutions

12–102.

(a) This subtitle does not apply to check cashing services:

(1) **[**(i) For which a fee of up to 1.5% of the face amount of the payment instrument is charged per payment instrument; and

(ii) That are incidental to the retail sale of goods or services by the person that is providing the check cashing services;

(2)**]** In which a customer presents a payment instrument for the exact amount of a purchase; or

[(3)**]** **(2)** Involving foreign currency exchange services or the cashing of a payment instrument drawn on a financial institution other than a federal, State, or other state financial institution.

(b) (1) This subtitle does not apply to a transaction that is subject to the Maryland Consumer Loan Law (Title 12, Subtitle 3 of the Commercial Law Article and Title 11, Subtitle 2 of this article), including a transaction in which an additional fee is charged to defer the presentment or deposit of a payment instrument until a subsequent date.

(2) A check cashing service is not subject to the Maryland Consumer Loan Law if:

(i) The fee charged for the check cashing service does not exceed the fee permitted under this subtitle;

(ii) No additional fee is charged to defer the presentment or deposit of the payment instrument; and

(iii) The check cashing service is not subject to renewal or extension by any means.

12–105.

(a) Except as provided in § 12–102(a) **OR § 12–105.1** of this subtitle, a person may not provide check cashing services unless the person is licensed under this subtitle or is an exempt entity.

12–105.1.

(A) A PERSON MAY PROVIDE CHECK CASHING SERVICES WITHOUT OBTAINING A LICENSE UNDER THIS SUBTITLE BY REGISTERING WITH THE COMMISSIONER AS A CHECK CASHING SERVICE IF THE PERSON:

(1) CHARGES A FEE OF UP TO 1.5% OR $1, WHICHEVER IS GREATER, OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT PER PAYMENT INSTRUMENT;

(2) PROVIDES CHECK CASHING SERVICES FOR FEWER THAN 10 CHECKS PER MONTH PER BUSINESS LOCATION;

(3) IS REGISTERED AS A CHECK CASHER MONEY SERVICE BUSINESS WITH THE U.S. DEPARTMENT OF TREASURY;

(4) CONDUCTS CHECK CASHING SERVICE TRANSACTIONS WITHIN THE INTERIOR OF THE BUSINESS LOCATION AND NOT THROUGH THE USE OF A MOBILE UNIT OR AN EXTERIOR DRIVE–UP OR WALK–UP WINDOW;

(5) DOES NOT ADVERTISE CHECK CASHING SERVICES IN ANY MANNER OTHER THAN IN THE INTERIOR OF THE BUSINESS LOCATION;

(6) HAS CONSPICUOUSLY POSTED A NOTICE WITH THE FOLLOWING INFORMATION, IN 48 POINT TYPE OR LARGER, AT EACH BUSINESS LOCATION AT WHICH THE PERSON PROVIDES CHECK CASHING SERVICES:

(I) THE FEES CHARGED FOR CHECK CASHING SERVICES; AND

(II) HOW TO CONTACT THE OFFICE OF THE COMMISSIONER OF FINANCIAL REGULATION WITH COMMENTS OR COMPLAINTS; AND

(7) PROVIDES A RECEIPT TO EACH CHECK CASHING SERVICES CUSTOMER THAT INCLUDES:

(I) THE DATE OF THE TRANSACTION;

(II) THE FACE VALUE OF THE CHECK CASHED;

(III) THE FEE CHARGED; AND

(IV) THE NET DOLLAR AMOUNT PAID TO THE CUSTOMER.

(B) TO REGISTER AS A CHECK CASHING SERVICE, A PERSON SHALL PROVIDE TO THE COMMISSIONER, IN A FORM REQUIRED BY THE COMMISSIONER:

(1) THE PERSON'S NAME AND ADDRESS AND, IF THE PERSON IS NOT AN INDIVIDUAL:

(I) THE NAMES AND ADDRESSES OF EACH OWNER WHO OWNS MORE THAN 5% OF THE PERSON; AND

(II) THE OFFICERS AND DIRECTOR OR PRINCIPAL OF THE PERSON;

(2) THE ADDRESSES AT WHICH CHECK CASHING SERVICES WILL BE PROVIDED; AND

(3) ANY OTHER INFORMATION DETERMINED TO BE NECESSARY BY THE COMMISSIONER.

(C) A PERSON WHO REGISTERS UNDER THIS SECTION SHALL REREGISTER ON OR BEFORE DECEMBER 31 EACH YEAR, BEGINNING IN THE YEAR FOLLOWING INITIAL REGISTRATION.

(D) SECTIONS 12–105 THROUGH 12–127 OF THIS SUBTITLE DO NOT APPLY TO A PERSON WHO REGISTERS UNDER THIS SECTION.

12–118.

(A) A licensee shall conspicuously post, in 48 point or larger type, at each place of business at which, or mobile unit from which, the licensee provides check cashing services**[**, a**]:**

(1) A notice of the fees for check cashing services**; AND**

(2) THE PHONE NUMBER OF THE COMMISSIONER FOR CUSTOMERS TO FILE COMPLAINTS.

(B) (1) A LICENSEE SHALL CONSPICUOUSLY POST AT EACH PLACE OF BUSINESS AT WHICH, OR MOBILE UNIT FROM WHICH, THE LICENSEE PROVIDES CHECK CASHING SERVICES, A BROCHURE THAT STATES THE FOLLOWING:

"WHAT YOU NEED TO KNOW AS A MARYLAND CONSUMER

CHECK CASHING SERVICES BUSINESSES CASH CHECKS FOR CONSUMERS WHO MAY OR MAY NOT HAVE AN ACCOUNT WITH A FINANCIAL INSTITUTION. WITH THE EXCEPTION OF FINANCIAL INSTITUTIONS, MARYLAND REQUIRES ALL CHECK CASHERS TO BE LICENSED. LICENSED CHECK CASHERS AND FINANCIAL

INSTITUTIONS ARE LIMITED TO THE FOLLOWING AMOUNTS OF FEES THAT THEY CAN CHARGE TO CASH CHECKS:

2% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR $3, IF THE PAYMENT INSTRUMENT IS ISSUED BY THE FEDERAL GOVERNMENT OR A STATE OR LOCAL GOVERNMENT;

10% OF THE FACE AMOUNT OF A PAYMENT INSTRUMENT OR $5, IF THE PAYMENT INSTRUMENT IS A PERSONAL CHECK; OR

4% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR $5, FOR ANY OTHER PAYMENT INSTRUMENT.

AND A ONE–TIME MEMBERSHIP FEE MAY NOT EXCEED $5.

CHECK CASHING SERVICES

YOU CAN ALSO SHOP AROUND FOR ALTERNATIVES TO CASH YOUR CHECK SUCH AS OPENING A DEPOSIT ACCOUNT WITH A LOCAL FINANCIAL INSTITUTION. ALTHOUGH HAVING A DEPOSIT ACCOUNT OFFERS CONVENIENCE AND SECURITY, IT IS IMPORTANT TO REMEMBER THAT FEES AND CHARGES CAN REDUCE THE AMOUNT OF MONEY YOU HAVE ON DEPOSIT. FINANCIAL INSTITUTIONS MUST DISCLOSE THEIR FEES TO YOU AT THE TIME OF OPENING AN ACCOUNT. THE MOST EFFECTIVE WAYS NOT TO BE CHARGED FEES OR TO LIMIT THESE FEES ARE TO READ ALL THE DISCLOSURES THAT COME WITH YOUR ACCOUNT, ASK QUESTIONS DURING THE ACCOUNT OPENING PROCESS, AND PAY CLOSE ATTENTION TO YOUR AVAILABLE BALANCE".

(2) THE BROCHURE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL ALSO INCLUDE A LINK TO A WEBSITE THAT PROVIDES A LIST OF LICENSED CHECK CASHING SERVICE BUSINESSES.

SECTION 2. AND BE IT FURTHER ENACTED, That the Office of the Commissioner of Financial Regulation shall notify any person affected by Section 1 of this Act of the requirements provided in Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2020.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2020.