DEPARTMENT OF JUSTICE REGULATIONS FOR THE CHECK CASHERS PERMIT PROGRAM

California Code of Regulations
Title 11, Division 1, Chapter 13.5. Department of Justice Regulations for the Check Cashers Permit Program

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Article 1. Title, Scope and Definitions

990. Title.

This chapter shall be known as the "Department of Justice Regulations for the Check Cashers Permit Program," may be cited as such and will be referred to herein as "these regulations."

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

990.1 Scope.

The provisions of these regulations apply to the issuance and renewal of permits to conduct a check casher's business pursuant to Civil Code Section 1789.37.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

990.2. Definitions of Key Terms.

(a) "Check Cashers Law" refers to Title 1.6F of the Civil Code.
(b) "Attorney General" means the Attorney General of the State of California.
(c) "Department" means the Department of Justice of the State of California.
(d) "Director" means the Director of the Division of Criminal Justice Information Services, Department of the Justice, State of California.
(e) "Administrative Hearing Officer" means an individual designated by the Director to conduct the hearing.
(f) "Mobile unit" means a vehicle or other movable means from which the business of cashing checks is conducted.
(g) "Permit" refers to both a check casher permit where business is conducted from a fixed location and a mobile check casher permit where business is conducted from a mobile unit.
(h) "Applicant" means any individual, partnership, or corporation applying to obtain or renew a permit.
(i) "Principal corporate officers" means the President, Vice-President, Secretary, and Treasurer of a corporation or persons with equivalent titles and duties.
(j) "Permittee" means any individual, partnership, or corporation holding a valid permit issued by the Department.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

Article 2. Application for Permits and Renewals

991. General.

No person shall conduct a check casher's business in this state unless he or she has been granted a permit by the Department.

NOTE: Authority cited: Section 1789.37(a), Civil Code. Reference: Section 1789.37(a), Civil Code.

991.1 Initial Application.

(a) An initial application for a permit (Form BCIA 4130, Rev. 4/96) shall be in writing, under oath, and shall contain identifying and background information for the applicant and the business, as well as the following where applicable: identifying and background information for the co-owner spouse; identifying and background information for every partner; identifying and background information for every principal officer and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities of the corporation.
(b) If the business is to be conducted from a mobile unit, the applicant shall also complete and file a supplemental application (Form BCIA 4000, Rev. 4/96) which shall contain the California Department of Motor Vehicles registration number and other identifying information for such mobile unit.

NOTE: Authority cited: Sections 1789.37(b) and 1789.37(f), Civil Code.
Reference: Sections 1789.37(b) and 1789.37(f), Civil Code.

991.2. Fingerprints Required.

Every initial or first-time application for a permit shall be accompanied by a completed ten-print fingerprint card for each individual who has an ownership interest in the business. For purposes of this section, individuals who have an ownership interest in the business include sole proprietors, co-owner spouses, partners, principal corporate officers and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities of a corporation.

NOTE: Authority cited: Sections 1789.37(b) and 1789.37(f), Civil Code.
Reference: Sections 1789.37(b) and 1789.37(f), Civil Code.

91.3. Fees; Nonrefundability.

(a) Each application for a permit shall be accompanied by the appropriate fee as follows:
(1) Initial Application:
(A) Processing fee of $50 for each business location, and
(B) Fingerprint card processing fee of $32 for each individual.
(2) Renewal Application: Processing fee of $50 for each business location.
(b) The fees are not refundable if an application is denied or withdrawn.

NOTE: Authority cited: Sections 1789.37(c), 1789.37(d), and 1789.37(f), Civil Code.
Reference: Sections 1789.37(c), 1789.37(d), and 1789.37(f), Civil Code.

991.4. Renewal of Permit.

(a) Each applicant for renewal of a permit shall complete and file with the Department, not less than 30 days prior to expiration of the permit, a renewal application for check casher permit (Form BCIA 4132, Rev. 4/96) or a renewal application for mobile check casher permit (Form BCIA 4001, Rev. 4/96), and shall include any changes in information indicated on the initial application.
(b) A penalty of 50 percent of the permit renewal fee shall be assessed in cases where, the renewal application is not received in the Department's office or does not have a first postmark dated on or before 30 days prior to expiration of the existing permit.
(c) An application for renewal of a permit may be denied for any of the reasons listed under Sections 993 and 993.1.
(d) If the Department denies renewal of a permit, the Department shall provide the permittee with a Notice of Denial Of Renewal in accordance with Section 993.2.

NOTE: Authority cited: Sections 1789.37(d), 1789.37(e), and 1789.37 (f), Civil Code.
Reference: Sections 1789.37(d), 1789.37(e) and 1789.37(f), Civil Code.

991.5. Processing Time.

(a) The following time standards apply to the processing of applications for issuance or renewal of a permit.
(1) Within 30 days after the date of receipt of an initial or renewal application, the Department shall either inform the applicant in writing that the application is complete and accepted for processing, or return the application as deficient and specify what additional information is required.
(2) (A) Within 120 days from the date of receipt of a completed initial or first-time application for a permit, the Department shall complete the processing of the application.
(B) Within 60 days from the date of receipt of a completed application for a renewal of a permit, the Department shall complete the processing of the application.
(b) If the Department fails to meet the time period for the processing of an initial or a renewal permit, the applicant, within 30 days from the date of the notice of the final decision granting or denying the application, may apply in writing for a full reimbursement of all application fees. The Department shall respond within 10 days of receipt of a request for reimbursement; and, if the reimbursement is denied by the Department, the applicant may directly appeal the denial in writing to the Attorney General. The appeal shall set forth a concise statement of facts and chronology of events regarding the application.
(c) An appeal concerning an application on which reimbursement is denied must be filed within 30 days from the date of the notice of denial. The appeal shall promptly be reviewed and a decision shall be issued, within 30 days from the date of receipt of the appeal, after conducting any investigation of the matter which the Attorney General deems appropriate. This appeal shall be decided in the applicant's favor if the Department has exceeded its maximum time period for the issuance or denial of the permit and the Department has failed to establish good cause for exceeding the time period. The Department shall include the information regarding this appeal process with all permit applications.

NOTE: Authority cited: Sections 15376 and 15378, Government Code.
Reference: Sections 15376 and 15378, Government Code.

Article 3. Permits

992. Information Stated on Permit.

(a) On the approval of an application for a check casher permit where business is conducted from a fixed location, the Department shall issue an original permit endorsed to show the name of the permittee, and if the permittee is a partnership, the names of its general partners, and if a corporation, its incorporation name. In all cases, the permit shall show the business name, the street address, the permit number, and the expiration date.
(b) On the approval of an application for a mobile check casher permit where business is conducted from a

mobile unit, the Department shall issue an original permit endorsed to show the name of the permittee, and if the permittee is a partnership, the names of its general partners, and if a corporation, its incorporation name. In all cases, the permit shall show the business name, the California Department of Motor Vehicles registration number, the vehicle identification number, the manufacturer, the model, the year of manufacturing, the permit number, and the expiration date.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

992.1. Posting or Safekeeping of Permit.

(a) The check casher permit for a fixed business location shall be conspicuously posted in the place of business authorized by the permit.
(b) The mobile check casher permit for a mobile unit shall be kept with the California Department of Motor Vehicles registration in the vehicle.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

992.2. Duration of Permit.

Permits issued under these regulations remain in effect for one year from the date of issuance or until they are surrendered or revoked.

NOTE: Authority cited: Section 1789.37(d), Civil Code. Reference: Section 1789.37(d), Civil Code.

992.3. Duplicate Permits.

The Department may issue a duplicate of a permit that has been lost, stolen, or for a certificate which the permittee desires to replace, upon written notice and satisfactory proof of such loss, theft, or destruction, or upon surrender of a certificate for replacement and the payment of a fee of five dollars ($5).

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

992.4. Transaction of Business under Name, Location, or Mobile Unit Not Named in Permit.

No permittee shall transact the business under any other name, at any place of business or from any mobile unit other than that named in the permit.

NOTE: Authority cited: Sections 1789.37(a) and 1789.37(f), Civil Code.
Reference: Sections 1789.37(a) and 1789.37(f), Civil Code.

992.5. Nontransferability of Permit.

The permit is not transferable or assignable.

NOTE: Authority cited: Sections 1789.37(a) and 1789.37(f), Civil Code.
Reference: Sections 1789.37(a) and 1789.37(f), Civil Code.

992.6. Change of Business Location or Mobile Unit; Notice to Department.

Whenever a permittee desires to change his or her place of business to a street address or from a mobile unit other than that designated on his or her permit, he or she shall give written notice to the Department at least ten days prior to the change. Upon receipt of the notice and payment of a fee of five dollars ($5), the Department shall issue a new permit reflecting the changes.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

992.7. Notice of Termination.

Within ten days after the termination of business from a fixed location or a mobile unit, a permittee shall inform the Department of the name and address of the business location terminated or the California Department of Motor Vehicles registration number of the mobile unit terminated, together with the permit number and a statement of the reasons for the termination.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

992.8. Surrender of Permit.

Any permittee may surrender any permit by submitting to the Department written notice that the permittee surrenders that permit. Surrender of the permit does not affect the permittee's civil or criminal liability for acts committed prior to surrender of permit.

NOTE: Authority cited: Sections 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

Article 4. Denial, Revocation, and Appeal Process

993. Denial of Application; Failure to Respond; Opportunity to be Heard.

(a) The Department may, upon reasonable notice and opportunity to be heard, deny an application for reasons including, but not limited to:

(1) *A false statement of a material fact has been made in the application.*
(2) *The applicant violates any provisions of the Check Cashers Law or regulations.*
(3) *The applicant or any partner, co-owner spouse, officer, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant's corporation has been convicted of a felony described in Civil Code Section 1789.37(e).*

(b) *The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in such application within 90 days of the date of the notification.*

(c) *When an application is denied, the Department shall provide the applicant with a notice which specify all causes which the denial of application is based.*

(d) *When an application is denied, the applicant may file, within 30 days from the date of the notice of denial, a written request for reconsideration by an Administrative Hearing Officer. Such request may include any and all evidence and legal arguments which applicant feels is relevant to a reconsideration of the application. The Department shall provide the applicant with a written notice of its final decision within 60 days of the time the request for reconsideration is received.*

NOTE: Authority cited: Sections 1789.37(b), 1789.37(e), and 1789.37(f). Civil Code.
Reference: Sections 1789.37(b), 1789.37(e), and 1789.37(f), Civil Code.

993.1. Revocation of Permit; Reasons.

(a) *The Department may, upon reasonable notice and opportunity to be heard, suspend or revoke any permit issued pursuant to this division. Reasons for revocation of permit include, but are not limited to:*
(1) *The permittee or any partner, co-owner spouse, officer, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the permittee's corporation is convicted of a felony described in Civil Code Section 1789.37(e).*
(2) *Any fact or condition exists which, if it had existed at the time of the original application for such permit, reasonably would have warranted the Department in refusing originally to issue such permit.*
(3) *The permittee violates any provisions of the Check Cashers Law or regulations.*

NOTE: Authority cited: Sections 1789.37(b), 1789.37(e), and 1789.37(f), Civil Code.
Reference: Sections 1789.37(b), 1789.37(e), and 1789.37(f), Civil Code.

993.2. Notice of Revocation or Notice of Denial of Renewal.

(a) *The Department shall provide the permittee with a Notice of Intent to Revoke or Notice of Denial of Renewal which shall specify all causes on which the revocation or denial of renewal is based.*

(b) *A permittee who has been served with a Notice of Intent to Revoke or Notice to Deny a Renewal may file, within 30 days from the date of the notice, a written answer to the notice, which answer shall be deemed a denial of all the allegations in the notice not expressly admitted.*

(c) *A permittee may request a hearing in his or her answer to the notice or no later than 30 days from the date of Notice of Revocation or Notice of Denial of Renewal. If a hearing is requested, the Department shall take no revocation action until completion of hearing proceedings pursuant to Section 993.4 of these regulations.*

(d) *Failure to make a written request for a hearing within the time period specified in subdivision (b) constitutes a waiver of the right to a hearing.*

(e) *If the permittee fails to answer within the time specified in subdivision (b) or, after answer, withdraws his appeal, the action taken by the Department shall be final.*

NOTE: Authority cited: Section 1789.37(f), Civil Code.
Reference: Section 1789.37(f), Civil Code.

993.3. Reapplying After Denial or Revocation of Permit.

An applicant whose permit was denied or revoked may reapply at such time as he or she can provide satisfactory proof that the reason(s) for denial or revocation is no longer valid or has been corrected.

NOTE: Authority cited: Sections 1789.37(e) and 1789.37(f), Civil Code.
Reference: Sections 1789.37(e) and 1789.37(f), Civil Code.

993.4. Administrative Hearing.

(a) *If a hearing is requested by the permittee, a hearing shall be held within 30 days unless time is waived by the permittee. The hearing shall be conducted by the Department's Administrative Hearing Officer. The hearing officer shall not have participated in the decision to grant, deny, or revoke the permit that is the subject of a hearing before him or her.*

(b) *The permittee shall be given the opportunity to be heard and to be represented by counsel during any*

hearing proceedings.

(c) An Administrative Hearing Officer shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of the Administrative Hearing Officer by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined by another Administrative Hearing Officer.

(d) The proceedings at the hearing shall be reported by a phonographic reporter, except that, upon the consent of all the parties, the proceedings may be reported electronically.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code; Sections 11512(c) and 11512(d), Government Code.

993.5. Time and Place of Administrative Hearing.

The Department shall notify the permittee of the time and place of hearing. Failure of the permittee to appear at the hearing shall be deemed a withdrawal of his answer and the action of the Department shall be final.
NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.

993.6. Evidence Rules.

(a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If respondent does not testify in his own behalf he or she may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code; Sections 11513(a), 11513(b), and 11513(c), Government Code.

993.7. Proposed Decision.

The Administrative Hearing Officer shall prepare a Proposed Decision in such a form that it may be adopted as the decision in the case. A copy of the proposed decision shall be furnished to the permittee and the Director no later than 20 days after the hearing. The Director may adopt the decision in its entirety or may decide the case upon the record with or without taking additional evidence. The permittee shall be notified of the Director's decision with 30 days of the hearing or within 30 days of the taking of additional evidence, whichever is later.

NOTE: Authority cited: Section 1789.37(f), Civil Code. Reference: Section 1789.37(f), Civil Code.