



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: General Administration, Division of Banking

- Permanent Rule
 Emergency Rule

(1) Date of adoption: November 19, 1991

(2) Purpose:
To implement a new act passed by the 1991 legislature.

(3) Citation of existing rules affected by this order:

Repealed:
Amended: N/A
Suspended:

(4) Authority for adoption:

Statute: Chapter 355, 1991 Washington Law, Sec. 24

Other Authority:

5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 91-20-176 on October 2, 1991 (date).

Describe any changes other than editing from proposed to adopted version: Based on comments received at the formal hearing WAC 50-30-010(2) was amended to accept a CPA audited statement of an examination by another state in lieu of an examination by the supervisor. WAC 50-30-030(1) the minimum bond was reduced to 75 percent of the highest monthly liability and a ceiling of three million dollars was established.

5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or a federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: A hearing was held on the proposed rules on November 8, 1991. However, the CR-102, Notice of Proposed Rule Making, stated the date of intended adoption as January 1, 1992, therefore the permanent rule cannot be filed before that date. The law goes into effect January 1, 1992 and the rules need to be in effect by that date, hence the need for the emergency rule.

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

Emergency Rules

- 31 days after filing
 Other (specify) _____ *
 Immediately
 Later (specify) 1-1-92

* (If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

NOV 19 1991

TIME: 2:03
WORK: 91-23-074

NAME (TYPE OR PRINT)

John L. Bley

SIGNATURE

John L. Bley
Supervisor of Banking

DATE
11-19-91

Chapter 50-30 WAC

CHECK CASHERS AND SELLERS--REGULATION OF

NEW SECTION

WAC 50-30-010 APPLICATION INVESTIGATION AND SUPERVISION FEE.

(1) An applicant at the time of filing an application for a license under this act shall pay to the supervisor a reasonable sum determined by the supervisor as a deposit for investigating the application. The deposit fee is not refundable if an application is denied or withdrawn. The investigation fee shall be applied to the actual cost of investigation of the application and if not sufficient to cover said cost, the applicant will be assessed and responsible for additional cost incurred.

(2) The supervisor at least every eighteen months shall conduct an examination of the business and examine the books, accounts, records, and files used therein, of any licensee, of any agent, and of any person who the supervisor has reason to believe is engaging in the business of cashing or selling checks. The licensee so examined shall pay to the supervisor the actual cost of examining and supervising each licensed place of business at the examination hourly rate prescribed. The supervisor may accept an audit report prepared by an independent certified public accountant or an examination prepared by another state in lieu of, in whole or in part, an examination performed by the supervisor.

NEW SECTION

WAC 50-30-020 SCHEDULE OF FEES FOR CHECK CASHERS AND SELLERS.

(1) The supervisor shall collect the following fees:

(a) Hourly charges for services plus actual expenses for review of application and investigation for:

- (i) New license application.
- (ii) Additional locations.
- (iii) Change of control.
- (iv) Relocation of office.
- (v) Voluntary or involuntary liquidation of licensee.
- (vi) Other.

(b) The hourly fee for services shall be ninety dollars per employee hour expended. The supervisor may require a lump sum payment in advance to cover the anticipated cost of review and investigation of the activities described in (a) of this subsection. In no event shall the lump sum payment required under this section exceed actual amounts derived in (a) of this subsection.

(2) The hourly fee for periodic examinations described in WAC 50-30-010(2) shall be ninety dollars per hour.

NEW SECTION

WAC 50-30-030 FIDELITY BOND FOR APPLICANTS ENGAGING IN THE BUSINESS OF SELLING CHECKS, DRAFTS, MONEY ORDERS, OR OTHER COMMERCIAL PAPER SERVING THE SAME PURPOSE. (1) A licensee engaged in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose shall obtain at the beginning of each

calendar year and file with the supervisor a fidelity bond issued by a bonding company or insurance company authorized to do business in this state. The fidelity coverage or blanket fidelity coverage on each officer, employee, or agent having access to funds collected by or for the licensee shall not be less than the amount established in the following table:

Highest Monthly Liability*	Required Bond	Plus Percentage of Excess Over
Up to \$50,000	Highest Monthly Liability	Highest Monthly Liability
\$50,001 to \$100,000	\$50,000	.5 above \$50,000
\$100,000 plus	\$75,000	.25 above \$100,000

The maximum fidelity coverage required shall be three million dollars.

* The monthly liability is the total sum of checks for a given month. The "Highest Monthly Liability" shall be determined by the highest monthly liability of checks from the preceding calendar year multiplied by seventy-five percent.

(2) In lieu of such fidelity bond, the applicant may deposit with such banks, savings banks, savings and loan associations, or trust companies in this state as such applicant may designate and the supervisor may approve, bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof or guaranteed by the United States or of the state of Washington or of a municipality, county, school district, or instrumentality of the state of Washington or guaranteed by the state to an aggregate amount, based on principal amount or market value, whichever is lower, of not less than the amount of the required fidelity bond or portion thereof. The securities shall be deposited as aforesaid and held to secure the same obligations as would the fidelity bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the supervisor, to substitute other qualified securities for those deposited, and shall be required so to do on written order of the supervisor made for good cause shown.

(3) In lieu of such fidelity bond, the applicant may deposit with the supervisor an irrevocable letter of credit drawn in favor of the supervisor for an amount equal to or greater than the required bond. The irrevocable letter of credit must be issued by a bank, savings bank, or savings and loan association in this state as such applicant may designate and the supervisor may approve.

NEW SECTION

WAC 50-30-040 ACCESS TO CRIMINAL HISTORY INFORMATION. (1) The supervisor may review any criminal history record information relating to an applicant that is maintained by any federal, state, or local law enforcement agency of:

- (a) An applicant for a license under this article; or
- (b) A principal of an applicant for a license under this article.

(2) The supervisor may refuse to grant a license or may suspend or revoke a license if the applicant, licensee, or principal of the applicant or licensee, fails to provide a complete set of fingerprints and a recent photograph on request.

(3) All criminal history record information received by the supervisor is confidential information and is for exclusive use of the supervisor and the division of banking. Except on court order or as provided by subsection (4) of this section, or otherwise restricted by law, the information may not be released or otherwise disclosed to any other person or agency.

(4) The supervisor may not provide a person being investigated under this section with a copy of the person's criminal history record obtained pursuant to subsection (1) of this section. This subsection does not prevent the supervisor from disclosing to the person the dates and places of arrests, offenses, and dispositions contained in the criminal history records.

NEW SECTION

WAC 50-30-050 ISSUANCE OF LICENSE. If the supervisor determines all criteria of section 4, chapter 355, Laws of 1991 has been met and the appropriate fees paid, the supervisor shall issue a nontransferable license for the applicant to engage in the business of cashing and/or selling checks. The license shall remain in effect for a period of five years from the date of its issuance unless earlier surrendered, suspended, or revoked.

NEW SECTION

WAC 50-30-060 DISCLOSURE OF SIGNIFICANT DEVELOPMENTS. A licensee shall be required to notify the supervisor in writing within thirty days of the occurrence of any of the following significant developments:

- (1) Licensee filing for bankruptcy or reorganization.
- (2) Notification of the institution of license revocation procedures in any state against the licensee.
- (3) The filing of a criminal indictment any way related to check cashing and/or selling activities of licensee, key officer, director, or principal, including, but not limited to, the handling and/or reporting of moneys received and/or instruments sold.
- (4) A licensee, key officer, director, or principal being convicted of a crime.
- (5) A change of control. In the case of a corporation, control is defined as a change of ownership by a person or group acting in concert to acquire ten percent of the stock, or the ability of a person or group acting in concert to elect a majority of the directors or otherwise effect a change in policy of the corporation. The supervisor may require such information as deemed necessary to determine whether a new application is required. In the case of entities other than corporations, change in control shall mean any change in principals of the organization either active or passive. Change of control investigation fees shall be billed to the persons or group at the rate billed for applications.

NEW SECTION

WAC 50-30-070 ACCOUNTING AND FINANCIAL RECORDS TO BE MAINTAINED BY THE LICENSEE. Cashers of checks and/or sellers of checks, drafts, money orders, or other commercial paper serving the same purpose shall be required to maintain as a minimum the following books and records.

- (1) A daily record of checks cashed shall be maintained as a record of all check cashing transactions occurring each day. Such daily record shall be limited to the following provided a sufficient audit trail is available through records obtainable from the licensee's bank of account.

- (a) Amount of the check cashed;
- (b) Amount of fee charged for cashing the check;
- (c) Amount of cash deducted from the transaction for the sales of other services or products.

(2) A daily cash reconciliation shall be maintained summarizing each day's activity and reconciling cash on hand at the opening of business to cash on hand at the close of business. Such reconciliation shall separately reflect cash received from the sale of checks, redemption of returned items, bank cash withdrawals, cash disbursed in cashing of checks, and bank cash deposits.

(3) Records required under subsections (1) and (2) of this section may be maintained in combined form, hand or machine posted, or automated.

(4) A general ledger containing records of all assets, liabilities, capital, income, and expenses shall be maintained. The general ledger shall be posted from the daily record of checks cashed or other record of original entry, at least monthly, and shall be maintained in such manner as to facilitate the preparation of an accurate trial balance of accounts in accordance with generally accepted accounting practices. A consolidated general ledger reflecting activity at two or more locations by the same licensee may be maintained provided books of original entry are separately maintained for each location.

(5) All checks, drafts, and money orders drawn on a financial institution domiciled in the United States and cashed by a licensee shall be sent for deposit to the licensee's account at a depository financial institution located in Washington state or sent for collection not later than close of business on the third business day after the day on which the check was accepted for cash.

(6) Every licensee shall maintain current personnel files for its employees.

NEW SECTION

WAC 50-30-080 LICENSEES ARE REQUIRED TO COMPLY WITH FEDERAL AND STATE LAWS INCLUDING BUT NOT LIMITED TO THE FOLLOWING. (1) Each licensee shall comply with section 103.29 of the Code of Federal Regulations and maintain detailed records to satisfy currency transaction reporting requirements of the United States Treasury Department.

(2) Each licensee must comply with chapter 63.29 RCW Uniform Unclaimed Property Act.

NEW SECTION

WAC 50-30-090 AUDIT REPORT BY LICENSEE; FINANCIAL STATEMENTS.

(1) Each licensee shall submit annually a financial statement on a form prescribed by the supervisor. Financial statements may be prepared by outside accountants or by the licensee's own accountants. Said statements are due one hundred five days after the calendar year end, or if the licensee has established a fiscal year, then one hundred five days after the fiscal year end.

(2) A licensee engaged in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose, whose license has been surrendered or revoked shall submit to the supervisor, at its own expense, on or before one hundred five days after the effective date of such surrender or revocation, a closing audit report containing audited financial statements as of such effective date for the twelve months ending with such effective date or for

such other period as the supervisor may specify. If the report, certificate, or opinion of the independent accountant is in any way qualified, the supervisor may require the licensee to take such action as appropriate to permit an independent accountant to remove such qualification from the report, certificate, or opinion. Such report shall include relevant information specified by the supervisor.

(3) The reports and financial statements referred to in subsections (1) and (2) of this section shall include at least a balance sheet and a statement of income together with such other relevant information as the supervisor may require, and shall be prepared in accordance with general accepted accounting principles and the reports and financial statements referred to in subsection (2) of this section shall be accompanied by a report, certificate, or opinion of an independent certified public accountant or independent public accountant. The audits shall be conducted in accordance with generally accepted auditing standards.

(4) For good cause and upon written request, the supervisor may extend the time for compliance with this section.

(5) A licensee shall, when requested by the supervisor, for good cause, submit its unaudited financial statement, prepared in accordance with generally accepted accounting principles and consisting of at least a balance sheet and statement of income as of the date and for the period specified by the supervisor.

(6) The supervisor may reject any financial statement, report, certificate, or opinion filed pursuant to this section by notifying the licensee or other person required to make such filing of its rejection and the cause thereof. Within thirty days after the receipt of such notice, the licensee or other person shall correct such deficiency. The supervisor shall retain a copy of all filings so rejected.

NEW SECTION

WAC 50-30-100 TRUST ACCOUNTS; LIMITATIONS AND PROHIBITIONS. (1) The licensee in the business of selling checks shall periodically at least monthly withdraw from the trust account an amount equal to fees earned for the corresponding period from the sale of checks, drafts, money orders, or other commercial paper serving the same purpose. The remaining balance of the trust account must be sufficient to cover all checks, drafts, money orders, and other commercial paper serving the same purpose that remain outstanding and drawn against the trust account.

(2) A licensee is prohibited from allowing the bank of account to charge back checks or drafts deposited to the trust account and subsequently dishonored against said trust account.

(3) Withdrawals from the trust account by a licensee, whose license has been suspended, terminated, or not renewed, will not be allowed, without the supervisor's consent, until a closing audit report has been received according to WAC 50-30-090(2).

NEW SECTION

WAC 50-30-110 TRANSITIONAL RULE. Businesses engaged in check cashing or check selling as of December 1, 1991, may file application with the supervisor and immediately obtain an interim license upon acceptance of the application for review. Such license shall be good for sixty days unless extended by the supervisor. This section shall become void after July 1, 1992.