

SB2433



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2433

Introduced 1/30/2018, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

205 ILCS 405/1

from Ch. 17, par. 4802

205 ILCS 405/19.3

from Ch. 17, par. 4838

Amends the Currency Exchange Act. Defines "government assistance check", "government check", "payroll check", "printed", and "protected class". Provides additional considerations by the Secretary of Financial and Professional Regulation for determining the maximum rate schedules that can be charged for check cashing and writing of money orders by community currency exchanges and ambulatory currency exchanges. Provides that the Department of Financial and Professional Regulation's authority to establish rate schedules for check cashing is subject to specified rate caps. Makes other changes. Effective June 1, 2019.

LRB100 16238 SMS 31361 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Currency Exchange Act is amended by changing
5 Sections 1 and 19.3 as follows:

6 (205 ILCS 405/1) (from Ch. 17, par. 4802)

7 Sec. 1. Definitions; application of Act.

8 (a) For the purposes of this Act:

9 "Ambulatory currency exchange" means any person, firm,
10 association, partnership, limited liability company, or
11 corporation, except banks organized under the laws of this
12 State and national banks organized pursuant to the laws of the
13 United States, engaged in one or both of the foregoing
14 businesses, or engaged in performing any one or more of the
15 foregoing services, solely on the premises of the employer
16 whose employees are being served.

17 "Community currency exchange" means any person, firm,
18 association, partnership, limited liability company, or
19 corporation, except an ambulatory currency exchange as
20 hereinafter defined, banks incorporated under the laws of this
21 State and national banks ~~National Banks~~ organized pursuant to
22 the laws of the United States, engaged in the business or
23 service of, and providing facilities for, cashing checks,

1 drafts, money orders or any other evidences of money acceptable
2 to such community currency exchange, for a fee or service
3 charge or other consideration, or engaged in the business of
4 selling or issuing money orders under his or their or its name,
5 or any other money orders (other than United States Post Office
6 money orders, Postal Telegraph Company money orders, or Western
7 Union Telegraph Company money orders), or engaged in both such
8 businesses, or engaged in performing any one or more of the
9 foregoing services.

10 "Controlling person" means an officer, director, or person
11 owning or holding power to vote 10% or more of the outstanding
12 voting securities of a licensee or the power to vote the
13 securities of another controlling person of the licensee. For
14 the purposes of determining the percentage of a licensee
15 controlled by a controlling person, the person's interest shall
16 be combined with the interest of any other person controlled,
17 directly or indirectly, by that person or by a spouse, parent,
18 or child of that person.

19 "Department" means the Department of Financial and
20 Professional Regulation.

21 "Director" means the Director of the Division of Financial
22 Institutions of the Department of Financial and Professional
23 Regulation.

24 "Division of Financial Institutions" means the Division of
25 Financial Institutions of the Department of Financial and
26 Professional Regulation.

1 "Government assistance check" means a check issued by the
2 federal government or State government on a continuing,
3 periodic basis by a government agency for the payment to the
4 recipient payee of federal or State assistance, Social Security
5 benefits, workers' compensation, unemployment compensation,
6 railroad retirement benefits, veterans benefits, or housing
7 assistance.

8 "Government check" means a check issued by the federal
9 government, State government, or local government other than a
10 government assistance check.

11 ~~"Ambulatory Currency Exchange" means any person, firm,~~
12 ~~association, partnership, limited liability company, or~~
13 ~~corporation, except banks organized under the laws of this~~
14 ~~State and National Banks organized pursuant to the laws of the~~
15 ~~United States, engaged in one or both of the foregoing~~
16 ~~businesses, or engaged in performing any one or more of the~~
17 ~~foregoing services, solely on the premises of the employer~~
18 ~~whose employees are being served.~~

19 ~~"Licensee" means any person, firm, association,~~
20 ~~partnership, limited liability company, or corporation issued~~
21 ~~one or more licenses by the Secretary under this Act.~~

22 "Licensed location" means the premises at which a licensee
23 is authorized to operate a community currency exchange to offer
24 to the public services, products, or activities under this Act.

25 "Licensee" means any person, firm, association,
26 partnership, limited liability company, or corporation issued

1 one or more licenses by the Secretary under this Act.

2 "Location" when used with reference to an ambulatory
3 currency exchange means the premises of the employer whose
4 employees are or are to be served by an ambulatory currency
5 exchange.

6 "Payroll check" means a check issued by an employer to an
7 employee other than a payroll check issued by the federal
8 government, State government, or local government.

9 "Principal office" means the physical business address,
10 which shall not be a post office box, of a licensee at which
11 the (i) Department may contact the licensee and (ii) records
12 required under this Act are maintained.

13 "Printed" means typewritten, electronically generated, or
14 computer generated.

15 "Protected class" means a class of people protected from
16 discrimination under the Illinois Human Rights Act.

17 "Secretary" means the Secretary of Financial and
18 Professional Regulation or a person authorized by the Secretary
19 or this Act to act in the Secretary's stead. All references in
20 this Act to the Secretary shall be deemed to include the
21 Director, as a person authorized by the Secretary or this Act
22 to assume responsibility for the oversight of the functions of
23 the Department relative to the regulatory supervision of
24 community currency exchanges and ambulatory currency exchanges
25 under this Act.

26 (b) Nothing in this Act shall be held to apply to any

1 person, firm, association, partnership, limited liability
2 company, or corporation who is engaged primarily in the
3 business of transporting for hire, bullion, currency,
4 securities, negotiable or non-negotiable documents, jewels or
5 other property of great monetary value and who in the course of
6 such business and only as an incident thereto, cashes checks,
7 drafts, money orders or other evidences of money directly for,
8 or for the employees of and with the funds of and at a cost only
9 to, the person, firm, association, partnership, limited
10 liability company, or corporation for whom he or it is then
11 actually transporting such bullion, currency, securities,
12 negotiable or non-negotiable documents, jewels, or other
13 property of great monetary value, pursuant to a written
14 contract for such transportation and all incidents thereof, nor
15 shall it apply to any person, firm, association, partnership,
16 limited liability company, or corporation engaged in the
17 business of selling tangible personal property at retail who,
18 in the course of such business and only as an incident thereto,
19 cashes checks, drafts, money orders or other evidences of
20 money.

21 (Source: P.A. 99-445, eff. 1-1-16.)

22 (205 ILCS 405/19.3) (from Ch. 17, par. 4838)

23 Sec. 19.3. (A) The General Assembly hereby finds and
24 declares: community currency exchanges and ambulatory currency
25 exchanges provide important and vital services to Illinois

1 citizens. In so doing, they transact extensive business
2 involving check cashing and the writing of money orders in
3 communities in which banking services are generally
4 unavailable. Customers of currency exchanges who receive these
5 services must be protected from being charged unreasonable and
6 unconscionable rates for cashing checks and purchasing money
7 orders. The Illinois Department of Financial and Professional
8 Regulation has the responsibility for regulating the
9 operations of currency exchanges and has the expertise to
10 determine reasonable maximum rates to be charged for check
11 cashing and money order purchases. Therefore, it is in the
12 public interest, convenience, welfare and good to have the
13 Department establish reasonable maximum rate schedules for
14 check cashing and the issuance of money orders and to require
15 community and ambulatory currency exchanges to prominently
16 display to the public the fees charged for all services. The
17 Secretary shall review, each year, the cost of operation of the
18 Currency Exchange Section and the revenue generated from
19 currency exchange examinations and report to the General
20 Assembly if the need exists for an increase in the fees
21 mandated by this Act to maintain the Currency Exchange Section
22 at a fiscally self-sufficient level. The Secretary shall
23 include in such report the total amount of funds remitted to
24 the State and delivered to the State Treasurer by currency
25 exchanges pursuant to the Revised Uniform Unclaimed Property
26 Act.

1 (B) The Secretary shall, by rules adopted in accordance
2 with the Illinois Administrative Procedure Act, expeditiously
3 formulate and issue schedules of reasonable maximum rates which
4 can be charged for check cashing and writing of money orders by
5 community currency exchanges and ambulatory currency
6 exchanges.

7 (1) In determining the maximum rate schedules for the
8 purposes of this Section the Secretary shall take into
9 account:

10 (a) Rates charged in the past for the cashing of
11 checks and the issuance of money orders by community
12 and ambulatory currency exchanges.

13 (b) Rates charged by banks or other business
14 entities for rendering the same or similar services and
15 the factors upon which those rates are based.

16 (c) The income, cost and expense of the operation
17 of currency exchanges.

18 (d) Rates charged by currency exchanges or other
19 similar entities located in other states for the same
20 or similar services and the factors upon which those
21 rates are based.

22 (e) Rates charged by the United States Postal
23 Service for the issuing of money orders and the factors
24 upon which those rates are based.

25 (f) A reasonable profit for a currency exchange
26 operation.

1 (g) The impact on consumers.

2 (h) Whether the rate schedule will
3 disproportionately impact one or more protected
4 classes, including, but not limited to, racial and
5 ethnic minorities.

6 (2) (a) The schedule of reasonable maximum rates
7 established pursuant to this Section may be modified by the
8 Secretary from time to time pursuant to rules adopted in
9 accordance with the Illinois Administrative Procedure Act.

10 (b) Upon the filing of a verified petition setting
11 forth allegations demonstrating reasonable cause to
12 believe that the schedule of maximum rates previously
13 issued and promulgated should be adjusted, the Secretary
14 shall expeditiously:

15 (i) reject the petition if it fails to demonstrate
16 reasonable cause to believe that an adjustment is
17 necessary; or

18 (ii) conduct such hearings, in accordance with
19 this Section, as may be necessary to determine whether
20 the petition should be granted in whole or in part.

21 (c) No petition may be filed pursuant to subparagraph
22 (a) of paragraph (2) of subsection (B) unless:

23 (i) at least nine months have expired since the
24 last promulgation of schedules of maximum rates; and

25 (ii) at least one-fourth of all community currency
26 exchange licensees join in a petition or, in the case

1 of ambulatory currency exchanges, a licensee or
2 licensees authorized to serve at least 100 locations
3 join in a petition.

4 (3) Any currency exchange may charge lower fees than
5 those of the applicable maximum fee schedule after filing
6 with the Secretary a schedule of fees it proposes to use.

7 (C) The Department's authority to establish rate schedules
8 for check cashing pursuant to this Section is subject to the
9 following rate caps applicable to the types of checks indicated
10 as follows:

11 (1) for a printed payroll check of \$100 or less, a rate
12 not exceeding 1.4% of the face amount of the check plus a
13 service charge of \$1;

14 (2) for a printed payroll check of \$100.01 or greater,
15 a rate not exceeding 2.25% of the face amount of the check;

16 (3) for a government check, a rate not exceeding 1.5%
17 of the face amount of the check; and

18 (4) for a government assistance check, a rate not
19 exceeding 0.5% of the face amount of the check.

20 (Source: P.A. 100-22, eff. 1-1-18.)

21 Section 999. Effective date. This Act takes effect June 1,
22 2019.