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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 441
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
FINANCE AND SECURITIES REGULATION

FILED

11/23/2020 4:30 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Reduces investigation fee for currently licensed Check Cashers and Payday/Title lenders.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/29/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Karen Winkel
503-947-7694
Karen.J.Winkel@oregon.gov

350 Winter Street NE
Salem, OR 97301

Filed By:
Karen Winkel
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 12/22/2020

TIME: 11:00 AM

OFFICER: Aeron Teverbaugh

ADDRESS: Labor & Industries Building

350 Winter Street NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Conference call only due to Covid-19.

Dial-in: 888-808-6929

Access code: 1691422

In case of technical issues, call
Karen Winkel at 971-345-1108.

NEED FOR THE RULE(S):

ORS 697.504 requires persons engaged in check cashing to obtain a license from the director. ORS 697.502 states that "each person who submits an application under ORS 697.510 shall at the same time pay a nonrefundable application fee and a nonrefundable investigation fee to the director of the Department of Consumer and Business Services in amounts the director prescribes by rule." Licenses issued under the check cashing statutes are non-transferrable and applicable only to the location specified in the application.

OAR 441-755-0010 sets the general investigation fee at \$150. However, the investigation fee is reduced to \$75 for persons holding a current consumer finance or pawnbroker license that intend to use the same legal entity name and control persons as that listed on the check-casher license application. The rule does not currently contemplate a lower investigation fee for licensed check cashers wishing to license a different or additional location or for licensed payday/title lenders seeking a check cashing license.

This proposed rule would reduce the investigation fee for currently licensed check cashers and payday/title lenders that intend to use the same legal entity name and control persons as that listed on their initial check-casher license application. The proposed rule will place similarly licensed individuals on a level playing field.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are also available on the division's website at:
<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

FISCAL AND ECONOMIC IMPACT:

The proposed rule will decrease the investigation fee for currently licensed check cashers, payday and title lenders. It will likely have a positive financial impact on the affected license types because it will halve the amount of the investigation fee for subsequent licenses. The investigation fee for pawnbrokers and consumer finance licensees applying for a check casher license had been previously reduced without a detrimental impact on the department; this proposed rulemaking may have a minor fiscal impact on the department because it will reduce the amount of investigation fees collected in certain situations.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) This proposed rulemaking may have a minor fiscal impact on the department because it will reduce the amount of investigation fees collected in certain situations.

(2)(a) There are approximately 184 check cashers licensed in the state and 41 payday/title lenders. The department does not keep information regarding how many employees each licensee has and so we cannot determine how many of those would be considered a "small business" under ORS 183.336.

(2)(b) Because the proposed rule decreases an investigation fee for currently licensed businesses, there is likely to be a positive impact on those license types. The division does not anticipate an increased cost for reporting, record keeping or administrative activities.

(2)(c) Because the proposed rule decreases an investigation fee for currently licensed businesses, there is likely to be a positive impact to those license types. The division does not anticipate an increased cost for professional services, equipment supplies, labor, or increased administration required.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

There were small businesses on the rulemaking advisory committee.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 441-755-0010

RULE SUMMARY: Adds currently licensed check cashers, payday and title lenders to the businesses that are eligible for a reduced investigation fee of \$75 for additional licenses.

CHANGES TO RULE:

441-755-0010

Fees Payable to the Director ¶

(1) All fees described in this rule must be payable to the Department of Consumer and Business Services, and submitted to the ~~D~~director either by mail to the mailing address specified on the application form, in-person delivery to the address specified on the application form, or through online application or renewal when online transactions are available.¶

(2) ~~An investigation fee in the amount of \$150 must accompany every initial application for a check-casher license. An applicant that received a consumer finance~~(a) Except as provided in (b), every initial application for a check-casher license must be accompanied by an investigation fee in the amount of \$150. ¶

(b) An applicant possessing a current check-casher, consumer finance, payday or title lending, or pawnbroker license from the Oregon Department of Consumer and Business Services, ~~Division of Finance and Corporate Securities and that license is still valid~~which is in good standing, shall pay and in good standing, using the same investigation fee of \$75 if the legal entity name and identifying the same control persons as listed on the check-casher license application, must pay an investigation fee of \$75. The investigation fee is application is the same as those listed on the applicant's current check-casher, consumer finance, payday or title lending, or pawnbroker license.¶

(c) The investigation fee is nonrefundable and assessed per application regardless of the number of locations being licensed. The investigation fee is nonrefundable.¶

(3) An initial license fee in the amount of \$150 for each location where check-cashing activity will be conducted must also accompany every initial application for a check-casher license. The location where an applicant places or will place an automated check-cashing machine or the use of a mobile unit is a location that must be licensed. This fee must be paid for the principal place of business only if check-cashing activity will be conducted at this location. This initial license fee is nonrefundable.¶

(4) A renewal license fee in the amount of \$150 for each location where check-cashing activity will be conducted must be paid by the licensee in the year the licensee's licenses expire. This fee is nonrefundable.¶

(5) The investigation fee is a one-time fee paid at the time of initial application. An initial license fee paid during December 2007 covers calendar years 2008 and 2009, if the license is issued. An initial license fee paid on or after January 2, 2008 covers the calendar year from the date the license is issued plus the following full calendar year. The license fee for an additional licensed location covers the remaining period until that licensee's current licenses expire. A renewal fee covers the two-year period beginning on the day after the expiration date of the current license.¶

(6) For any compliance examination conducted by the ~~D~~director:¶

(a) The check-cashing business will be billed for time spent preparing for, traveling to the location where the records are maintained, conducting, and completing a report on the examination by the ~~D~~director's staff at the rate of \$75 per hour per staff person, plus actual travel expenses; and¶

(b) If out-of-state travel is required to conduct the examination, actual travel expenses will include air fare, lodging, food, rental car at destination, and mileage to and from ~~the~~an Oregon airport.¶

(7) To avoid enforcement action against the licensee, the check-cashing business must pay the billed examination expenses no later than 30 days from the date of the invoice.¶

(8) By order, the ~~D~~director may reduce the fees assessed during any specific biennial period, applying the reduction equally to all licensed locations.

Statutory/Other Authority: ORS 697.550

Statutes/Other Implemented: ORS 697.512, 697.514, ~~697.528~~