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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

08/28/2024 3:14 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: To increase the initial registration fee and renewal fee for check casher license

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/02/2024 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.

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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: 09/25/2024

TIME: 10:00 AM - 10:30 AM

OFFICER: Teddy Badege

IN-PERSON HEARING DETAILS

ADDRESS: Labor and Industries Building, 350 Winter St. NE, Basement, Conf Rm A, Salem, OR 97301

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 787694204

SPECIAL INSTRUCTIONS:

This is a hybrid meeting conducted in-person and virtually via Microsoft Teams:

Join the meeting now

Meeting ID: 274 735 776 236

Passcode: Fh3ezm

NEED FOR THE RULE(S)

The Department of Consumer and Business Services (DCBS) Fund Balance Policy – Policy FIN-01 (FIN-01) requires the department's programs, with some exceptions, to have ending fund balances sufficient to fund two to four quarters of expenditures. As such, various programs require periodic fee increases to be in compliance with FIN-01.

In 2019, it was determined that DCBS needs to correct its fees charged for check cashers to maintain compliance with FIN-01. This determination was made just prior to the beginning of the COVID-19 pandemic. DCBS subsequently

decided a pandemic was not the right time to increase fees to businesses given the uncertainties around the state's business climate.

Since 2019, DCBS has managed to operate programs within means by reducing resources allocated to each program. However, recent increases in personnel costs make this approach no longer viable. This rulemaking will increase licensing fees on check cashers based on forecasting of future cost to maintain department compliance with FIN-01.

Currently, under OAR 441-755-0010(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. Currently, under OAR 441-755-0010(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. Currently, under OAR 441-755-0010(2)(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.

The proposed fee increases for the check cashers program are to increase the initial and renewal fees from \$150 to \$300. The fee for investigations will remain at \$150. In order to update the current fees for the Check Cashers Program, OAR 441-755-0010(3) and OAR 441-755-0010(4) will require amending as the fees are set by rule.

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 available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

A Rulemaking Advisory Committee (RAC) was consulted regarding this equity statement. Based on their feedback, this rule is not anticipated to have any disparate impact on any particular demographic in the state.

FISCAL AND ECONOMIC IMPACT:

There are 193 licensed check cashers in Oregon. DCBS estimates that 76 of these licensees may be businesses with less than 50 employees. All check cashers will see an increase in their registration and renewal fees. Small businesses will see the same increase as large businesses.

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) Based on information currently available to DCBS, aside from the additional fee revenue generated for DCBS, the proposed rule would not have a fiscal or economic impact on state agencies, local government units, nor the public.

The proposed rules apply to check casher licensees and would increase the fees check cashers pay for new and renewal licenses. As a result of the fee increase, DCBS will see an increase in the monies collected from the fees check cashers pay for new and renewal licenses.

The proposed rule may have an indirect economic impact on the general public in the event that check cashers increase the cost of their products to consumers as a result of the fee increases.

(2)(a) As noted above, there are 193 active check cashers in Oregon. DCBS estimates that 76 licensees are businesses with less than 50 employees.

(2)(b) The proposed rules apply to check casher licensees and would increase the fees check cashers pay for new and renewal licenses. As a result of the fee increase, all check cashers will see an increase in their registration and renewal fees. Small businesses will see the same increase as large businesses.

The estimated reporting, recordkeeping and administrative activities and cost required to comply with the rule(s) is minimal, aside from adhering to the fee increase itself.

(2)(c) The estimated cost of professional services, equipment supplies, labor and increased administration required to comply with the rule is \$0.

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

Members of organizations representing small businesses were invited, and representatives from two separate check casher businesses participated in the rulemaking advisory committee. Others were invited but declined to participate in the rulemaking advisory committee.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 441-755-0010

RULE SUMMARY: This rule sets the initial fee in the amount of \$300 for each location where check-cashing activity will be conducted. This rule also sets the renewal license fee in the amount of \$300 for each location where check-cashing activity will be conducted.

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 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)(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, which is in good standing, shall pay an investigation fee of \$75 if the legal entity name and control persons listed on the check-casher 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. ¶¶

(3) An initial license fee in the amount of ~~\$150~~300 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~~300 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 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 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 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 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