

## SUBCHAPTER 03L - CHECK-CASHING BUSINESSES

### SECTION .0100 – ADMINISTRATIVE

#### 04 NCAC 03L .0101 DEFINITIONS

(a) In addition to the definitions in G.S. 53, Article 22, the following definitions apply:

- (1) "Any one maker" means any single signatory on a personal checking account.
- (2) "Branch location" means a location, including a mobile unit, but not the principal place of business, where the licensee holds itself out to the public as engaging in a check-cashing business.
- (3) "Business day" means a calendar day, other than Saturday, Sunday, or State recognized holiday under 25 NCAC 01E .0901, which is incorporated by reference and includes subsequent amendments.
- (4) "Check" means a draft (other than a draft payable upon presentation of documentation, such as securities) payable on demand and drawn on a bank. The term "check" may also include any cashier's check or teller's check, but shall not include travelers checks or foreign denomination payment instruments.
- (5) "Conspicuously posted" means placed in public view in a location, manner, and size of typeface that a person seeking the services of a licensee could see and read the contents of the posted notice.
- (6) "Controlling person" means a person who owns or holds with the power to vote 10% or more of the equity securities of an applicant or licensee, or who has the power to direct the management and policy of the licensee.
- (7) "Draft" means a written order to pay money signed by the drawer, to another person, who is the drawee.
- (8) "Liquid assets" means cash, bank deposit accounts, money market accounts, and US Treasury bonds owned by the applicant or licensee, plus undeposited checks cashed by a licensee, less any returned checks doubtful of collection and cash remittances due others.
- (9) "Location" means a place of business where check-cashing activity is conducted.
- (10) "Mobile unit" means a vehicle, or other movable means, or a computer terminal from which the business of check cashing is conducted.
- (11) "Principal" means:
  - (A) any person who controls directly, or indirectly through one or more intermediaries, alone or in concert with others, a 10 percent or greater interest in a partnership, company, association, or corporation;
  - (B) the owner of a sole proprietorship;
  - (C) any natural person acting with apparent authority for or on behalf of an owner, officer, member, or director of a licensee; or
  - (D) any natural person who directs the performance of other employees as manager of a branch of any licensee.
- (12) "Principal place of business" means the location where the licensee holds itself out to the public as engaging in a check cashing business and that the licensee has declared to the Commissioner to be the main site of its business operations.
- (13) "Receipt" means a written record of a check-cashing transaction.

(b) A term not defined in this Rule or in G.S. 53, Article 22 shall have the meaning given it, if any, by G.S. 25, Article 3.

*History Note:* Authority G.S. 53-288;  
Eff. July 1, 2000;  
Amended Eff. November 1, 2013;  
Readopted Eff. August 1, 2018.

#### 04 NCAC 03L .0102 FILINGS

Licensees may obtain from the agency's website, located at <https://www.nccob.gov>, information concerning applications for a license, reports, applications for annual renewal, amendments to applications, renewal notices, or other documents that are required by law or rule to be filed with the Commissioner.

*History Note: Authority G.S. 53-288;  
Eff. July 1, 2000;  
Amended Eff. September 1, 2006;  
Readopted Eff. August 1, 2018.*

## **SECTION .0200 - APPLICATION**

### **04 NCAC 03L .0201 APPLICATION FOR LICENSE**

- (a) An application for a license as a check-cashing business shall include a financial statement that shows liquid assets of fifty thousand dollars (\$50,000) as required by G.S. 53-279(a) and shall include the following:
- (1) the business address in North Carolina, mailing address, business telephone number, facsimile number, and name of the supervisor or manager for the principal place of business and for each branch location;
  - (2) the address where books and records for the business will be kept;
  - (3) name, title, and business telephone number and facsimile number for the application contact person;
  - (4) the applicant's federal employer identification number; and
  - (5) a declaration as to whether the applicant's business will be conducted as a sole proprietorship, a partnership, a limited liability company, or a corporation.
- (b) Each applicant shall provide a signed statement authorizing the Commissioner to run a credit report on the applicant and on each owner, partner, director, principal, or controlling person.
- (c) Each applicant shall provide a signed statement making disclosure to the Commissioner concerning information that pertains to either the applicant, its partners, directors, principal officers, or controlling persons for the following:
- (1) all criminal proceedings or criminal convictions;
  - (2) all civil proceedings or civil judgments entered that involve fraud or dishonesty;
  - (3) all civil judgments during the past 10 years that have remained partially or wholly unpaid;
  - (4) all of the following proceedings: bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or similar proceeding;
  - (5) all proceedings brought by a state or federal administrative agency;
  - (6) all judgments entered by state or federal administrative agency that involve fraud, dishonesty, or that reflect on the applicants' character and fitness to command the confidence of the public; and
  - (7) a description of the current business activities of the applicant and the business experience, business activities, and education of the applicant's partners, directors, principal officers, and controlling persons.
- (d) The application shall be verified by the oath of the applicant.
- (e) In addition to the documents and information described in this Rule, the Commissioner may require additional information necessary or helpful in order to perform the investigation required by G.S. 53-278 and to make the findings required by G.S. 53-279.
- (f) Incomplete application files may be closed and may be denied without prejudice when the applicant has not submitted information requested by the Commissioner within 30 days of the request.

*History Note: Authority G.S. 53-276; 53-278; 53-279; 53-288;  
Eff. July 1, 2000;  
Readopted Eff. August 1, 2018.*

### **04 NCAC 03L .0202 FEES**

*History Note: Authority G.S. 53-278; 53-288; 53C-2-1; 53C-2-2;  
Eff. July 1, 2000;  
Repealed Eff. August 1, 2018.*

## **SECTION .0300 - LICENSING**

### **04 NCAC 03L .0301 ISSUANCE**

*History Note: Authority G.S. 53-278; 53-279; 53-288; 53C-2-1; 53C-2-2;*

*Eff. July 1, 2000;*  
*Repealed Eff. August 1, 2018.*

**04 NCAC 03L .0302 NONTRANSFERABILITY OF LICENSE**

(a) A check-cashing license shall be neither transferable nor assignable.

(b) A change in the licensee's organizational structure that constitutes a transfer or assignment of the license shall include the following:

- (1) if the licensee is a corporation or limited liability company:
  - (A) a change in ownership of 50% or more of the licensee's stock; or
  - (B) the conversion of the corporation or company into a general or limited partnership or sole proprietorship;
- (2) if the licensee is a general or limited partnership:
  - (A) a change in one of the licensee's general partners;
  - (B) the conversion of the general partnership into a limited partnership, corporation, or sole proprietorship; or
  - (C) the conversion of the limited partnership into a general partnership, corporation, or sole proprietorship; and
- (3) if the licensee is a sole proprietor:
  - (A) the conversion of the sole proprietorship into a general or limited partnership or corporation; or
  - (B) the sale or assignment of all of the assets of the licensee's business to another person.

(c) Upon a change in organization as set forth in Paragraph (b) of this Rule, the licensee's license shall become void and the licensee shall surrender its license to the Commissioner within 10 days of the change. The entity that results from the change in the licensee's organizational structure shall not engage in a check-cashing business in this State, unless it first obtains a license pursuant to Section .0200 of this Subchapter. An application for a license may be made prior to the effective date of the change in structure.

*History Note: Authority G.S. 53-276; 53-278; 53-288;*  
*Eff. July 1, 2000;*  
*Readopted Eff. August 1, 2018.*

**04 NCAC 03L .0303 ANNUAL RENEWAL OF LICENSE**

A check-cashing license shall be valid from the date of issuance and, unless renewed, shall expire on September 30 of each year without further action by the Commissioner. The renewal period shall begin on July 1 of each year. Licensees may file renewal applications and pay applicable renewal fees on the agency website located at [www.nccob.gov](http://www.nccob.gov). Any new license issued on or after July 1 of each year shall not be required to be renewed until the subsequent renewal period.

*History Note: Authority G.S. 53-276; 53-278; 53-288;*  
*Eff. July 1, 2000;*  
*Readopted Eff. August 1, 2018.*

**SECTION .0400 - OPERATIONS**

**04 NCAC 03L .0401 POSTING OF LICENSE OR BRANCH CERTIFICATE**

A licensee shall obtain a branch location certificate for each location other than its principal place of business where its business of cashing checks is conducted. The license or certificate shall be conspicuously posted.

*History Note: Authority G.S. 53-276; 53-278; 53-288;*  
*Eff. July 1, 2000;*  
*Readopted Eff. August 1, 2018.*

**04 NCAC 03L .0402 SURRENDER OF LICENSE**

A licensee shall notify the Commissioner in writing of its decision to cease operations as a check-cashing business in this State within seven days of the decision. A licensee shall surrender its license and branch certificates, if any, to

the Commissioner no later than 30 days after it has voluntarily ceased operations in this State or within a shorter time as the Commissioner may order if operations end involuntarily pursuant to G.S. 53-284 or G.S. 53-285.

*History Note:* Authority G.S. 53-285; 53-276; 53-288;  
Eff. July 1, 2000;  
Readopted Eff. August 1, 2018.

**04 NCAC 03L .0403 POSTING OF FEES**

- (a) The notice of fees required by G.S. 53-280(c) shall be conspicuously posted.
- (b) A licensee shall file with the Commissioner a scaled duplicate of the notice of fees on 8 1/2 x 11 inch paper.

*History Note:* Authority G.S. 53-280; 53-288;  
Eff. July 1, 2000;  
Amended Eff. November 1, 2013;  
Readopted Eff. August 1, 2018.

**04 NCAC 03L .0404 CASH-OUT TRANSACTIONS**

**04 NCAC 03L .0405 LIMITATION ON DELAYED DEPOSIT CHECK CASHING**

*History Note:* Authority G.S. 53-92; 53-93; 53-281; 53-282; 53-288;  
Eff. July 1, 2000;  
Repealed Eff. January 1, 2013.

**SECTION .0500 - BOOKS AND RECORDS: EXAMINATIONS**

**04 NCAC 03L .0501 BOOKS AND RECORDS**

(a) Each check-cashing business licensed by the Commissioner of Banks shall record all transactions of receipts and disbursements pertaining to checks cashed. All entries shall document the date the transactions occur. A licensee shall maintain books and accounting records that include the following:

- (1) a daily transaction journal or equivalent record that shows the customer's name for each transaction;
- (2) the written receipt required by G.S. 53-282(b); and
- (3) the bank statements of the licensee. If the statements are not maintained on the premises of the licensee, they shall be made available upon request by the Office of the Commissioner of Banks.

(b) These records shall be maintained for a period of three years from the date of entry and shall be made available by the close of business on the next business day upon request to the Commissioner of Banks or his or her designee for inspection or examination.

*History Note:* Authority G.S. 53-282; 53-288;  
Eff. July 1, 2000;  
Amended Eff. November 1, 2013;  
Readopted Eff. August 1, 2018.

**04 NCAC 03L .0502 EXAMINATIONS**

- (a) Examinations may be done with or without advance notice to the licensee.
- (b) In addition to examinations authorized by G.S. 53-278(b) or G.S. 53-282(c), the Commissioner may request reports from the licensee for the purpose of determining the general results of operations pursuant to Article 22 of Chapter 53.
- (c) If a licensee fails to pay the costs of examination as authorized by G.S. 53-282(c) and at a rate pursuant to 04 NCAC 03C .1601 to the Commissioner within 60 days of billing, the Commissioner may proceed to remedies set forth in G.S. 53-284.

*History Note:* Authority G.S. 53-278; 53-282; 53-284; 53-288;  
Eff. July 1, 2000;  
Readopted Eff. August 1, 2018.

## SECTION .0600 - REPORTING AND NOTIFICATION REQUIREMENTS

### 04 NCAC 03L .0601 AMENDMENTS TO INFORMATION ON FILE WITH THE COMMISSIONER

(a) A licensee shall notify the Commissioner within 30 days of any material change to information that it submitted to the Commissioner, whether provided in the initial application, request for annual renewal, or in any other report or information.

(b) Notification shall be by letter or by revision or modification of the appropriate portions of the application (whether initial or renewal).

(c) For the purposes of this Rule, the term "material" shall mean any information that would influence the granting, revocation, or expiration of a license. The term "material" includes the following:

- (1) changes in the licensee's corporate officers, partners, or business structure;
- (2) changes in the address of the licensee's main or branch locations and any names under which the licensee operates; or
- (3) changes that would render untrue, inaccurate, or misleading any of the disclosures made by the licensee in its application pursuant to Rule .0201 of this Subchapter.

*History Note:* Authority G.S. 53-278; 53-283; 53-284; 53-288;  
Eff. July 1, 2000;  
Readopted Eff. August 1, 2018.

### 04 NCAC 03L .0602 EXPANSION OR RELOCATION

(a) A licensee shall notify the Commissioner of the opening of any new branch locations or the relocation of its principal place of business or of any branch locations at least 20 days prior to the effective date of the change. The notification shall be on a form obtained from the Commissioner. The notification shall provide an explanation of the reasons for the change and shall be accompanied by a certificate fee for the new branch certificate in the amount of fifty dollars (\$50.00). Licensees may surrender their inaccurate certificate by mailing the certificate to the Commissioner at: Office of the Commissioner of Banks, 4309 Mail Service Center, Raleigh, North Carolina 27699-4309 or may be delivered to the physical address: 316 West Edenton Street, Raleigh, North Carolina 27603.

(b) The Commissioner shall issue a revised branch certificate upon his or her receipt of the required notification, the explanation, and the filing fee and upon surrender of the licensee's inaccurate certificate.

*History Note:* Authority G.S. 53-276; 53-278; 53-279; 53-283; 53-288;  
Eff. July 1, 2000;  
Readopted Eff. August 1, 2018.

### 04 NCAC 03L .0603 IMPAIRMENT OF FINANCIAL REQUIREMENTS

A licensee shall notify the Commissioner in writing within 30 days if it fails to meet the minimum liquid asset requirement of G.S. 53-279(a).

*History Note:* Authority G.S. 53-279; 53-288;  
Eff. July 1, 2000;  
Readopted Eff. August 1, 2018.

### 04 NCAC 03L .0604 REPORT OF INFORMATION TO COMMISSIONER FOR THE GENERAL ASSEMBLY

*History Note:* Authority G.S. 53-92; 53-93;  
Eff. July 1, 2000;  
Repealed Eff. November 1, 2013.