

## CALIFORNIA CIVIL CODE SECTION 1789.30-1789.38

1789.30. Every check casher, as applicable to the services provided, shall post a complete, detailed, and unambiguous schedule of all fees for (a) cashing checks, drafts, money orders, or other commercial paper serving the same purpose and making any deferred deposit thereof, (b) the sale or issuance of money orders, and (c) the initial issuance of any identification card. Each check casher shall also post a list of valid identification which is acceptable in lieu of identification provided by the check casher. The information required by this section shall be clear, legible, and in letters not less than one-half inch in height. The information shall be posted in a conspicuous location in the unobstructed view of the public within the check casher's premises.

1789.31. (a) As used in this title, a "check casher" means a person or entity that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check casher" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check casher" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a minimum flat fee not exceeding two dollars (\$2) as a service to its customers that is incidental to its main purpose or business. (b) As used in this title, "deferred deposit" means a transaction whereby the check casher refrains from depositing a personal check written by a customer until a specific date, pursuant to a written agreement, as provided in Section 1789.33. (c) This section shall become inoperative on March 1, 2004, and as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

1789.31. (a) As used in this title, a "check casher" means a person or entity that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check casher" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check casher" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a fee not exceeding two dollars (\$2) as a service to its customers that is incidental to its main purpose or business. (b) This section shall become operative March 1, 2004.

1789.32. Failure to post information as required by this title, or the imposition of fees or identification requirements contrary to the information posted, shall constitute an unfair business practice within the meaning of Section 17200 of the Business and Professions Code.

1789.33. (a) A check casher may defer the deposit of a personal check written by a customer for up to 30 days, pursuant to the provisions of this section. The face amount of the check shall not exceed three hundred dollars (\$300). Each deferred deposit shall be made pursuant to a written agreement that has been signed by the customer and by the check casher or an authorized representative of the check casher. The written agreement shall contain a statement of the total amount of any fees charged for the deferred deposit, expressed both in United States currency and as an annual percentage rate (APR). The written agreement shall authorize the check casher to defer deposit of the personal check until a specific date not later than 30 days from the date the written agreement was signed and executed. The written agreement shall not permit the check casher to accept collateral. (b) A customer who enters into a deferred deposit agreement

and offers a personal check to a check casher pursuant to that agreement shall not be subject to any criminal penalty for the failure to comply with the terms of that agreement. (c) This section shall become inoperative on March 1, 2004, and as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

1789.35. (a) A check casher shall not charge a fee for cashing a payroll check or government check in excess of 3 percent if identification is provided by the customer, or 3.5 percent without the provision of identification, of the face amount of the check, or three dollars (\$3), whichever is greater. Identification, for purposes of this section, is limited to a California driver's license, a California identification card, or a valid United States military identification card. (b) A check casher may charge a fee of no more than ten dollars (\$10) to set up an initial account and issue an optional identification card for providing check cashing services. A replacement optional identification card may be issued at a cost not to exceed five dollars (\$5). (c) A check casher shall provide a receipt to the customer for each transaction. (d) Subject to the limitations of Section 1789.33, a check casher may charge a fee for cashing a personal check, as posted pursuant to Section 1789.30, for immediate deposit in an amount not to exceed 12 percent of the face value of the check or for deferred deposit in an amount not to exceed 15 percent of the face value of the check. (e) A check casher shall not enter into an agreement for a deferred deposit with a customer during the period of time that an earlier written agreement for a deferred deposit for the same customer is in effect. (f) A check casher who enters into a deferred deposit agreement and accepts a check passed on insufficient funds, or any assignee of that check casher, shall not be entitled to recover damages in any action brought pursuant to, or governed by, Section 1719. (g) For a transaction pursuant to Section 1789.33, a fee not to exceed fifteen dollars (\$15) may be charged for the return of a dishonored check by a depository institution. The fee may be collected by a check casher who holds a valid permit issued pursuant to Section 1789.37, when acting under the authority of that permit. (h) No amount in excess of the amounts authorized by this section shall be directly or indirectly charged by a check casher pursuant to a deferred deposit agreement. (i) Any person who violates any provision of this section shall be liable for a civil penalty not to exceed two thousand dollars (\$2,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction. Any action brought pursuant to this subdivision shall be commenced within four years of the date on which the act or transaction upon which the action is based occurred. (j) A willful violation of this section is a misdemeanor. (k) Any person who is injured by any violation of this section may bring an action for the recovery of damages, an equity proceeding to restrain and enjoin those violations, or both. The amount awarded may be up to three times the damages actually incurred, but in no event less than the amount paid by the aggrieved consumer to a person subject to this section. If the plaintiff prevails, the plaintiff shall be awarded reasonable attorney's fees and costs. If a court determines by clear and convincing evidence that a breach or violation was willful, the court, in its discretion, may award punitive damages in addition to the amounts set forth above. (l) This section shall become inoperative on March 1, 2004, and as of January 1, 2005, is repealed, unless a later enacted statute that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

1789.35. (a) A check casher shall not charge a fee for cashing a payroll check or government check in excess of 3 percent if identification is provided by the customer, or 3.5 percent without the provision of identification, of the face amount of the check, or three dollars (\$3), whichever is greater. Identification, for purposes of this section, is limited to a California driver's license, a California identification card, or a valid United States military identification card. (b) A check casher may charge a fee of no more than ten dollars (\$10) to set up an initial account and issue an optional identification card for providing check cashing services. A replacement optional identification card may be issued at a cost not to exceed five dollars (\$5). (c) A check casher

shall provide a receipt to the customer for each transaction. (d) A check casher may charge a fee for cashing a personal check, as posted pursuant to Section 1789.30, for immediate deposit in an amount not to exceed 12 percent of the face value of the check. (e) Any person who violates any provision of this section shall be liable for a civil penalty not to exceed two thousand dollars (\$2,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General in any court of competent jurisdiction. Any action brought pursuant to this subdivision shall be commenced within four years of the date on which the act or transaction upon which the action is based occurred. (f) A willful violation of this section is a misdemeanor. (g) Any person who is injured by any violation of this section may bring an action for the recovery of damages, an equity proceeding to restrain and enjoin those violations, or both. The amount awarded may be up to three times the damages actually incurred, but in no event less than the amount paid by the aggrieved consumer to a person subject to this section. If the plaintiff prevails, the plaintiff shall be awarded reasonable attorney's fees and costs. If a court determines by clear and convincing evidence that a breach or violation was willful, the court, in its discretion, may award punitive damages in addition to the amounts set forth above. (h) This section shall become operative March 1, 2004.

1789.37. (a) Every owner of a check casher's business shall obtain a permit from the Department of Justice to conduct a check casher's business. (b) All applications for a permit to conduct a check casher's business shall be filed with the department in writing, signed by the applicant if an individual or by a member or officer authorized to sign if the applicant is a corporation or other entity, and shall state the name of the business, the type of business engaged in, whether the applicant intends to enter into deferred deposit agreements, and the business address. Each applicant shall be fingerprinted. (c) Each applicant for a permit to conduct a check casher's business shall pay a fee not to exceed the cost of processing the application, fingerprinting the applicant, and checking or obtaining the criminal record of the applicant, at the time of filing the application. (d) Each applicant shall annually, beginning one year from the date of issuance of a check casher's permit, file an application for renewal of the permit with the department, along with payment of a renewal fee not to exceed the cost of processing the application for renewal and checking or obtaining the criminal record of the applicant. (e) The department shall deny an application for a permit to conduct a check casher's business, or for renewal of a permit, if the applicant has a felony conviction involving dishonesty, fraud, or deceit, provided the crime is substantially related to the qualifications, functions, or duties of a person engaged in the business of check cashing. (f) The department shall adopt regulations to implement this section, and shall determine the amount of the application fees required by this section. The department shall prescribe forms for the applications and permit required by this section, which shall be uniform throughout the state. (g) In any action brought by a city attorney or district attorney to enforce a violation of this section, any owner of a check casher's business who engages in the business of check cashing without holding a current and valid permit issued by the department pursuant to this section is subject to a civil penalty, as follows: (1) For the first offense, not more than one thousand dollars (\$1,000). (2) For the second offense, not more than five thousand dollars (\$5,000). (h) Any person who has twice been found in violation of subdivision (g) and who, within 10 years of the date of the first offense, engages in the business of check cashing without holding a current and valid permit issued by the department pursuant to this section is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five thousand dollars (\$5,000), or by both. (i) All civil penalties, forfeited bail, or fines received by any court pursuant to this section shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which the court is situated. Fines and forfeitures so deposited shall be disbursed pursuant to the Penal Code. Civil penalties so deposited shall be paid at least once a month as follows: (1) Fifty percent to the Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, to be deposited in the State Treasury on order of the Controller. (2) Fifty percent to the

city treasurer of the city, if the offense occurred in a city, otherwise to the treasurer of the county in which the prosecution is conducted. Any money deposited in the State Treasury under this section which is determined by the Controller to have been erroneously deposited therein shall be refunded, subject to approval of the State Board of Control prior to the payment of the refund, out of any money in the State Treasury which is available by law for that purpose.

1789.38. Any waiver of the provisions of this title is contrary to public policy, and is void and unenforceable.