

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

**CHAPTER 13.5. DEPARTMENT OF JUSTICE REGULATIONS FOR THE
CHECK CASHER PERMIT PROGRAM**

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

Pursuant to Civil Code section 1789.37, every owner of a check cashing business in California must obtain a permit from the Department of Justice (Department). Currently, this permitting process is administered by the Department's Check Casher Permit Program in accordance with Civil Code section 1789.30 et seq. and title 11, division 1, chapter 13.5 of the California Code of Regulations.

A "check casher" is a person or entity that engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for a fee. The requirements of Civil Code section 1789.30 et seq. do not apply to state and federally chartered banks, savings associations, credit unions, or industrial loan companies. Retail sellers that may incidentally charge a fee not exceeding \$2 to cash checks or money orders as a service to their customers are also excluded from the requirements of Civil Code section 1789.30 et seq.

The Department proposes to amend its existing regulations to reflect accurate form references, remove language related to reimbursement requests and time delay appeals that were required by repealed statutes, establish deadlines for administrative hearing requests, and replace alternative administrative hearing procedures with the hearing process in Chapter 5 of the Administrative Procedure Act (APA).

BENEFITS ANTICIPATED FROM REGULATORY ACTION

This rulemaking action will benefit both current holders and future applicants of check casher permits because amending outdated regulations to align with the Department's current practices increases confidence in the state's rulemaking process by improving transparency and accountability and bolsters legitimacy of the state's regulatory structure. (Little Hoover Commission, Better Regulation: Improving California's Rulemaking Process, October 2011.)

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

Throughout the regulations, non-substantive grammar and punctuation amendments have been made for clarity.

Chapter 13.5. Department of Justice Regulations for the Check Casher Permit Program

The title of the chapter was non-substantively amended to replace “Cashers” with “Casher.” This amendment is necessary for accuracy.

Article 1. Title, Scope, and Definitions

This section was non-substantively amended to add a comma after “Scope” in the article title. This amendment was made for grammatical purposes.

§ 990. Title.

This section was non-substantively amended to replace “Cashers” with “Casher” for accuracy because the term “Check Casher” is used more colloquially and this is also the phrase used throughout the Department’s website. This section was also non-substantively amended to add a comma after “such.” This amendment was made for grammatical purposes.

The Authority and Reference section was amended to delete the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

§ 990.1. Scope.

This section was non-substantively amended to replace “cashers” with “cashing.” This amendment is necessary for improving the description of the activity being regulated. This section was also non-substantively amended to replace “Section” with “section.” This amendment is necessary for proper legal citation.

The Authority and Reference section was amended to delete the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

§ 990.2. Definitions of Key Terms.

Subdivision (a) was non-substantively amended to replace “Cashers” with “Casher” and “Title” with “title.” These amendments are necessary for accuracy since the term “Check Casher” is used more colloquially and for proper legal citation.

Former subdivision (b) was deleted because the Department is proposing to replace its alternative administrative hearing procedures with the hearing process in Chapter 5 of the APA. Given the proposal to use the APA hearing process, this definition was no longer needed within the regulations. This amendment ensures consistency throughout the regulations with other amendments. The removal of this subdivision required subsequent renumbering of the subdivisions in this section.

Former subdivision (d) was deleted because the Department is proposing to replace its alternative administrative hearing procedures with the hearing process in Chapter 5 of the APA. Given the proposal to use the APA hearing process, this definition was no longer needed within

the regulations. This amendment ensures consistency throughout the regulations with other amendments. The removal of this subdivision required subsequent renumbering of the subdivisions in this section.

Former subdivision (e) was deleted because the Department is proposing to replace its alternative administrative hearing procedures with the hearing process in the APA. Given the proposal to use the APA hearing process, this definition was no longer needed within the regulations. This amendment ensures consistency throughout the regulations with other amendments. The removal of this subdivision required subsequent renumbering of the subdivisions in this section.

Subdivision (f) was non-substantively amended to replace “officers” with “officer,” “persons” with “a person,” and “and” with “or.” These amendments are necessary for clarity.

The Authority and Reference section was amended to delete the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

Article 2. Application for Permits and Renewals

§ 991. General.

This section was non-substantively amended to replace “cashier’s” with “cashing” and “this state” with “the State of California.” These amendments are necessary for improving clarity.

The Authority and Reference section was amended to delete the specified subsection (a) in section 1789.37. This amendment is necessary for concision.

§ 991.1. Initial Application.

Subdivision (a) was non-substantively amended to add “Application for Check Casher Permit” and “hereby incorporated by reference,” and to replace “4/96” with “04/2022.” These amendments were necessary to specify the name and current revision date of BCIA 4130, as well as make clear that the form is incorporated by reference. Additionally, “in writing” was replaced with “completed, filed, and signed” because it is not required to submit a hard copy of the form. This subdivision was also amended to replace “oath” with “penalty of perjury.” This amendment is necessary to mirror the application requirement and emphasize the legal consequence for failing to provide accurate information. Furthermore “corporate” was added to make the phrase “principal corporate officer” consistent with a defined term. BCIA 4130’s revision date was also updated because BCIA 4130 was amended to capture additional data pertinent to processing applications for Check Casher Permits and to remove data entry fields that are no longer necessary as further described below. The form was additionally updated to make non-substantive formatting/design changes and update the Department’s contact information for the Check Casher Permit Program.

BCIA 4130.

The Department deleted the instruction “Print or Type Your Responses” because it is superfluous as those are the only options for applicants to complete the form. Additionally, the form is fillable, and given the convenience and ubiquity of technology, many applicants already understand that they can type in the form.

BCIA 4130: Part A. Specifically, BCIA 4130 was updated to capture the following personal descriptor and contact information: Driver License or California Identification (ID) and Email Address. The additional personal descriptor field of Driver License or California ID provide the Department with data necessary to retrieve corresponding fingerprint-based background check results that are associated with a submitted Application for Check Cashier Permit. Altogether, all personal descriptor data elements on BCIA 4130 are used to help confirm that the fingerprint-based background check results belong to the person listed on the application.

Adding the contact information field for an Email Address was necessary because it will provide the Department with another method to correspond with an applicant for a Check Cashier Permit. Using an email address to correspond also recognizes that it is a common, convenient, fast, and secure method of correspondence for both the Department and the applicant. Using an email address for correspondence improves efficiency.

Furthermore, part A of this form was amended to include “as indicated on the Statement of Information filed with the Secretary of State” after the word “ownership.” This was necessary to provide applicants guidance as to where they can find the information to fill out the BCIA 4130 and it also ensures that the information on the BCIA 4130 and the Statement of Information filed with the Secretary of State is the same. This helps ensure that the applicant information in the BCIA 4130 is accurate and complete.

Part A was also amended to include a heading for “Partners/Officers/ Shareholders.” This amendment was necessary to assist applicants in filling BCIA 4130 accurately and completely, as they may not have known what information they were to include in the additional name fields.

BCIA 4130: Part B was amended to remove (1) “the deferred deposit and” after “including,” (2) the business bank account number line, and (3) an additional question regarding deferred deposit agreements. The Department removed the fields regarding the deferred deposits because these types of entities and transactions are now governed by Financial Code section 23000 et seq., known as “California Deferred Deposit Transaction Law.” Additionally, because the California Deferred Deposit Transaction Law gives the Department of Business Oversight authority over these entities and transactions, the Department has no reason to collect this information for the Check Cashier Permit Program.

To help safeguard an applicant’s privacy interest in their financial information, the Department deleted the business bank account field. If the application was misdelivered, then the inclusion of this information could make it easy for bad actors to improperly access the business’s bank account. Because the potential misuse of this information could severely impact the businesses financially, it outweighed any benefit to the Department in collecting such information.

BCIA 4130: Part D was revised to specify that only felony convictions need to be disclosed and to remove the clarifying language that minor traffic violations were excluded from disclosure. The prior language made it appear that all convictions would be considered when evaluating an application except undefined “minor traffic violations.” However, Civil Code section 1789.37, subdivision (e), only prohibits an applicant from receiving a permit if they had a felony conviction. Therefore, this amendment conforms to the statute since misdemeanor convictions do not have a bearing on the issuance of a permit.

The Department also replaced “Name and location of court where case was heard:” with “Sentencing court.” “Sentencing court” is more precise and aligns with the terminology in the background check results. “Name and location of court where case was heard:” could be misinterpreted by applicants and could result in imprecise answers being given in response, such as “Courtroom 4, Los Angeles.” Should the Department need to access the information, the Department hopes that by using “Sentencing court,” it will elicit more precise answers in response, which will allow the Department to more readily identify where the relevant information is located.

The Department also replaced “imprisonment” with “incarceration” since this term is used more often.

BCIA 4130: Privacy Notice. BCIA 4130 was amended to include a privacy notice. Civil Code section 1798.17 requires a privacy notice, regarding the collection and use of personal information, to be provided on any form used to collect personal information from individuals. The Department has determined this amendment is necessary to ensure compliance with Civil Code section 1798.17.

Subdivision (b) was non-substantively amended to replace “supplemental application” with “Supplemental Application for Mobile Check Cashing Unit,” to replace “4/96” with “04/2022.” and to add “hereby incorporated by reference.” These amendments were necessary to specify the name and current revision date of BCIA 4000, as well as make clear that the form is incorporated by reference. BCIA 4000’s revision date was also updated because BCIA 4000 was amended to update some of its data fields. This subdivision was also amended to add “(DMV)” as an abbreviation for “Department of Motor Vehicles” for subsequent references.

BCIA 4000.

This form was updated to make non-substantive formatting/design changes.

Additionally, the Department deleted the instruction “Print or Type Your Responses” because it is superfluous as those are the only options for applicants to complete the form. Additionally, the form is fillable, and given the convenience and ubiquity of technology, many applicants already understand that they can type in the form. The Department also deleted the preferred ordering of the owner’s name since it is more common to provide one’s name as follows: first name, middle name, and last name. Additionally, even if an applicant provided their name in a different order, the Department can still determine the applicant’s name given that the applicant also submits other forms listing their name, and undergoes a fingerprint background check.

The Department also replaced “Manufacturer” with “Make” regarding the vehicle information. This change was made because “Make” is more commonly used in the context of asking for, and providing, an individual’s vehicle information. The Department also removed the data entry field for the registered owner’s phone number. Because the BCIA 4000 is used in the context of a mobile business and seeks information that corresponds with a vehicle and an owner, a phone number is not a data element that can help identify a vehicle. Therefore, the Department no longer had reason to collect that data element in the BCIA 4000.

The Department also added language to instruct applicants to submit the form to the Check Cashier Permit Program at a mailing address. This was necessary so the applicants know how they are supposed to submit the form, and to what address. The Department chose mail because it has processes and procedures already in place to receive the applications by mail. The form was additionally updated to make non-substantive formatting/design changes. Furthermore, this form was amended to include a privacy notice to ensure compliance with Civil Code section 1798.17.

The Authority and Reference section was amended to delete the specified subsections (b) and (f) in section 1789.37. These amendments are necessary for concision. This section was also amended to replace “Sections” with “Section” to accurately reflect a sole statutory reference.

§ 991.2. Fingerprints Required.

Subdivision (a) amended existing language to replace “ten-print fingerprint card” with “Request for Live Scan Service (BCIA 8016CCPP, Orig. 09/2022),” and to add “hereby incorporated by reference.” This amendment is necessary to specify the name and date of the form used to process electronic fingerprint impressions for check cashier permit applicants. This subdivision was also amended to change “purposed” to “purpose” and add the word “the.” These amendments are necessary to be grammatically correct

Under Civil Code section 1789.37, the Department’s Check Cashier Permit Program has authority to receive criminal history information to determine whether an applicant is eligible to engage in the business of check cashing. Under Penal Code section 11105, subdivisions (b)(10) and (i), the Department’s Live Scan Program has authority to conduct fingerprint-based background checks on check cashier permit applicants and provide criminal history to the Department’s Check Cashier Permit Program.

In accordance with Penal Code section 11105, subdivision (u), “fingerprint images and related information” are required by the Department to process fingerprint-based background checks.

BCIA 8016CCPP.

The Department’s Request for Live Scan Service (BCIA 8016CCPP) utilized BCIA 8016 as a template because it is a standard form already used by the Department. The BCIA 8016CCPP has the same data fields as the BCIA 8016 to ensure consistency rather than creating a new format. Using the format and data fields from the BCIA 8016 in the BCIA 8016CCP allows Live

Scan vendors to recognize the form since it follows a format they are familiar with, thus reducing confusion or error. Therefore, the Department included certain fields in the BCIA 8016CCPP that do not apply to the Check Cashier Permit Program, but pre-populated those fields with N/A.

BCIA 8016CCPP: Applicant Submission contains the data elements necessary to process an electronic fingerprint submission and search for matching criminal history in its criminal history information system. Request for Live Scan Service forms are used in other contexts and have similar data fields. The first few data fields are pre-populated. An ORI is the acronym for Originating Agency Identifier and is the code assigned by the Live Scan Program. This data field ensures that the requesting agency (the Department) has legal authorization to access criminal justice information. The BCIA 8016CCPP is pre-populated with the Department's ORI, as Check Cashier applicants do not have the legal authority to apply for, and submit requests under, their own ORI. The authorized applicant type data field is similarly needed to ensure that the applicant type also has legal authorization to access criminal justice information. The BCIA 8016CCPP is pre-populated with the applicant type "CHECK CASHIER-FP CHECKONLY," which identifies the Department's specific program that has legal authority to submit a request under the Department's ORI. The Live Scan Program also requires that the "type of license/certification/permit OR working title" be provided since criminal background checks are limited by statute, and not every type of license, certification, permit, or employment qualifies for a fingerprint background check. For check cashier applicants, the BCIA 8016CCPP is pre-populated with the approved "CHECK CASHIER PERMIT" working title.

The contributing agency information and the agency authorized to receive the criminal record information is pre-populated with the Department's information as the Department is entitled to receive criminal record information for check cashier applicants under state and federal law.

BCIA 8016CCPP: Applicant Information. The applicant information data elements are also required by the Department to process a Live Scan background check. These data elements, such as name, alias, date of birth, sex, height, weight, eye color, hair color, place of birth, social security number, and driver license number help the Department process the criminal background check results and ensure that the results match the individual.

The Department also requires that the applicant acknowledge and sign and date that they read the Privacy Notice, Privacy Act Statement, and Applicant's Privacy Rights. This is important because Live Scan collects biometric data and the Department wants to ensure that the applicant is aware of the protections afforded to their information.

BCIA 8016CCPP: Level of Service. The Level of Service box is required because there are two different statutorily approved levels of service for background checks: federal criminal history and California-state criminal history. Federal law limits who may access federal criminal history for purposes of licensing, employment, and certification. Check cashiers have not been approved for federal level of service. Therefore, for this program, the only level of service is the California-state level. The Department checks the "DOJ" box when it is a California-state only

level of service. The Department has pre-populated this selection on the BCIA 8016CCPP, which helps the Department know what level of service is needed for the background check service and whether to send the fingerprints to the federal government.

BCIA 8016CCPP: ATI Number. Sometimes the Live Scan fingerprints are initially rejected. When an applicant resubmits their fingerprints via Live Scan, the Department's Live Scan Program has required in those instances (considered resubmissions), that the original ATI Number, which is the automated transaction identifier number assigned specifically to the individual's fingerprint impressions when submitted through the Live Scan, is also provided. If the fingerprints are rejected a second time, being able to identify both instances of the fingerprint submission can help determine if there is an issue with the individual's fingerprints and if they will need to submit a hard print copy.

The requirement to submit the rejection is also necessary because the Department and Live Scan operators want to make sure that the individuals aren't getting duplicate fingerprints and are instead re-submitting their fingerprints because of an error the first time. These data elements in the BCIA 8016CCPP are also used by the Department to comply with Penal Code sections 11105.7 and 11105.75, which concern the actions the Department must take in relation to processing background checks and dissemination of criminal history information when positive identification cannot be established by fingerprints.

The Live Scan Transaction Completed By box is a requirement of the Department's Live Scan Program. The Live Scan operator taking the fingerprint must complete the box to ensure the Live Scan Program can monitor the integrity and effectiveness of the Live Scan Program.

BCIA 8016CCPP: Privacy Notice. BCIA 8016CCPP includes a privacy notice. Civil Code section 1798.17 requires a privacy notice, regarding the collection and use of personal information, to be provided on any form used to collect personal information from individuals. The Department has determined the privacy notice is necessary to ensure compliance with Civil Code section 1798.17.

New subdivision (b) was added to provide an alternative fingerprinting method for check casher permit applicants that are located outside the State of California. Live Scan only works when located within the State of California. Therefore, this amendment is necessary to ensure check casher permit applicants located outside the State of California are not unduly burdened by having to complete a Live Scan within the State of California.

In lieu of using fingerprint capturing technology or Live Scan, the Applicant Fingerprint Card (FD-258), hereby incorporated by reference, is the universal form used in the United States to capture and record fingerprint impressions for noncriminal justice purposes, such as adoption, certification, employment, licensing, and permitting.

The Federal Bureau of Investigation's FD-258 contains the data elements necessary to process a manual fingerprint submission and search for matching criminal history in the Department's criminal history information system.

The Authority and Reference section was amended to delete the specified subsections (b) and (f) in section 1789.37. These amendments are necessary for concision. This section was also amended to replace "Sections" with "Section" to accurately reflect a sole statutory reference.

§ 991.3. Fees; Nonrefundability.

Subdivision (b) was amended to include "even" after "non-refundable" and to remove "not" and replace "refundable" with "non-refundable." This change is necessary because the Department does not refund a fee for any reason.

The Authority and Reference section was amended to delete the specified subsections (d) and (f) in section 1789.37. These amendments are necessary for concision. This section was also amended to delete "789.37(c)" because this statutory reference does not apply to these regulations. Additionally, this section was amended to replace "Sections" with "Section" to accurately reflect a sole statutory reference.

§ 991.4. Renewal of Permit.

Subdivision (a) was non-substantively amended to replace "renewal application for check casher permit" with "Renewal Application for Check Casher Permit," "4/96" with "04/2022," and "renewal application for mobile check casher permit" with "Renewal Application for Mobile Check Casher Permit," and "4/96" with "04/2022." The phrase "hereby incorporated by reference" was also added and "Form" deleted in two places. These amendments were necessary to specify the names and current revision dates of the BCIA 4132 and BCIA 4001, as well as make clear that the form is incorporated by reference and that the "Form" is not part of the title of the BCIA 4132 and BCIA 4001. These amendments are also necessary because the forms were updated to remove data entry fields that are no longer necessary and to make other clarifying amendments as described below. These forms were additionally updated to make non-substantive formatting/design changes and update the Department's contact information for the Check Casher Permit Program.

BCIA 4132.

BCIA 4132 deleted the word "Cashier" and replaced it with "Casher." This was necessary to correct a typo and to make clear that this renewal application for a permit applies to Check Cashers and not Check Cashiers, a different position for which the Department does not have permitting authority.

BCIA 4132: Part A. In Part A, the Department deleted "Use the enclosed envelope" and replaced it with "Mail." This was necessary because the Department no longer supplies envelopes for individuals to use when mailing back their renewals. The Department also added the phrase "the

due date listed above” because this will save the Department time in not having to input the date in two different areas of the form.

BCIA 4132: Part B. In Part B, the Department added “address” to “Business address location” because that phrase will elicit more precise responses than just “Business location,” which a permittee could interpret as requiring a response of “Los Angeles, CA.” To help safeguard a permittee’s privacy interest in their financial information, the Department deleted the business bank account field. If the application was misdelivered, then the inclusion of this information could make it easy for bad actors to improperly access the business’s bank account. Because the potential misuse of this information could severely impact the businesses financially, it outweighed any benefit to the Department in collecting such information. The Department removed the field regarding the deferred deposits because these types of entities and transactions are now governed by Financial Code section 23000 et seq., known as “California Deferred Deposit Transaction Law.” Additionally, because the California Deferred Deposit Transaction Law gives the Department of Business Oversight authority over these entities and transactions, the Department has no reason to collect this information for the Check Cashier Permit Program.

BCIA 4132: Part C. In Part C, the Department added “Do Not Detach.” This instruction is important because permittees could be confused and just remit the bottom section of the form, like other bills or invoices, but the Department needs the information above the form to be returned.

BCIA 4132: Part D. In Part D, the Department revised the preferred ordering of the owner’s name since it is more common to provide one’s name as follows: first name, middle name, and last name. The Department also added an instruction that this section must be completed. The Department wants to avoid any delays caused by incomplete forms. This section is necessary because the permittee is verifying that the information provided is truthful and accurate, under penalty of perjury. The necessity for a signature under penalty of perjury is to impress upon applicants the seriousness and importance of signing the form, to attest the form’s accuracy and completeness, and to deter misrepresentations and submission of false information.

BCIA 4001.

BCIA 4001 was revised to delete the Make, Vehicle ID #, Model, and Year data fields. This revision was done to minimize the collection of non-essential data as it is not required for an individual to receive the renewal application and the risk to the permittee far outweighed any benefit should this renewal application be misdelivered and the information misused.

BCIA 4001: Part A. The Department added the phrase “the due date listed above” because this will save the Department time in not having to input the date in two different areas of the form.

BCIA 4001: Part B. To help safeguard a permittee’s privacy interest in their financial data, the Department deleted the business bank account field. If the application was misdelivered, then the inclusion of this information could make it easy for bad actors to improperly access the business’s bank account. Because the potential use of this information could severely impact the businesses financially, it outweighed any benefit to the Department in collecting such

information. The Department removed the field regarding the deferred deposits because these types of entities and transactions are now governed by Financial Code section 23000 et seq., known as “California Deferred Deposit Transaction Law.” Additionally, because the California Deferred Deposit Transaction Law gives the Department of Business Oversight authority over these entities and transactions, the Department has no reason to know this information for the Check Casher Permit Program.

BCIA 4001: Part D. In Part D, the Department revised the preferred ordering of the owner’s name since it is more common to provide one’s name as follows: first name, middle name, and last name. The Department also added an instruction that this section must be completed. The Department wanted to avoid any delays caused by incomplete forms. This section is necessary because the permittee is verifying that the information provided is truthful and accurate, under penalty of perjury. The necessity for a signature under penalty of perjury is to impress upon applicants the seriousness and importance of signing the form, to attest the form’s accuracy and completeness, and to deter misrepresentations and submission of false information.

BCIA 4001: Privacy Notice. BCIA 4001 was amended to include a privacy notice to ensure compliance with Civil Code section 1798.17.

Subdivision (b) was non-substantively amended to remove the words “the” (a duplicate) and “first.” The phrase “first postmark” was confusing and had no special meaning, and using “postmark” is accurate and an understood term. This subdivision was also non-substantively amended to remove a comma. These amendments are necessary for clarity.

Subdivision (c) was non-substantively amended to replace “Sections” with “sections” for proper legal citation.

Subdivision (d) was non-substantively amended to replace “Of” with “of” and “Section” with “section.” These amendments are necessary for clarity, grammatical purposes, and proper legal citation.

The Authority and Reference section was amended to delete the specified subsections (d) (e) and (f) in section 1789.37. These amendments are necessary for concision. This section was also amended to delete “789.37(d) because this statutory reference does not apply to these regulations. Additionally, this section was amended to replace “Sections” with “Section” to accurately reflect a sole statutory reference.

§ 991.5. Processing Time.

Subdivision (a) was non-substantively amended to replace a period with a colon. This amendment is necessary for grammatical purposes.

Subdivision (a)(2)(A) was non-substantively amended to remove the subdivision’s subparagraph “(A)” designation. This amendment is necessary for simpler citations to this subdivision.

Subdivision (a)(2)(B) was non-substantively amended to replace the subdivision’s subparagraph “(B)” designation with a paragraph “(3)” designation. This amendment is necessary for simpler citations to this subdivision.

Former subdivision (b) was repealed because it is no longer required by Government Code sections 15376 and 15378, which were repealed. The Department has determined that an appeal process for timing delays is unnecessary because it has rarely been used by applicants, delays rarely occur, and applicants have other remedies available.

Former subdivision (c) was repealed because it is no longer required by Government Code sections 15376 and 15378, which were repealed. The Department has determined that an appeal process for timing delays is unnecessary because it has been rarely used by applicants, delays rarely occur, and applicants have other remedies available.

The Authority and Reference section was non-substantively amended to replace “Sections” with “Section” and remove “15376 and 15378, Government Code” to accurately reflect a sole statutory reference.

Article 3. Permits

§ 992. Information Stated on Permit.

Subdivision (b) was non-substantively amended to include the word “the” between “show” and “name.” This amendment is necessary for grammatical purposes. This subdivision was also amended to replace “Department of Motor Vehicles” with “DMV” for concision.

The Authority and Reference section was amended to delete the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

§ 992.1. Posting or Safekeeping of Permit.

Subdivision (b) was non-substantively amended to replace “Department of Motor Vehicles” with “DMV” for concision.

The Authority and Reference section was amended to remove the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

§ 992.2. Duration of Permit.

The Authority and Reference section was amended to remove the specified subsection (d) in section 1789.37. This amendment is necessary for concision.

§ 992.3. Duplicate Permits.

The Authority and Reference section was amended to remove the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

§ 992.4. Transaction of Business Under Name, Location, or Mobile Unit Not Named in Permit.

This section was non-substantively amended to add a comma for grammatical purposes.

The Authority and Reference section was amended to remove the specified subsections (a) and (f) in section 1789.37 and to replace “Sections” with “Section.” These amendments are necessary for concision and to be grammatically correct.

§ 992.5. Nontransferability of Permit.

The Authority and Reference section was amended to remove the specified subsections (a) and (f) in section 1789.37. This amendment is necessary for concision. This section was also amended to replace “Sections” with “Section” to accurately reflect a sole statutory reference.

§ 992.6. Change of Business Location or Mobile Unit; Notice to Department.

This section was non-substantively amended to replace “ten” with “10” for concision.

The Authority and Reference section was amended to remove the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

§ 992.7. Notice of Termination.

This section was non-substantively amended to replace “ten” with “10” and “Department of Motor Vehicles” with “DMV” for concision.

The Authority and Reference section was amended to remove the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

§ 992.8. Surrender of Permit.

This section was non-substantively amended to remove “that the permittee surrenders that permit” for concision. This section was also amended to move “written notice” from after “Department” to after “submitting.” This amendment is necessary for better syntax and grammar.

The Authority and Reference section was amended to remove the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

Article 4. Denial, Revocation, and Appeal Process

§ 993. Denial of Application; Failure to Respond; Opportunity to be Heard.

Subdivision (a) was amended to remove “, upon reasonable notice and opportunity to be heard,” because other sections govern due process requirements and this language was superfluous in

this section. Additionally, this subdivision concerns grounds for denial, and this phrase is not logically located within this section.

Subdivision (a)(2) was non-substantively amended to replace “Cashers” with “Casher.” This amendment is necessary to conform to other changes within the regulations package.

Subdivision (a)(3) was amended to add “principal corporate” before “officer” and replace “Section” with “section.” “Principal corporate officer” is a defined term in these regulations and including it in this section provides guidance to the permittees about the application of these regulations to their business. The amendment regarding section was necessary for proper legal citation.

Subdivision (b) was amended to add “denial” before “notification.” This amendment is necessary because it was not clear what notification this section referred.

Subdivision (c) was non-substantively amended to replace “specify” with “specifies” and add “the” before “application is based.” These amendments are necessary for proper grammar usage.

Subdivision (d) was amended to delete “When an application is denied, the applicant may file.” This deletion is necessary for concision. This subdivision was also amended to include “the applicant may file” after “denial.” This amendment is necessary to improve clarity. Additionally this subdivision was amended to replace “an Administrative Hearing Officer” with “the Department” to align with the Department’s proposal to replace alternative administrative hearing procedures with the hearing process in Chapter 5 of the APA. This amendment is necessary to ensure the Department’s employees that administer the Check Casher Permit Program assume responsibility for reviewing requests for reconsideration. This subdivision was also non-substantively amended to add “the” before “applicant feels” and replace “final” with “reconsideration” for proper grammar usage and clarity.

New subdivision (e) was added to specify the procedure for requesting an administrative hearing. This amendment is necessary to inform applicants for check casher permits of their right to an administrative hearing if their request for reconsideration is denied by the Department.

New subdivision (f) was added to align with the hearing process specified in section 993.2 of these regulations. This amendment is necessary to describe the effect of a late hearing request. Reasonable time limits add certainty to the application process.

New subdivision (g) was added to align with the hearing process specified in section 993.2 of these regulations. This amendment is necessary to describe the effect of a late or withdrawn hearing request. Reasonable time limits add certainty to the application process.

The Authority and Reference section was amended to remove the specified subsections (b) (e) and (f) in section 1789.37. These amendments are necessary for concision. This section was also amended to replace “Sections” with “Section” to accurately reflect a sole statutory reference.

§ 993.1. Revocation of Permit; Reasons.

Subdivision (a) was non-substantively amended to remove “, upon reasonable notice and opportunity to be heard,” and replace “division” with “chapter.” These amendments are necessary for concision.

Subdivision (a) was also amended to remove “, upon reasonable notice and opportunity to be heard,” because other sections govern due process requirements and this language was superfluous in this section. Additionally, this subdivision concerns grounds for denial, and this phrase is not logically located within this section.

Subdivision (a)(1) was non-substantively amended to add “principal corporate” before “officer,” replace “Section” with “section,” and add “, subdivision” before “(e).” “Principal corporate officer” is a defined term in these regulations and including it in this section provides guidance to the permittees about the application of these regulations to their business. The amendment regarding section and subdivision was necessary for proper legal citation.

Subdivision (a)(2) was non-substantively amended to add “the” before “time.” This amendment is necessary for proper grammar usage.

Subdivision (a)(3) was non-substantively amended to replace “Cashers” with “Casher.” This amendment is necessary for clarity. This subdivision was also amended to include “these” for grammatical purposes.

The Authority and Reference section was amended to remove the specified subsections (b), (e), and (f) in section 1789.37. These amendments are necessary for concision. This section was also amended to replace “Sections” with “Section” to accurately reflect a sole statutory reference.

§ 993.2. Notice of Revocation or Notice of Denial of Renewal.

Subdivision (a) was amended to include “Before suspending or revoking a permit or denying a renewal application” and to replace “all causes on which the revocation or denial of renewal is based” with “the reasons for the revocation or denial.” These amendments are necessary for better readability.

Subdivision (c) was non-substantively amended to replace “Section” with “section” for proper legal citation. This subdivision was also amended to delete “of these regulations.” This amendment is necessary for concision.

The Authority and Reference section was amended to remove the specified subsection (f) in section 1789.37. This amendment is necessary for concision.

§ 993.3. Reapplying After Denial or Revocation of Permit.

The Authority and Reference section was amended to remove the specified subsections (e) and (f) in section 1789.37. These amendments are necessary for concision. This section was also amended to replace “Sections” with “Section” to accurately reflect a sole statutory reference.

§ 993.4. Administrative Hearing.

Government Code sections 11500 through 11529 of the APA establishes procedures for administrative evidentiary hearings for all state agencies. (Gov. Code, § 11410.20.) If no other governing procedure is provided by statute or regulation, an agency may conduct a formal hearing under the APA. (Gov. Code, § 11415.10, subd. (a).) The procedures apply as determined by a state agency’s statute or regulation. (Gov. Code, § 11501, subd. (b).) Some state agencies follow administrative evidentiary hearing procedures pursuant to statutes and regulations that do not incorporate the APA, while others follow statutes and regulations that incorporate only selected provisions of the APA.

Existing check casher regulations establish alternative administrative evidentiary hearing procedures that do not incorporate the APA. Section 993.4 authorizes the Department to designate an administrative hearing officer if a hearing has been requested. The Department does not have an administrative hearing officer. This section is no longer consistent with the Department’s current practice. For disputes regarding check casher permits, the Department refers the matter to the Office of Administrative Hearings (OAH) where the matter is heard by an administrative law judge under the APA.

The Department proposes to amend this section to replace its alternative administrative evidentiary hearing procedures with the APA’s hearing procedures. This amendment will align the regulation with the Department’s current practice. The Department has determined that referring disputes to OAH is more efficient than following an alternative hearing process. Administrative law judges at OAH are experienced at holding hearings and the Department does not currently have staff with the same level of hearing experience.

Subdivisions (a) through (d) were removed and replaced with: “[i]f a hearing is timely requested by an applicant or permittee under these regulations, the matter shall be referred for administrative adjudication in accordance with chapter 5 (commencing with section 11500) of part 1, division 3, title 2 of the Government Code for a determination of whether a permit should be granted or restored.” This amendment is necessary to replace the Department’s alternative hearing procedures with the APA hearing process.

The Authority and Reference section was amended to remove the specified subsection (f) in section 1789.37. These amendments are necessary for concision. This section was also amended to remove Reference sections 11512(c) and 11512(d). These amendments are necessary because these regulations no longer implement or interpret these statutes.

§ 993.5. Time and Place of Administrative Hearing.

Section 993.5 requires the Department to notify the permittee of the time and place of a hearing. This section was repealed because the APA contains its own rules for notices and participation. This amendment is necessary to replace the Department's alternative hearing procedures with the APA hearing process.

§ 993.6. Evidence Rules.

Section 993.6 establishes evidentiary rules for hearings. This section was repealed because the APA contains its own rules of evidence. This amendment is necessary to replace the Department's alternative hearing procedures with the APA hearing process.

§ 993.7. Proposed Decision.

Section 993.7 establishes the process for the Department to reach a final decision. This section was repealed because the APA contains its own rules for reaching a final decision. This amendment is necessary to replace the Department's alternative hearing procedures with the APA hearing process.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes:

- (1) It is unlikely that the proposal would create or eliminate jobs within the state because the amendments only update form references, remove language related to reimbursement requests and reimbursement appeal timelines that were based on repealed statutes, establish deadlines for administrative hearing requests, and replace alternative administrative hearing procedures with the hearing process in Chapter 5 of the APA.
- (2) It is unlikely that the proposal would create new businesses or eliminate existing businesses within the state because the amendments only update form references, remove language related to reimbursement requests and reimbursement appeal timelines that were based on repealed statutes, establish deadlines for administrative hearing requests, and replace alternative administrative hearing procedures with the hearing process in Chapter 5 of the APA.
- (3) It is unlikely that the proposal would result in the expansion of businesses currently doing business within the state because the amendments only update form references, remove language related to reimbursement requests and reimbursement appeal timelines that were based on repealed statutes, establish deadlines for administrative hearing requests, and replace alternative administrative hearing procedures with the hearing process in Chapter 5 of the APA.

The Department also concludes that:

This rulemaking action will benefit both current holders and future applicants of check casher permits because amending outdated regulations to align with the Department's current practices

increases confidence in the state's rulemaking process by improving transparency and accountability and bolsters legitimacy of the state's regulatory structure. (Little Hoover Commission, Better Regulation: Improving California's Rulemaking Process, October 2011.)

(1) The proposal would not have a discernable benefit on the health and welfare of California residents because the amendments only update form references, remove language related to reimbursement requests and reimbursement appeal timelines that were based on repealed statutes, establish deadlines for administrative hearing requests, and replace alternative administrative hearing procedures with the hearing process in Chapter 5 of the APA.

(2) The proposal would not have a discernable benefit on worker safety because it does not regulate worker safety standards.

(3) The proposal would not have a discernable benefit on the state's environment because it does not regulate environmental standards.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR SIMILAR DOCUMENTS RELIED UPON

The Department did not rely on any technical, theoretical, or empirical studies, reports or similar documents in proposing these regulations.

EVIDENCE SUPPORTING DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the proposed action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department made this determination because the amendments only update form references, remove language related to reimbursement requests and reimbursement appeal timelines that were required by repealed statutes, and replace an alternative administrative hearing procedures with the hearing process in Chapter 5 of the APA. The proposed regulation amendments do not place any new burdens, obligations, or expenses on existing check cashing businesses.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Department determines that these proposed regulations will not have any adverse impact on small businesses. The proposed regulation amendments do not place any new burdens, obligations, or expenses on existing check cashing businesses that are small businesses.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND THE AGENCY'S REASON FOR REJECTING THOSE ALTERNATIVES

The Department finds that no alternatives were presented to, or considered by, the Department that would be more effective in carrying out the purpose of these proposed regulations or would be as effective and less burdensome to affected private persons than these proposed regulations.

Performance Standard as Alternative:

The proposed amended regulations prescribe the forms to be used when applying for a check casher permit as required by statute.