

CALIFORNIA DEPARTMENT OF JUSTICE

**TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 13.5. DEPARTMENT OF JUSTICE REGULATIONS FOR THE
CHECK CASHER PERMIT PROGRAM**

NOTICE OF PROPOSED RULEMAKING

Notice published December 2, 2022

The Department of Justice (Department) proposes to amend sections 990.1, 990.2, 991, 991.1, 991.2, 991.3, 991.4, 991.5, 992, 992.1, 992.2, 992.3, 992.4, 992.5, 992.6, 992.7, 992.8, 993, 993.1, 993.2, 993.3, 993.4, and repeal sections 993.5, 993.6, and 993.7 of title 11, division 1, chapter 13.5 of the California Code of Regulations concerning the Check Casher Permit Program.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on January 17, 2023, at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Department of Justice
Check Casher Permit Program
Attn: Nancy Munoz
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-3434
nancy.munoz@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority Cited: Section 1789.37, Civil Code.

Reference: Section 1789.37, Civil Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Pursuant to Civil Code section 1789.37, every owner of a check cashing business in California must obtain a permit from the 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.

Effect of the Proposed Rulemaking:

The changes proposed in this rulemaking would update the existing regulations concerning the Check Casher Permit Program to address outdated form references, amend language related to reimbursement requests and time delay appeals that had aligned with the now repealed Government Code sections 15376 and 15378, establish deadlines for administrative hearing requests, and replace alternative administrative hearing procedures with the hearing process in Chapter 5 of the Administrative Procedure Act.

Anticipated Benefits of the Proposed Regulations:

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.)

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to these proposed regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing State regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern the Check Casher Permit Program.

Forms Incorporated by Reference:

1. Supplemental Application for Mobile Check Cashing Unit, BCIA 4000, rev. 04/2022 (see subdivision (b) of section 991.1)
2. Renewal Application for Mobile Check Cashier Permit, BCIA 4001, rev. 04/2022 (see subdivision (a) of section 991.4)
3. Application for Check Cashier Permit, BCIA 4130, rev. 04/2022 (see subdivision (a) of section 991.1)
4. Renewal Application for Check Cashier Permit, BCIA 4132, rev. 04/2022 (see subdivision (a) of section 991.4)
5. Request for Live Scan Service, BCIA 8016CCPP, orig. 09/2022 (see subdivision (a) of section 991.2)
6. Applicant Fingerprint Form, FD-258, rev. 11/2020 (see subdivision (b) of section 991.2)

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department's Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on representative person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

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

Results of the Economic Impact Assessment:

The Department concludes that it is (1) unlikely that the proposal will create or eliminate jobs within the state, (2) unlikely that the proposal will create new businesses or eliminate existing businesses within the state, (3) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

The Department also concludes that:

- (1) The proposal would not benefit the health and welfare of California residents.
- (2) The proposal would not benefit worker safety.
- (3) The proposal would not benefit the state's environment.

Benefits of the proposed action: This rulemaking action will benefit both holders and applicants of check casher permits by updating due process and public policy requirements in a manner that is impartial and transparent.

Business report requirement: None.

Small business determination: The Department has determined that there are approximately 4,200 Check Casher businesses that are small businesses. These small businesses will be required to use the amended forms and will be subject to the hearing process in Chapter 5 of the Administrative Procedure Act.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department has determined that the proposed regulations are the most effective way to satisfy due process and public policy requirements in a manner that is impartial and transparent.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Justice
Check Casher Permit Program
Attn: Nancy Munoz

P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-3434
nancy.munoz@doj.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Department of Justice
Check Casher Permit Program
Attn: Hy Do
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-3316
hy.do@doj.ca.gov

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process upon request to the contact person above. Interested parties are advised to call the Department for an appointment. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the “express terms” of the regulations), forms incorporated by reference, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, forms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at www.oag.ca.gov/regulations. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this notice or make modifications based on the comments. If the Department makes modifications, which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department's website at www.oag.ca.gov/regulations. Please refer to the contact information included above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the express terms, forms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at www.oag.ca.gov/regulations.