Agency Name: Board of Financial Institutions - Consumer Finance Division

Statutory Authority: 34-41-10 to 34-41-130

Document Number: 5141

Proposed in State Register Volume and Issue: 46/10

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Banking and Insurance Committee

120 Day Review Expiration Date for Automatic Approval: 05/10/2023

Final in State Register Volume and Issue: 47/5

Status: Final

Subject: Check-Cashing Service: Purchase of Goods or Services

History: 5141

By Date Action Description Jt. Res. No. Expiration Date

- 10/28/2022 Proposed Reg Published in SR

- 01/10/2023 Received President of the Senate & Speaker 05/10/2023

S 01/10/2023 Referred to Committee

H 01/11/2023 Referred to Committee

S 04/11/2023 Resolution Introduced to Approve 710

- 05/10/2023 Approved by: Expiration Date

- 05/26/2023 Effective Date unless otherwise

provided for in the Regulation

Document No. 5141

**STATE BOARD OF FINANCIAL INSTITUTIONS**

**CONSUMER FINANCE DIVISION**

CHAPTER 15

Statutory Authority: 1976 Code Sections 34‑41‑10 to 34‑41‑130

15‑68. Check Cashing – Other Consideration. (New)

**Synopsis:**

The State Board of Financial Institutions (Board) seeks to add R.15‑68 to state the Board’s interpretation that “other consideration” in Sections 34‑41‑10 and 34‑41‑30 includes the mandatory purchase of goods or services, to clarify that a person accepting such other consideration to cash a check is required to have a check‑cashing license in this State, and to require a person who accepts other consideration only in the form of a mandatory purchase of goods or services must notify the Consumer Finance Division of this activity by filing affidavits in NMLS.

The Notice of Drafting was published in the *State Register* on August 26, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

15‑68. Check Cashing – Other Consideration.

A. For purposes of Sections 34‑41‑10(3) and (4) and 34‑41‑30, “other consideration” includes, but is not limited to, the mandatory purchase of goods or services in order to cash a check.

B. Any vendor that imposes a mandatory purchase of goods or services by the customer to cash a check is engaged in check‑cashing services and needs a Level I or Level II check‑cashing license to engage in this activity.

C. In addition to all other required information, each applicant or licensee under Chapter 41, who accepts only other consideration in the form of a mandatory purchase of goods or services to cash a check, shall file on the Nationwide Multistate Licensing System, as part of the person’s initial application for licensure and as part of its annual renewal for licensure a written affidavit. That affidavit shall state that the person does not cash checks for a fee, a service charge, or other consideration other than other consideration in the form of a mandatory purchase of goods or services. If the person’s business practices change and the affidavit becomes or will become inaccurate, the person should notify in writing the Consumer Finance Division of this change, the date of the change, and the reasons for the change as soon as reasonably practical but no more than twenty days after the change.

**Fiscal Impact Statement:**

To implement this regulation, the Consumer Finance Division estimates that no costs will be incurred by the State or any of its political subdivisions.

**Statement of Rationale:**

Section 34‑41‑130 authorizes the Board to promulgate regulations necessary to carry out the purposes of Chapter 41, to provide for the protection of the public, and to assist licensees in interpreting and complying with Chapter 41. The addition of R.15‑68 is intended to carry out the purposes of Chapter 41 and to assist applicants and licensees in interpreting and complying with Chapter 41’s licensure requirements.