Agency Name: Board of Financial Institutions ‑ Consumer Finance Division

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

Document Number: 5142

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House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Banking and Insurance Committee

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

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Status: Final

Subject: Check‑Cashing Service: Record‑Keeping Requirements

History: 5142

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

H 04/13/2023 Committee Requested Withdrawal

 120 Day Period Tolled

‑ 04/13/2023 Withdrawn and Resubmitted 05/10/2023

S 05/03/2023 Resolution Introduced to Approve 774

‑ 05/10/2023 Approved by: Expiration Date

‑ 05/26/2023 Effective Date unless otherwise

 provided for in the Regulation

Document No. 5142

**STATE BOARD OF FINANCIAL INSTITUTIONS**

**CONSUMER FINANCE DIVISION**

CHAPTER 15

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

15‑67. Check Cashing – Required Records and Retention Period. (New)

**Synopsis:**

 The State Board of Financial Institutions (Board) seeks to add R.15‑67 to establish by regulation the records that a person required to be licensed under Chapter 41 must keep and maintain and the corresponding records retention period.

 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:**

15‑67. Check Cashing – Required Records and Retention Period.

 A. In order to comply with Section 34‑41‑60(E), a person required to be licensed by Chapter 41 must keep and maintain the following information for each check cashed for which a fee, a service charge, or other consideration is charged:

 (1) The name of the licensee.

 (2) The full name of the consumer.

 (3) The complete address of the consumer.

 (4) The transaction date.

 (5) The amount of the check.

 (6) The total amount of fees charged.

 (7) The name of the payor of the check.

 B. As permitted by Section 34‑41‑70(A), a person required to be licensed under Chapter 41 shall retain each book, account, and record that is required to be kept and maintained for one year from the end of the person’s fiscal year in which the book, account, or record was created.

**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.15‑67 is intended to satisfy each of these three reasons to promulgate a regulation. First, Chapter 41 gives the Board the authority to identify required records and the corresponding retention period. Further, Chapter 41 requires the person required to be licensed to process, review, or otherwise handle some of these records. Second, keeping these records protects the public because, for example, some of the required records provide a means to verify that the person did not charge an unlawful or excessive check‑cashing fee and because the person will be able to refund any such unlawful or excessive fees. Third, the records allow the person required to be licensed to comply with Chapter 41 and for the Consumer Finance Division to test such compliance with Chapter 41.