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HOUSE BILL 2731

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State of Washington

52nd Legislature

1992 Regular Session

By Representatives Dellwo and Paris

Read first time 01/24/92. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to selling checks, drafts, or money orders; and  
2 amending RCW 31.45.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 31.45.030 and 1991 c 355 s 3 are each amended to read  
5 as follows:

6 (1) Except as provided in RCW 31.45.020, no check casher or seller  
7 may engage in business without first obtaining a license from the  
8 supervisor in accordance with this chapter.

9 (2) Each application for a license shall be in writing in a form  
10 prescribed by the supervisor and shall contain the following  
11 information:

12 (a) The legal name, residence, and business address of the  
13 applicant and, if the applicant is a partnership, association, or  
14 corporation, of every member, officer, and director thereof;

1 (b) The location where the initial registered office of the  
2 applicant will be located in this state;

3 (c) The complete address of any other locations at which the  
4 applicant proposes to engage in business as a check casher or seller;

5 (d) Such other data, financial statements, and pertinent  
6 information as the supervisor may require with respect to the  
7 applicant, its directors, trustees, officers, members, or agents.

8 (3) Any information in the application regarding the personal  
9 residential address or telephone number of the applicant is exempt from  
10 the public records disclosure requirements of chapter 42.17 RCW.

11 (4) The application shall be filed together with an investigation  
12 and supervision fee established by rule by the supervisor. Such fees  
13 collected shall be deposited to the credit of the banking examination  
14 fund in accordance with RCW 43.19.095.

15 (5)(a) (~~If the applicant intends to engage in the business of~~  
16 ~~selling checks, drafts, money orders, or other commercial paper serving~~  
17 ~~the same purpose, the supervisor shall require the applicant to obtain~~  
18 ~~and maintain an adequate fidelity bond or blanket fidelity bond~~  
19 ~~covering each officer, employee, or agent having access to funds~~  
20 ~~collected by or for the licensee. The bond shall be for the protection~~  
21 ~~of the public against loss suffered through embezzlement by any person~~  
22 ~~having access to funds collected by or for the licensee or having~~  
23 ~~authority to draw against such funds, or from mysterious disappearance,~~  
24 ~~theft, holdup, or burglary)) Before granting a license to sell checks,  
25 drafts, or money orders under this chapter, the supervisor shall  
26 require that the licensee file with the supervisor a surety bond  
27 running to the state of Washington, which bond shall be issued by a  
28 surety insurer which meets the requirements of chapter 48.28 RCW, and  
29 be in a format acceptable to the supervisor. The supervisor shall  
30 adopt rules to determine the penal sum of the bond that shall be filed~~

1 by each licensee. The bond shall be conditioned upon the licensee  
2 paying all persons who purchase checks, drafts, or money orders from  
3 the licensee the face value of any check, draft, or money order which  
4 is dishonored by the drawee bank, savings bank, or savings and loan  
5 association due to insufficient funds or by reason of the account  
6 having been closed. The bond shall only be liable for the face value  
7 of the dishonored check, draft, or money order, and shall not be liable  
8 for any interest or consequential damages.

9 The bond shall be continuous and may be canceled by the surety upon  
10 the surety giving written notice to the supervisor and licensee of its  
11 intent to cancel the bond. The cancellation is effective thirty days  
12 after the notice is received by the supervisor. Whether or not the  
13 bond is renewed, continued, reinstated, reissued, or otherwise  
14 extended, replaced, or modified, including increases or decreases in  
15 the penal sum, it shall be considered one continuous obligation, and  
16 the surety upon the bond shall not be liable in an aggregate or  
17 cumulative amount exceeding the penal sum set forth on the face of the  
18 bond. In no event shall the penal sum, or any portion thereof, at two  
19 or more points in time be added together in determining the surety's  
20 liability. The bond shall not be liable for any liability of the  
21 licensee for tortious acts, whether or not such liability is imposed by  
22 statute or common law, or is imposed by contract. The bond shall not  
23 be a substitute or supplement to any liability or other insurance  
24 required by law or by the contract. If the surety desires to make  
25 payment without awaiting court action against it, the penal sum of the  
26 bond shall be reduced to the extent of any payment made by the surety  
27 in good faith under the bond.

28 Any person who is a purchaser of a check, draft, or money order  
29 from the licensee having a claim against the licensee for the dishonor  
30 of any check, draft, or money order by the drawee bank, savings bank,

1 or savings and loan association due to insufficient funds or by reason  
2 of the account having been closed, may bring suit upon such bond or  
3 deposit in the superior court of the county in which the check, draft,  
4 or money order was purchased, or in the superior court of a county in  
5 which the licensee maintains a place of business. Jurisdiction shall  
6 be exclusively in the superior court. Any such action must be brought  
7 not later than one year after the dishonor of the check, draft, or  
8 money order on which the claim is based. In the event valid claims  
9 against a bond or deposit exceed the amount of the bond or deposit,  
10 each claimant shall only be entitled to a pro rata amount, based on the  
11 amount of the claim as it is valid against the bond, or deposit,  
12 without regard to the date of filing of any claim or action.

13 (b) In lieu of providing a bond, the licensee may deposit with the  
14 supervisor security in the form and amount determined by the supervisor  
15 sufficient to protect the public against loss suffered through  
16 embezzlement by any person having access to funds collected by or for  
17 the licensee or having authority to draw against such funds, or from  
18 mysterious disappearance, theft, holdup, or burglary.

19 (c) Such security may be sold by the supervisor at public auction  
20 if it becomes necessary to satisfy the requirements of this chapter.  
21 Notice of the sale shall be served upon the licensee who placed the  
22 security personally or by mail. If notice is served by mail, service  
23 shall be addressed to the licensee at its address as it appears in the  
24 records of the supervisor. Bearer bonds of the United States or the  
25 state of Washington without a prevailing market price must be sold at  
26 public auction. Such bonds having a prevailing market price may be  
27 sold at private sale not lower than the prevailing market price. Upon  
28 any sale, any surplus above amounts due shall be returned to the  
29 licensee, and the licensee shall deposit with the supervisor additional  
30 security sufficient to meet the amount required by the supervisor. A

1 deposit given instead of the bond required by this section shall not be  
2 deemed an asset of the licensee for the purpose of complying with the  
3 liquid asset provisions of this chapter.