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HOUSE BILL 1142

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives Zellinsky, Mielke, R. Meyers and Tate; by request of  
Dept of General Administration, Div of Banking

Read first time 01/18/93. Referred to Committee on Financial  
Institutions & Insurance.

1 AN ACT Relating to requiring a bond or other security from persons  
2 seeking a license to sell checks, drafts, or money orders; amending RCW  
3 31.45.030; and declaring an emergency.

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

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

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

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

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

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

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

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

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

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

11 (5)(a) (~~If the applicant intends to engage in the business of~~  
12 ~~selling checks, drafts, money orders, or other commercial paper serving~~  
13 ~~the same purpose, the supervisor shall require the applicant to obtain~~  
14 ~~and maintain an adequate fidelity bond or blanket fidelity bond~~  
15 ~~covering each officer, employee, or agent having access to funds~~  
16 ~~collected by or for the licensee. The bond shall be for the protection~~  
17 ~~of the public against loss suffered through embezzlement by any person~~  
18 ~~having access to funds collected by or for the licensee or having~~  
19 ~~authority to draw against such funds, or from mysterious disappearance,~~  
20 ~~theft, holdup, or burglary)) Before granting a license to sell checks,  
21 drafts, or money orders under this chapter, the supervisor shall  
22 require that the licensee file with the supervisor a surety bond  
23 running to the state of Washington, which bond shall be issued by a  
24 surety insurer which meets the requirements of chapter 48.28 RCW, and  
25 be in a format acceptable to the supervisor. The supervisor shall  
26 adopt rules to determine the penal sum of the bond that shall be filed  
27 by each licensee. The bond shall be conditioned upon the licensee  
28 paying all persons who purchase checks, drafts, or money orders from  
29 the licensee the face value of any check, draft, or money order which  
30 is dishonored by the drawee bank, savings bank, or savings and loan  
31 association due to insufficient funds or by reason of the account  
32 having been closed. The bond shall only be liable for the face value  
33 of the dishonored check, draft, or money order, and shall not be liable  
34 for any interest or consequential damages.~~

35 The bond shall be continuous and may be canceled by the surety upon  
36 the surety giving written notice to the supervisor and licensee of its  
37 intent to cancel the bond. The cancellation is effective thirty days  
38 after the notice is received by the supervisor. Whether or not the  
39 bond is renewed, continued, reinstated, reissued, or otherwise

1 extended, replaced, or modified, including increases or decreases in  
2 the penal sum, it shall be considered one continuous obligation, and  
3 the surety upon the bond shall not be liable in an aggregate or  
4 cumulative amount exceeding the penal sum set forth on the face of the  
5 bond. In no event shall the penal sum, or any portion thereof, at two  
6 or more points in time be added together in determining the surety's  
7 liability. The bond shall not be liable for any liability of the  
8 licensee for tortious acts, whether or not such liability is imposed by  
9 statute or common law, or is imposed by contract. The bond shall not  
10 be a substitute or supplement to any liability or other insurance  
11 required by law or by the contract. If the surety desires to make  
12 payment without awaiting court action against it, the penal sum of the  
13 bond shall be reduced to the extent of any payment made by the surety  
14 in good faith under the bond.

15 Any person who is a purchaser of a check, draft, or money order  
16 from the licensee having a claim against the licensee for the dishonor  
17 of any check, draft, or money order by the drawee bank, savings bank,  
18 or savings and loan association due to insufficient funds or by reason  
19 of the account having been closed, may bring suit upon such bond or  
20 deposit in the superior court of the county in which the check, draft,  
21 or money order was purchased, or in the superior court of a county in  
22 which the licensee maintains a place of business. Jurisdiction shall  
23 be exclusively in the superior court. Any such action must be brought  
24 not later than one year after the dishonor of the check, draft, or  
25 money order on which the claim is based. In the event valid claims  
26 against a bond or deposit exceed the amount of the bond or deposit,  
27 each claimant shall only be entitled to a pro rata amount, based on the  
28 amount of the claim as it is valid against the bond, or deposit,  
29 without regard to the date of filing of any claim or action.

30 (b) In lieu of ((providing a bond, the licensee may deposit with  
31 the supervisor security in the form and amount determined by the  
32 supervisor sufficient to protect the public against loss suffered  
33 through embezzlement by any person having access to funds collected by  
34 or for the licensee or having authority to draw against such funds, or  
35 from mysterious disappearance, theft, holdup, or burglary)) the surety  
36 bond required by this section, the applicant may file with the  
37 supervisor a deposit consisting of cash or other security acceptable to  
38 the supervisor in an amount equal to the penal sum of the required  
39 bond. The supervisor may adopt rules necessary for the proper

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

5 (c) Such security may be sold by the supervisor at public auction  
6 if it becomes necessary to satisfy the requirements of this chapter.  
7 Notice of the sale shall be served upon the licensee who placed the  
8 security personally or by mail. If notice is served by mail, service  
9 shall be addressed to the licensee at its address as it appears in the  
10 records of the supervisor. Bearer bonds of the United States or the  
11 state of Washington without a prevailing market price must be sold at  
12 public auction. Such bonds having a prevailing market price may be  
13 sold at private sale not lower than the prevailing market price. Upon  
14 any sale, any surplus above amounts due shall be returned to the  
15 licensee, and the licensee shall deposit with the supervisor additional  
16 security sufficient to meet the amount required by the supervisor. A  
17 deposit given instead of the bond required by this section shall not be  
18 deemed an asset of the licensee for the purpose of complying with the  
19 liquid asset provisions of this chapter.

20 NEW SECTION. Sec. 2. This act is necessary for the immediate  
21 preservation of the public peace, health, or safety, or support of the  
22 state government and its existing public institutions, and shall take  
23 effect immediately.

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