

POLICY STATEMENT

Maintaining Books, Accounts, and Records by Persons Who Provide Either Level I or Level II Check-Cashing Services

The purpose of this policy statement is to advise the public, applicants, and licensees of the construction of the statutes concerning the requirement to maintain books, accounts and records by persons who provide either Level I or Level II check-cashing services pursuant to Chapter 41 of Title 34 of the South Carolina Code of Laws.

South Carolina law requires that each person required to be licensed as a person who provides Level I or Level II check-cashing service to maintain in its office such books, accounts, and records as the State Board of Financial Institutions (“Board”) may require. S.C. Code Ann. § 34-41-70(A). Other provisions of Chapter 41 mention the existence of specific documents or records, *see, e.g.*, S.C. Code Ann. § 34-41-70(B) (mentioning a receipt that must be given to each person cashing a check), or imply that certain records must be maintained because retention would facilitate the purposes of and direction in Chapter 41, *see e.g.*, S.C. Code Ann. § 34-41-110 (implying that because the Board may order the provider of check-cashing services to repay unlawful or excessive fees charged to customers then the person providing check-cashing services must maintain records about the customer and each transaction sufficient to repay the customer if ordered).

According to its Rules of Governance Manual, the Board set up a Consumer Finance Division within the State agency overseen by the Board and assigned the Consumer Finance Division with the task of regulating various industries including check-cashing service providers.

The Board and its Consumer Finance Division interpret Chapter 41 as requiring that persons who are required to be licensed as a person who provides Level I or Level II check-cashing service maintain three categories of records. First, such person must maintain books, accounts, and records as the Board may require, including, because the Board mandated the use of the National Multistate Licensing System (“NMLS”), any records referenced or otherwise identified in NMLS by the licensee or applicant. Second, such person must maintain books, accounts, and records that are specifically mentioned in Chapter 41. Third, such person must maintain books, accounts, and records that facilitate the purposes of and directions in Chapter 41.

Based on this interpretation of the record-keeping requirements of Chapter 41, the Board and the Consumer Finance Division interpret Chapter 41 to require that each person required to be licensed pursuant to Chapter 41 maintain books, accounts, and records, including, but not limited to, the following:

- The written agreement signed by both the customer and the licensee or the printed receipt, as appropriate, that documents each check cashed as referenced in sections 34-41-60(E) and 34-41-70(B).

- A copy of the cashed check in order to support the fee charged under section 34-41-60(A). In lieu of making a copy of the cashed check, Level II service providers may include the name of the payor on the signed written agreement.
- Documentation that shows the date that the licensee, who cashes the check for a fee, deposited the check as referenced in section 34-41-60(B).
- Documentation that shows that the licensee endorsed every cashed check in the name of the licensee as referenced in section 34-41-60(D).
- The full name and mailing address of each payee for whom a check was cashed for a fee and any other information needed in order to repay any unlawful or excessive fees charged to customers as referenced in section 34-41-110.
- Supporting documentation for all information the applicant or licensee includes in its initial or renewal applications for licensure as referenced in section 34-41-40.
- Bank statements or similar documents received from a financial institution and a balance sheet for the applicant or licensee demonstrating that the applicant or licensee has and has maintained the necessary amount of liquid assets as stated in section 34-41-50(A).
- The notice of the fees currently charged at every location as stated in section 34-41-60(C).
- The “appropriate documentation” from a payee other than a natural person indicating that the natural person cashing a check, draft, or money order on behalf of the payee has the authority to do so as referenced in section 34-41-80(6).
- A copy of all advertising communications published or disseminated by the licensee as referenced in section 34-41-80(3).