

GEORGIA

TRANSMITTERS OF MONEY

Ga. Code Ann., § 7-1-680
§ 7-1-680. Definitions

(a) As used in this article, the term or terms:

(1) “Check” means any check, money order, or any other instrument, order, or device for the payment or transmission of money or monetary value, whether or not it is a negotiable instrument under the terms of Article 3 of Title 11, relating to negotiable instruments. The term does not include a credit card voucher, letter of credit, or any other instrument that is redeemable by the issuer in goods or services.

(2) “Check holder” means a person who has purchased a check from a check seller or a person who has placed an order to transmit money with a money transmitter.

(3) “Licensee” means a person duly licensed by the department pursuant to this article.

(4) “Monetary value” means a medium of exchange whether or not redeemable in money.

(5) “Money transmission” means engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means including, but not limited to, an order, wire, facsimile, or electronic transfer.

(6) “Sale” and “selling” mean the passing of title from the seller or his or her agent to a holder or remitter for a price or an agreement to transfer money or monetary value for a price.

(b) Other statutory definitions applying to this article are:

(1) “Delivery” as defined in paragraph (14) of Code Section 11-1-201.

(2) “Issue” as defined in paragraph (a) of Code Section 11-3-105.

(3) “Sale of checks” or “issuance of checks” shall include money transmission.

(4) “Signed” as defined in paragraph (39) of Code Section 11-1-201.



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Credits

Laws 1965, p. 81, § 2; Laws 1974, p. 705, § 1; Laws 1984, p. 22, § 7; Laws 1997, p. 143, § 7; Laws 2003, Act 376, § 9, eff. July 1, 2003; Laws 2005, Act 160, § 27, eff. May 5, 2005.

Formerly Code 1933, § 41A-3201.

Ga. Code Ann., § 7-1-680, GA ST § 7-1-680
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-681
§ 7-1-681. License
Effective: April 9, 2013

No person or corporation, other than a bank or trust company, a credit union, a savings and loan association, or a savings bank, whether state or federally chartered, the deposits of which are federally insured; the authorized agent of a licensee; the United States Postal Service; or a federal or state governmental department, agency, authority, or instrumentality and its authorized agents, shall engage in the business of selling or issuing checks without having first obtained a license under this article. This restriction applies to any nonresident person or corporation that engages in this state in the business of selling or issuing checks through a branch, subsidiary, affiliate, or agent in this state. A license for the sale of checks or money orders shall also qualify as a license for the business of money transmission. The provisions of this article shall also apply to the business of money transmission unless specifically excluded.

Credits

Laws 1965, p. 81, § 3; Laws 1974, p. 705, § 1; Laws 1985, p. 1131, § 1; Laws 1986, p. 458, § 10; Laws 1990, p. 362, § 1; Laws 2003, Act 376, § 10, eff. July 1, 2003; Laws 2007, Act 256, § 17, eff. July 1, 2007; Laws 2013, Act 13, § 2, eff. April 9, 2013.

Formerly Code 1933, § 41A-3202.

Ga. Code Ann., § 7-1-681, GA ST § 7-1-681
Current through the end of the 2013 Regular Session.

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Ga. Code Ann., § 7-1-682
§ 7-1-682. Qualifications
Effective: July 1, 2007

(a) In order to qualify for a license under this article, an applicant shall:

(1) Satisfy the department that it is financially sound and responsible and appears able to conduct the business of selling checks in an honest and efficient manner and with confidence and trust of the community; and

(2) Comply with the bonding requirements, furnish the statements, and pay the fees prescribed in this article. In the case of a money transmitter, the department may in its discretion require only a bond.

(b) In addition to the qualifications set forth in subsection (a) of this Code section, the department may require a licensee to maintain investments having an aggregate market value at least equal to the amount of outstanding checks issued or sold. The department may promulgate regulations establishing those investments which shall be deemed permissible investments for the purpose of complying with this subsection. Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding checks in the event of bankruptcy of the licensee.

(c) The department shall not issue such license or may revoke a license if it finds that the applicant or licensee, any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant or licensee, or any individual who directs the affairs or establishes policy for the applicant or licensee has been convicted of a felony involving moral turpitude in any jurisdiction or of a crime which, if committed within this state, would constitute a felony involving moral turpitude under the laws of this state. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court or federal magistrate or shall have been found guilty thereof by the decision or judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof, unless such plea of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or otherwise abrogated by lawful judicial process and regardless of whether first offender treatment without adjudication of guilt pursuant to the charge was entered, unless and until such plea of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or otherwise abrogated by lawful judicial process or

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until probation, sentence, or both probation and sentence of a first offender have been successfully completed and documented or unless the person convicted of the crime shall have received a pardon therefor from the President of the United States or the governor or other pardoning authority in the jurisdiction where the conviction was had, or shall have received an official certification or pardon granted by the State Board of Pardons and Paroles which removes the legal disabilities resulting from such conviction and restores civil and political rights in this state.

(d) The department shall be authorized to obtain conviction data with respect to any applicant or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant or licensee or any individual who directs the affairs or establishes policy for the applicant or licensee. Upon receipt of information from the Georgia Crime Information Center that is incomplete or that indicates an applicant or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant or licensee or any individual who directs the affairs or establishes policy for the applicant or licensee has a criminal record in a state other than Georgia, the department shall submit to the Georgia Crime Information Center two complete sets of fingerprints of such applicant or such person, the required records search fees, and such other information as may be required. Fees for background checks that the department administers shall be submitted to the department by applicants and licensees together with two completed sets of fingerprint cards. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search of its own records and records to which it has access. The Georgia Crime Information Center shall notify the department in writing of any derogatory finding, including, but not limited to, any conviction data regarding the fingerprint records check, or if there is no such finding. All conviction data received by the department shall be used by the department for the exclusive purpose of carrying out its responsibilities under this article, shall not be a public record, shall be privileged, and shall not be disclosed to any other person or agency except to any person or agency which otherwise has a legal right to inspect the file. All such records shall be maintained by the department pursuant to laws regarding such records and the rules and regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as applicable. As used in this subsection, "conviction data" means a record of a finding, verdict, or plea of guilty or a plea of nolo contendere with regard to any crime, regardless of whether an appeal of the conviction has been sought.

(e) Every applicant and licensee shall be authorized and required to obtain and maintain the results of background checks on employees and agents working in or for the

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applicant or licensee. Such background checks shall be handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and the rules and regulations of the Georgia Crime Information Center. Applicants and licensees shall be responsible for any applicable fees charged by the Georgia Crime Information Center. An applicant or licensee shall only employ a person whose background data has been checked and been found to be satisfactory prior to the initial date of hire. This provision does not apply to directors, officers, partners, agents, or ultimate equitable owners of 10 percent or more or to persons who direct the company's affairs or establish policy, whose background must have been investigated through the department before taking office, beginning employment, or securing ownership. Upon receipt of information from the Georgia Crime Information Center that is incomplete or that indicates an employee has a criminal record in any state other than Georgia, the employer shall submit to the department two complete sets of fingerprints of such person, together with the applicable fees and any other required information. The department shall then submit such fingerprints as provided in subsection (d) of this Code section.

(f) Such license issued by the department shall be kept conspicuously posted in the place of business of the licensee. Such license shall not be transferable, assignable, or subject to a change of ownership.

Credits

Laws 1965, p. 81, § 4; Laws 1974, p. 705, § 1; Laws 1994, p. 1780, § 3; Laws 2000, p. 174, § 18; Laws 2003, Act 376, § 11, eff. July 1, 2003; Laws 2004, Act 517, § 6, eff. July 1, 2004; Laws 2007, Act 256, § 18, eff. July 1, 2007.

Formerly Code 1933, § 41A-3203.

Ga. Code Ann., § 7-1-682, GA ST § 7-1-682

Ga. Code Ann., § 7-1-683
§ 7-1-683. Application; bonding; securities
Effective: June 3, 2010

(a) Each application for a license shall be in writing and under oath to the department, in such form as it may prescribe, and shall include the following:



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(1) The legal name and principal office address of the corporation applying for the license;

(2) The name, residence, and business address of each director or equivalent official and of each officer who will be involved in selling checks in this state;

(3) The date and place of incorporation;

(4) If the applicant has one or more branches, subsidiaries, affiliates, agents, or other locations at or through which the applicant proposes to engage in the business of selling or issuing checks within the State of Georgia, the complete name of each and the address of each such location;

(5) The location where its initial registered office will be located in this state; and

(6) Such other data, financial statements, and pertinent information as the department may require with respect to the applicant, its directors, trustees, officers, members, branches, subsidiaries, affiliates, or agents and any individual who directs the affairs or establishes policy for the applicant or licensee.

(b) The application shall be filed together with the following financial requirements:

(1) An investigation and supervision fee established by regulation of the department, which shall not be refundable but which, if the license is granted, shall satisfy the fee requirement for the first license year or the remaining part thereof; and

(2) A corporate surety bond issued by a bonding company or insurance company authorized to do business in this state and approved by the department. The bond for check sellers shall be in the principal sum of \$100,000.00, and the bond for money transmitters shall be in the principal sum of \$50,000.00. The amount of this bond shall be increased by an additional \$5,000.00 for each location, other than the licensee's primary place of business, at or through which the applicant proposes to engage in the business of selling or issuing checks in this state, until the principal sum of the bond shall total a maximum of \$250,000.00. In addition to the coverage provided for in this Code section, the department may require additional coverage for the adequate protection of check holders if the average daily balances outstanding for check sellers or, if the outstanding orders to transmit not yet paid for money transmitters, exceed \$250,000.00. Written reports that reveal a licensee's level of holdings shall be made at intervals during the year as required by regulations. If required by the department the additional coverage shall be limited to \$1.25 million or the amount of the average daily

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balances or orders outstanding in the State of Georgia for the preceding year, whichever is less. The total maximum amount of such bond coverage under this paragraph and paragraph (1) of this subsection will be \$1.5 million. The bond shall be in a form satisfactory to the department and shall run to the State of Georgia for the benefit of any check holders against the licensee or his or her agents. The condition of the bond shall be that the licensee will pay any and all moneys that may become due and owing any creditor of or claimant against the licensee arising out of the licensee's business of selling or issuing checks in this state, whether through its own act or the acts of an agent. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Claimants against the licensee may themselves bring an action directly on the bond. The liability arising under this paragraph shall be limited to the receipt, handling, transmission, and payment of money arising out of the licensee's business of selling or issuing checks in this state.

(c) As an option to the bond for check sellers, provided the department approves, in lieu of such corporate surety bond or bonds or of any portion of the principal thereof, the applicant may deposit with a Georgia state-chartered bank or trust company located in this state, as such applicant may designate and the department may approve, certificates of deposit insured by a federal agency, bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof or guaranteed by the United States or of the State of Georgia to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. These assets shall be held to secure the same obligations as would the surety bond and must be dedicated by the licensee solely for the purpose of meeting the financial obligations required to maintain the check seller license in this state and may not be dedicated to meet check seller licensing requirements for other jurisdictions; but the licensee shall be entitled to receive all interest thereon and shall have the right, with the approval of the department, to substitute other assets approved by this Code section for those deposited and shall be required to do so on written order of the department made for good cause shown; provided, however, if the licensee substitutes assets more than once during the license period the department may charge a fee for the processing of such substitution to be prescribed by regulations of the department. In the event of the failure or insolvency of such licensee, the assets, any proceeds therefrom, and the funds deposited pursuant to this Code section shall be applied to the payment in full of claims arising out of transactions in this state for the sale or issuance of checks. Failure to properly maintain dedicated assets for the purpose of meeting the financial requirements for licensure may result in a fine, or the revocation or suspension of the license, at the discretion of the department. This subsection shall apply to check sellers only and not to money



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transmitters.

Credits

Laws 1965, p. 81, § 5; Laws 1974, p. 705, § 1; Laws 1978, p. 1717, § 8; Laws 1995, p. 673, § 26; Laws 2003, Act 376, § 12, eff. July 1, 2003; Laws 2005, Act 160, § 28, eff. May 5, 2005; Laws 2007, Act 256, § 19, eff. July 1, 2007; Laws 2010, Act 624, § 7, eff. June 3, 2010.

Formerly Code 1933, § 41A-3204.

Ga. Code Ann., § 7-1-683, GA ST § 7-1-683
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-684
§ 7-1-684. Investigation; granting of licenses

Upon the filing of the application, accompanied by the documents and fee prescribed in Code Section 7-1-683, the department shall conduct an investigation to determine if the criteria established by Code Section 7-1-682 have been satisfied. If the department determines to its satisfaction that the criteria of Code Section 7-1-682 have been met, it shall issue to the applicant a license to engage in the business of selling and issuing checks in this state. A license issued pursuant to this article shall remain in force and effect through its expiration date unless earlier surrendered, suspended, or revoked pursuant to this article. Where a corporation engages only in the business of selling checks issued by another corporation which is primarily obligated for payment of the checks and the seller is a wholly owned subsidiary of or is wholly owned by the sole corporate shareholder of the issuer, the department may grant a single license naming both the seller and issuer as joint licensees. In such cases, only a single license fee shall be collected and only one corporate surety bond pursuant to Code Section 7-1-683 may be required where such bond names both the seller and issuer.

Credits

Laws 1965, p. 81, § 6; Laws 1974, p. 705, § 1; Laws 1975, p. 445, § 35; Laws 1978, p. 1717, § 9; Laws 1995, p. 673, § 27.



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Formerly Code 1933, § 41A-3205.

Ga. Code Ann., § 7-1-684, GA ST § 7-1-684
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-684.1
§ 7-1-684.1. Examination of licensee
Effective: June 3, 2010

(a) To assure compliance with the provisions of this article and in consideration of any application to renew a license pursuant to the provisions of Code Section 7-1-685, the department or its designated agent may examine the books and records of any licensee to the same extent as it is authorized to examine financial institutions under this chapter. Each licensee shall pay an examination fee as established by regulations of the department to cover the cost of such examination. The on-site examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state. The commissioner, in lieu of an on-site examination, may accept the examination report of an agency of another state or a report prepared by an independent accounting firm and reports so accepted shall be considered for all purposes as an official report of the commissioner. If the department determines, based on the records submitted to the department and past history of operations in the state, that an on-site examination is unnecessary then the on-site examination may be waived by the department.

(b) The commissioner may:

(1) Request financial data from a licensee in addition to that required under this article; and

(2) Conduct an on-site examination of a licensee, agent, or location of a licensee within this state without prior notice to the agent or licensee if the commissioner has a reasonable basis to believe that the licensee or agent is not in compliance with this article. The agent or licensee shall pay all reasonably incurred costs of the examination when the commissioner examines an agent's operations.

(c) The department, in its discretion, may:



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(1) Make such public or private investigations within or outside of this state as it deems necessary to determine whether any person has violated this article or any rule, regulation, or order under this article, to aid in the enforcement of this article, or to assist in the prescribing of rules and regulations pursuant to this article;

(2) Require or permit any person to file a statement in writing, under oath or otherwise as the department determines, as to all the facts and circumstances concerning the matter to be investigated;

(3) Disclose information concerning any violation of this article or any rule, regulation, or order under this article, provided the information is derived from a final order of the department; and

(4) Disclose the imposition of an administrative fine or penalty under this article.

(d)(1) For the purpose of conducting any investigation as provided in this Code section, the department shall have the power to administer oaths, to call any party to testify under oath in the course of such investigations, to require the attendance of witnesses, to require the production of books, records, and papers, and to take the depositions of witnesses; and for such purposes the department is authorized to issue a subpoena for any witness or for the production of documentary evidence. Such subpoenas may be served by certified mail or statutory overnight delivery, return receipt requested, to the addressee's business mailing address, by examiners appointed by the department, or shall be directed for service to the sheriff of the county where such witness resides or is found or where the person in custody of any books, records, or paper resides or is found. The required fees and mileage of the sheriff, witness, or person shall be paid from the funds in the state treasury for the use of the department in the same manner that other expenses of the department are paid.

(2) The department may issue and apply to enforce subpoenas in this state at the request of a government agency regulating sellers of checks or money transmitters of another state if the activities constituting the alleged violation for which the information is sought would be a violation of this article if the activities had occurred in this state.

(e) In case of refusal to obey a subpoena issued under this article to any person, a superior court of appropriate jurisdiction, upon application by the department, may issue to the person an order requiring him or her to appear before the court to show cause why he or she should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished as contempt by the court.



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(f) Examinations and investigations conducted under this article and information obtained by the department in the course of its duties under this article are confidential, except as provided in this subsection, pursuant to the provisions of Code Section 7-1-70. In addition to the exceptions set forth in subsection (b) of Code Section 7-1-70, the department is authorized to share information obtained under this article with other state and federal regulatory agencies or law enforcement authorities. In the case of such sharing, the safeguards to confidentiality already in place within such agencies or authorities shall be deemed adequate. The commissioner or an examiner specifically designated may disclose such limited information as is necessary to conduct a civil or administrative investigation or proceeding. Information contained in the records of the department which is not confidential and may be made available to the public either on the department's website or upon receipt by the department of a written request shall include:

(1) The name, business address, and telephone, facsimile, and license numbers of a licensee or registrant;

(2) The names and titles of the principal officers;

(3) The name of the owner or owners thereof;

(4) The business address of a licensee's or registrant's agent for service;

(5) The terms of or a copy of any bond filed by a licensee or registrant; and

(6) The name, business address, telephone number, and facsimile number of all agents of a licensee.

(g) In the absence of malice, fraud, or bad faith, a person is not subject to civil liability arising from the filing of a complaint with the department or furnishing other information required by this Code section or required by the department under the authority granted in this article. No civil cause of action of any nature shall arise against such person:

(1) For any information relating to suspected prohibited transactions furnished to or received from law enforcement officials, their agents, or employees or to or from other regulatory or licensing authorities;

(2) For any such information furnished to or received from other persons subject to the provisions of this title; or



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(3) For any such information furnished in complaints filed with the department.

(h) The commissioner or any employee or agent is not subject to civil liability, and no civil cause of action of any nature exists against such persons arising out of the performance of activities or duties under this article or by publication of any report of activities under this Code section.

Credits

Laws 2003, Act 376, § 13, eff. July 1, 2003; Laws 2009, Act 31, § 8, eff. July 1, 2009; Laws 2010, Act 624, § 7, eff. June 3, 2010.

Ga. Code Ann., § 7-1-684.1, GA ST § 7-1-684.1
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-685
§ 7-1-685. Renewal of licenses; annual license fee
Effective: July 1, 2009

A license may be renewed for a period to be established by regulations of the department upon the filing of an application conforming to the requirements of Code Section 7-1-683 with such modifications as the department may allow. No investigation fee shall be payable in connection with such renewal application; but an annual license fee established by regulation of the department to defray the cost of supervision shall be paid with each renewal application, which fee shall not be refunded or prorated if the renewal application is approved.

Credits

Laws 1965, p. 81, § 7; Laws 1974, p. 705, § 1; Laws 1995, p. 673, § 28; Laws 2009, Act 31, § 9, eff. July 1, 2009.

Formerly Code 1933, § 41A-3206.



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Ga. Code Ann., § 7-1-685, GA ST § 7-1-685
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-686
§ 7-1-686. Actions requiring notice to department; penalties for failure to provide notice; maintenance of bonds or securities
Effective: July 1, 2009

(a) A licensee shall give notice to the department by registered or certified mail or statutory overnight delivery of any action which may be brought against it and of any judgment which may be entered against it by any creditor or any claimant, with respect to a check sold or issued in this state, with details sufficient to identify the action or judgment, within 30 days after the commencement of any such action or the entry of any such judgment. The corporate surety shall, within ten days after it pays any claim to any creditor or claimant, give notice to the department by registered or certified mail or statutory overnight delivery of such payment with details sufficient to identify the claimant or creditor and the claim or judgment so paid. Whenever the principal sum of such bond is reduced by one or more recoveries or payments thereon, the licensee shall furnish a new or additional bond so that the total or aggregate principal sum of such bond or bonds shall equal the sum required under Code Section 7-1-683 or shall furnish an endorsement duly executed by the corporate surety reinstating the bond to the required principal sum thereof. The department may, by reasonable rules and regulations, provide for corresponding measures with respect to deposits made in lieu of a bond under subsection (c) of Code Section 7-1-683.

(b) A licensee shall give notice to the department by registered or certified mail or statutory overnight delivery of the name and address of any new or additional locations at which it engages in the business of selling or issuing checks over the number previously reported in either its original or renewal application and shall show to the department that the bond or assets required under Code Section 7-1-683 have been increased accordingly. This notice shall be given to the department by the licensee as follows:

(1) For the period January 1 through June 30 of each year, on or before the first business day of September; and



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(2) For the period July 1 through December 31 of each year, on or before the first business day of March.

Failure to provide such notice shall be punished with a fine, other administrative action, or both. At any time the department is shown that a licensee has decreased the number of locations at or through which it proposes to engage in the business, the department may decrease the bond or security requirements accordingly.

(c) A bond filed with the department for the purpose of compliance with Code Section 7-1-683 may not be canceled by either the licensee or the corporate surety except upon notice to the department by registered or certified mail or statutory overnight delivery with return receipt requested, the cancellation to be effective not less than 30 days after receipt by the department of such notice and only with respect to any breach of condition occurring after the effective date of such cancellation.

Credits

Laws 1965, p. 81, § 8; Laws 1974, p. 705, § 1; Laws 1997, p. 143, § 7; Laws 2000, p. 1589, § 3; Laws 2007, Act 256, § 20, eff. July 1, 2007; Laws 2009, Act 31, § 10, eff. July 1, 2009.

Formerly Code 1933, § 41A-3207.

Ga. Code Ann., § 7-1-686, GA ST § 7-1-686
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-687
§ 7-1-687. Agents and subagents
Effective: July 1, 2007

A licensee may conduct its business at one or more locations in this state, so long as such locations have been included in the licensee's application and reports under Code Sections 7-1-683 and 7-1-686, and through such agents as it may designate. The department may within ten days after application, for cause, refuse to approve a licensee's designation of an agent or, for cause, suspend a licensee's designation of an



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agent. In such cases the agent shall have the same procedural rights as are provided in this article for the denial, suspension, or revocation of a licensee's license. No additional license other than that obtained by the licensee shall be required of any duly reported agent of a licensee. An agent of a licensee shall sell or issue checks only at the location designated in the licensee's report to the department or at other locations of which the department first has been notified in writing.

Credits

Laws 1965, p. 81, § 9; Laws 1974, p. 705, § 1; Laws 1975, p. 445, § 36; Laws 2007, Act 256, § 21, eff. July 1, 2007.

Formerly Code 1933, § 41A-3208.

Ga. Code Ann., § 7-1-687, GA ST § 7-1-687
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-687.1
§ 7-1-687.1. Record-keeping
Effective: July 1, 2009

(a) Each licensee shall make, keep, and reserve the following books, accounts, and other records for a period of five years:

- (1) A record of each check sold;
- (2) A general ledger which shall be posted at least monthly containing all assets, liabilities, capital, and income and expense accounts;
- (3) Settlement sheets received from agents;
- (4) Bank statements and bank reconciliation records;
- (5) Records of outstanding checks;
- (6) Records of each check paid;
- (7) A list of the names and addresses of all of the licensee's agents;



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(8) A copy of all Currency Transaction Reports that are required to be filed by the licensee; and

(9) For money transmitters, records of all money transmissions sent or received.

(b) Records required to be made, kept, and reserved pursuant to subsection (a) of this Code section may be maintained in a photographic, electronic, or other similar form.

(c) Records required to be made, kept, and reserved pursuant to subsection (a) of this Code section may be maintained at a location outside the state so long as such records are made accessible to the commissioner within ten days of the date of a written notice by the commissioner to the licensee.

Credits

Laws 2003, Act 376, § 14, eff. July 1, 2003; Laws 2004, Act 517, § 7, eff. July 1, 2004; Laws 2009, Act 31, § 11, eff. July 1, 2009.

Ga. Code Ann., § 7-1-687.1, GA ST § 7-1-687.1
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-688
§ 7-1-688. Rules and regulations

Without limitation on the power conferred by Article 1 of this chapter, the department may make reasonable rules and regulations, not inconsistent with law, for the enforcement of this article.

Credits
Laws 1965, p. 81, § 10; Laws 1974, p. 705, § 1.

Formerly Code 1933, § 41A-3209.



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Ga. Code Ann., § 7-1-688, GA ST § 7-1-688
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-689
§ 7-1-689. Denial, suspension and revocation of licenses
Effective: July 1, 2007

(a) The department may suspend or revoke an original or renewal license or the designation of an agent of a licensee on any ground on which it might refuse to issue an original license or for a violation of any provision of this article or any rule or regulation issued under this article or for failure of the licensee to pay, within 30 days after it becomes final, a judgment recovered in any court within this state by a claimant or creditor in an action arising out of the licensee's business in this state of selling or issuing checks. If a cease and desist order is issued by the department to a licensee who has been sent a notice of bond cancellation and if the required bond is reinstated or replaced and such documentation is delivered to the department within the 30 day period following the date of issuance of the order, the order shall be rescinded. If the notice of reinstatement of the bond is not received by the department within the 30 days, the license shall expire at the end of the 30 day period and the licensee shall be required to make a new application for a license and pay all applicable fees.

(b) Notice of the department's intention to enter an order denying an application for a license under this article or of an order suspending or revoking a license under this article shall be given to the applicant or licensee in writing, sent by registered or certified mail or statutory overnight delivery addressed to the principal place of business of such applicant or licensee. Within 20 days of the date of the notice of intention to enter an order of denial, suspension, or revocation under this article, the applicant or licensee may request in writing a hearing to contest the order. If a hearing is not requested in writing within 20 days of the date of such notice of intention, the department shall enter a final order regarding the denial, suspension, or revocation. Any final order of the department denying, suspending, or revoking a license shall state the grounds upon which it is based and shall be effective on the date of issuance. A copy thereof shall be forwarded promptly by registered or certified mail or statutory overnight delivery addressed to the principal place of business of such applicant or licensee. If a person refuses to accept service of the notice or order by registered or certified mail or

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statutory overnight delivery, the notice or order shall be served by the commissioner or the commissioner's authorized representative under any other method of lawful service; and the person shall be personally liable to the commissioner for a sum equal to the actual costs incurred to serve the notice or order. This liability shall be paid upon notice and demand by the commissioner or the commissioner's representative and shall be assessed and collected in the same manner as other fees or fines administered by the commissioner.

(c) A decision of the department denying a license, original or renewal, shall be conclusive, except that it may be subject to judicial review under Code Section 7-1-90. A decision of the department suspending or revoking a license shall be subject to judicial review in the same manner as a decision of the department to take possession of the assets and business of a bank under Code Section 7-1-155.

Credits

Laws 1965, p. 81, §§ 11-13; Laws 1974, p. 705, § 1; Laws 2000, p. 1589, § 3; Laws 2007, Act 256, § 22, eff. July 1, 2007.

Formerly Code 1933, § 41A-3210.

Ga. Code Ann., § 7-1-689, GA ST § 7-1-689
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-689.1
§ 7-1-689.1. Violations; cease and desist orders; penalties
Effective: July 1, 2007

(a) Whenever it shall appear to the department that any person has violated any law of this state or any order or regulation of the department under this article or is operating without a required license, the department may issue an initial written order requiring such person to cease and desist immediately from such unauthorized practices. Such cease and desist order shall be final 20 days after it is issued unless the person to whom it is issued makes a written request for a hearing within such 20 day period. The hearing shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." A cease and desist order issued to an unlicensed person that orders such person to cease doing business without the appropriate license



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shall be final 30 days from the date of issuance and there shall be no opportunity for an administrative hearing. If the proper license or evidence of exemption for the time period cited in the order is obtained within the 30 day period, the order shall be rescinded by the department. Any cease and desist order sent to the person at both his or her personal and business addresses pursuant to this Code section that is returned to the department as “refused” or “unclaimed” shall be deemed as received and sufficiently served.

(b) Whenever a person shall fail to comply with the terms of an order of the department which has been properly issued under the circumstances, the department may, through the Attorney General and upon notice of three days to such person, petition the principal court for an order directing such person to obey the order of the department within the period of time as shall be fixed by the court. Upon the filing of such petition the court shall allow a motion to show cause why it should not be granted. After a hearing upon the merits or after failure of such person to appear when ordered, the court shall grant the petition of the department upon a finding that the order of the department was properly issued.

(c) Any person who violates the terms of any order issued pursuant to this Code section shall be liable for a civil penalty not to exceed \$1,000.00. Each day the violation continues shall constitute a separate offense. In determining the amount of a penalty, the department shall take into account the appropriateness of the penalty relative to the size of the financial resources of such person, the good faith efforts of such person to comply with the order, the gravity of the violation, the history of previous violations by such person, and such other factors or circumstances as shall have contributed to the violation. The department may at its discretion compromise, modify, or refund any penalty which is subject to being imposed or has been imposed pursuant to this Code section. Any person assessed pursuant to this subsection shall have the right to request a hearing into the matter within ten days after notification of the assessment has been served upon the licensee involved; otherwise, such penalty shall be final except as to judicial review as provided in Code Section 7-1-90.

(d) Initial judicial review of a decision of the department entered pursuant to this Code section shall be available solely in the superior court of the county of domicile of the department.

(e) For purposes of this Code section, the term “person” includes an individual, any entity required to be licensed, and a licensee, officer, director, employee, agent, or other person participating in the conduct of the affairs of the person subject to the orders issued pursuant to this Code section.



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(f) In addition to any other administrative penalties authorized by this article, the department may by regulation prescribe administrative fines for violations of this article and of any rules promulgated by the department pursuant to this article.

Credits

Laws 2003, Act 376, § 15, eff. July 1, 2003; Laws 2007, Act 256, § 23, eff. July 1, 2007.

Ga. Code Ann., § 7-1-689.1, GA ST § 7-1-689.1

Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-689.2

§ 7-1-689.2. Denial or revocation of license due to cease and desist order against employee

Effective: July 1, 2009

The department may not issue a license to an applicant and may revoke a license from a licensee if such person employs any other person against whom a final cease and desist order has been issued within the preceding five years if such order was based on a violation of this article. Each applicant and licensee shall, before hiring an employee, examine the department's public records to determine that such employee is not subject to a cease and desist order.

Credits

Laws 2009, Act 31, § 12, eff. July 1, 2009.

Ga. Code Ann., § 7-1-689.2, GA ST § 7-1-689.2

Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-690

§ 7-1-690. Assignment of claims to department

At the written request of any claimant or creditor of a licensee whose claim is based on



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a transaction in this state for the sale or issuance of a check subject to regulation under this article, the department may, in its discretion, take an assignment of such claim in trust for the benefit of the assigning claimant or creditor and may bring any legal action necessary to collect such claim. Two or more such claims against a licensee may be combined in one such action.

Credits

Laws 1965, p. 81, § 15; Laws 1974, p. 705, § 1.

Formerly Code 1933, § 41A-3211.

Ga. Code Ann., § 7-1-690, GA ST § 7-1-690
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-691
§ 7-1-691. Civil liability of licensee

Every check issued in the conduct of the business regulated by this article shall be signed by the licensee or his authorized representative; and the licensee shall be liable for the payment thereof to the same extent as a drawer of a negotiable instrument, whether or not the check is a negotiable instrument under Article 3 (Negotiable Instruments) of Title 11 (Uniform Commercial Code).

Credits

Laws 1965, p. 81, § 16; Laws 1974, p. 705, § 1; Laws 1997, p. 143, § 7.

Formerly Code 1933, § 41A-3212.

Ga. Code Ann., § 7-1-691, GA ST § 7-1-691
Current through the end of the 2013 Regular Session.

Ga. Code Ann., § 7-1-692
§ 7-1-692. Prohibited transactions; disclosure to department
Effective: June 3, 2010



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(a) No person or corporation shall sell checks as an agent of a principal seller when such principal seller is subject to licensing under this article but has not obtained a license hereunder; and any person who does so shall be deemed to be the principal seller thereof and not merely an agent and shall be liable to the holder or remitter as the principal seller.

(b) No person or corporation, other than a bank or trust company, an agent thereof, a licensee, or an agent of a licensee, shall undertake, in the course of carrying on the business regulated in this article, to receive, transmit, or handle money on behalf of another to whom he issues a money order or a similar payment paper; and any person who does so shall be liable to the owner of the money order or similar payment paper for the payment thereof to the same extent as a drawer of a negotiable instrument, whether or not the money order or similar payment paper is a negotiable instrument under Article 3 (Negotiable Instruments) of Title 11 (Uniform Commercial Code).

(c) No person required to be licensed under this article shall purposely withhold, delete, destroy, or alter information requested by an examiner or other official of the department or make false statements or material misrepresentations to the department.

(d) All licensees or agents of licensees shall transmit moneys received by them within five business days of receiving such moneys, unless the licensee's written terms and conditions call for an agent to make an earlier transmission of funds. Failure to timely transmit funds shall subject the licensee to fines and may result in the revocation of its license. In the case of an agent, failure to timely transmit funds may result in the imposition of fines and the designation of a licensee's agent being refused or suspended by the department.

Credits

Laws 1965, p. 81, § 17; Laws 1974, p. 705, § 1; Laws 1997, p. 143, § 7; Laws 2007, Act 256, § 24, eff. July 1, 2007; Laws 2009, Act 31, § 13, eff. July 1, 2009; Laws 2010, Act 624, § 7, eff. June 3, 2010.

Formerly Code 1933, § 41A-3213.

Ga. Code Ann., § 7-1-692, GA ST § 7-1-692
Current through the end of the 2013 Regular Session.

