

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
AMENDMENT TO 3 NYCRR 400.11**

FEES

I, Adrienne A. Harris, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 10, 14, 371 and 372 of the Banking Law, do hereby promulgate the following amendments to Title 3 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to take effect upon publication of the Notice of Adoption in the New York State Register and to read as follows:

(Matter In Brackets Is Deleted; New Matter Is Underlined)

Section 400.11 is amended to read as follows:

(a) Except with respect to the cashing of checks, drafts or money orders for payees of such checks, drafts or money orders that are other than natural persons, a licensee shall be permitted to charge or collect a fee for cashing a check, draft or money order not to exceed:

(1) 1.5 per centum of the amount of the check[, draft or money order in addition to any increase that shall hereafter be made pursuant to subdivision (b) of this section] issued by a federal or State government agency for the payment to the bearer of federal or State monetary assistance, Social Security, unemployment compensation, retirement, veteran's benefits, emergency relief or housing assistance, or a tax refund; or

(2) \$1 or 2.2 per centum of the amount of all other checks, drafts or money orders, whichever is greater.

(b) Effective January 31, [2023] 2027, and [annually] every five years thereafter, licensees may request an increase in the maximum fees established by this section. Any such request must be supported in writing by annual information, for each of the preceding five years, showing each licensee's costs and expenditures (including rent, wages, information technology and compliance costs), profitability (including all sources of revenue, such as those from other lines of business, as well as other conditions impacting each licensee's financial condition, such as capital needs, cost of capital and payments to owners or senior managers) and any other information the Department may request. The Superintendent may review any fee request submitted by licensees and, in his or her discretion, approve, modify or deny a request for an adjustment to the maximum fee stated in Section 400.11(a). [the maximum per centum fee specified in subdivision (a) of this section, shall be increased by a per centum amount, based upon an increase in the consumer price index for the New York - Newark - Jersey City, NY - NJ - PA area for all urban consumers (annual CPI-U), as reported by the Bureau of Labor Statistics of the U.S. Department of Labor for the calendar year preceding the year in which such increase is made compared to such annual CPI-U for the year prior to such preceding year. The maximum per centum fee that may be charged or collected for cashing a check, draft or money order pursuant to this section in effect at such time shall be multiplied by such computed per centum amount and the result added to such maximum per centum fee. The resulting sum shall be the revised maximum per centum fee, which shall be posted upon the internet site of the Department of Financial Services (www.dfs.ny.gov) by the superintendent not later than 45 days following the public release of such annual index by the U.S. Department of Labor. Such revised maximum per centum fee

shall be calculated and posted to the nearest one-hundredth of a per centum. Such revised maximum per centum fee shall be effective not later than 45 days after the superintendent shall have notified the Majority Leader of the Senate, the Speaker of the Assembly, and the chairperson of the Senate and Assembly Committees on Banks of his/her intention to change the maximum per centum fee pursuant to the provisions of section 372.3 of the Banking Law and shall continue in effect until revised and increased in the next succeeding year based upon an increase in such annual index. If such CPI-U does not increase in any one year, the maximum per centum fee in effect during the year in which the index does not increase shall remain unchanged in the next succeeding year. Nothing herein shall be deemed to prohibit the superintendent from setting, by regulation, a different maximum per centum fee at any time where the superintendent shall find that such a fee is necessary and appropriate to protect the public interest and to promote the stability of the check cashing industry for the purpose of meeting the needs of the communities that are served by check cashers.]

(c) No maximum fee shall apply to the charging of fees by licensees for the cashing of checks, drafts or money orders for payees of such checks, drafts or money orders that are other than natural persons.



KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

CERTIFICATION

I, Adrienne A. Harris, Superintendent of Financial Services, do hereby certify that the attached amendment to Section 400.11 of the Superintendent's Regulations, Title 3 of the Official Compilation of Codes, Rules and Regulations of the State of New York, was duly authorized by me, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 10, 14, 371 and 372 of the Banking Law, to take effect upon publication of the Notice of Adoption in the New York State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on June 15, 2022.

Signed copy filed with DFS

Adrienne A. Harris
Superintendent of Financial Services

Dated: December 28, 2022