

SALE OF CHECKS - MONEY ORDERS

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20 CSR 1140-12.010 Sale of Checks (Money Order) Bonds

361.700. Sale of checks law, how cited - definitions. - 1. Sections 361.700 to 361.727 shall be known and may be cited as the "Sale of Checks Law".

2. For the purposes of sections 361.700 to 361.727, the following terms mean:

(1) **"Check"**, any instrument for the transmission or payment of money and shall also include any electronic means of transmitting or paying money;

(2) **"Director"**, the director of the division of finance;

(3) **"Licensee"**, any person duly licensed by the director pursuant to sections 361.700 to 361.727;

(4) **"Person"**, any individual, partnership, association, trust or corporation.

(L. 1984 H.B. 1374 §§ 1, 2, A.L. 2002 SB 895)

361.705. License required to issue checks for consideration, exceptions - violations, penalty. - 1. No person shall issue checks in this state for a consideration without first obtaining a license from the director;

provided, however, that sections 361.700 to 361.727 shall not apply to the receipt of money by an incorporated telegraph company at any office or agency of such company for immediate transmission by telegraph nor to any bank, trust company, savings and loan association, credit union, or agency of the United States government.

2. Any person who violates any of the provisions of sections 361.700 to 361.727 or attempts to sell or issue checks without having first obtained a license from the director shall be deemed guilty of a class A misdemeanor.

(L. 1984 H.B. 1374 §§ 3, 14)

361.707. Application for license, content - investigation fee, applied to license fee, when. - 1. Each application for a license pursuant to sections 361.700 to 361.727 shall be in writing and under oath to the director in such form as he may prescribe. The application shall state the full name and business address of:

(1) The proprietor, if the applicant is an individual;

(2) Every member, if the applicant is a partnership or association;

(3) The corporation and each officer and director thereof, if the applicant is a corporation.

2. Each application for a license shall be accompanied by an investigation fee of three hundred dollars. If the license is granted the investigation fee shall be applied to the license fee for the first year. No investigation fee shall be refunded.

(L. 1984 H.B. 1374 §§ 4, 5, A.L. 2015 H.B. 587 merged with S.B. 345)

361.711. Surety bond or irrevocable letter of credit required, costs, amount, special examinations. Each application for a license shall be accompanied by a corporate surety bond in the principal sum of one hundred thousand dollars. The bond shall be in form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state, to secure the faithful performance of the obligations of the applicant and the agents and subagents of the applicant with respect to the receipt, transmission, and

payment of money in connection with the sale or issuance of checks and also to pay the costs incurred by the division to remedy any breach of the obligations of the applicant subject to the bond or to pay examination costs of the division owed and not paid by the applicant. Upon license renewal, the required amount of bond shall be as follows:

(1) For all licensees selling payment instruments or stored value cards, five times the high outstanding balance from the previous year with a minimum of one hundred thousand dollars and a maximum of one million dollars;

(2) For all licensees receiving money for transmission, five times the greatest amount transmitted in a single day during the previous year with a minimum of one hundred thousand dollars and a maximum of one million dollars.

If in the opinion of the director the bond shall at any time appear to be inadequate, insecure, exhausted, or otherwise doubtful, additional bond in form and with surety satisfactory to the director shall be filed within fifteen days after notice of the requirement is given to the licensee by the director. An applicant or licensee may, in lieu of filing any bond required under this section, provide the director with an irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any state or federal financial institution. Whenever in the director's judgment it is necessary or expedient, the director may perform a special examination of any person licensed under sections 361.700 to 361.727 with all authority under section 361.160 as though the licensee were a bank. The cost of such examination shall be paid by the licensee.

(L. 1984 H.B. 1374 § 6, A.L. 1989 H.B. 386, A.L. 2006 S.B. 892)

361.715. License issued upon investigation, when - fee - charge for applications to amend and reissue.

1. Upon the filing of the application, the filing of a certified audit, the payment of the investigation fee and the approval by the director of the necessary bond, the director shall cause, investigate, and determine whether the character, responsibility, and general fitness of the principals of the applicant or any affiliates are such as to command confidence and warrant belief that the business of the applicant will be conducted honestly and efficiently and that the applicant is in compliance with all other applicable state and federal laws. If satisfied, the director shall issue to the applicant a license pursuant to the provisions of sections 361.700 to 361.727. In processing a renewal license, the director shall require the same

information and follow the same procedures described in this subsection.

2. Each licensee shall pay to the director before the issuance of the license, and annually thereafter on or before April fifteenth of each year, a license fee of three hundred dollars.

3. The director may assess a reasonable charge, not to exceed three hundred dollars, for any application to amend and reissue an existing license.

(L. 1984 H.B. 1374 §§ 7, 8, A.L. 2006 S.B. 892, A.L. 2015 H.B. 587 merged with S.B. 345)

361.718. Reserve required - director may demand proof, when.

- Every licensee shall at all times have on demand deposit in a federally insured depository institution or in the form of cash on hand or in the hands of his agents or in readily marketable securities an amount equal to all outstanding unpaid checks sold by him or his agents in Missouri, in addition to the amount of his bond. Upon demand by the director, licensees must immediately provide proof of such funds or securities. The director may make such demand as often as reasonably necessary and shall make such demand to each licensee, without prior notice, at least twice each license year.

(L. 1984 H.B. 1374 § 9)

361.720. Licensee may conduct business through unlicensed agents and employees.

- Each licensee may conduct business at one or more locations within this state and by means of employees, agents, subagents or representatives as such licensee may designate. No license under sections 361.700 to 361.727 shall be required of any such employee, agent, subagent or representative who sells checks in behalf of a licensee. Each such agent, subagent or representative shall upon demand transfer and deliver to the licensee the proceeds of the sale of licensee's checks less the fees, if any, due such agent, subagent or representative.

(L. 1984 H.B. 1374 § 10)

361.723. Annual report filed with director, content.

- Each licensee shall file with the director annually on or before April fifteenth of each year a statement listing the locations of the offices of the licensee and the names and locations of the agents or subagents authorized by the licensee to engage in the sale of checks of which the licensee is the issuer.

(L. 1984 H.B. 1374 § 11)

361.725. Revocation or suspension of license - grounds - procedure. - The director may at any time suspend or revoke a license, for any reason he might refuse to grant a license, for failure to pay annual fee or for a violation of any provision of sections 361.700 to 361.727. No license shall be denied, revoked or suspended except on ten days' notice to the applicant or licensee. Upon receipt of such notice the applicant or licensee may, within five days of such receipt, make written demand for a hearing. The director shall thereafter hear and determine the matter in accordance with the provisions of chapter 536 RSMo.
(L. 1984 H.B. 1374 § 12)

361.727. Rules - authority. - The director shall issue regulations necessary to carry out the intent and purposes of sections 361.700 to 361.727, pursuant to the provisions of section 361.105 and chapter 536.
(L. 1984 H.B. 1374 § 13, A.L. 1993 S.B. 52, A.L. 2021 S.B. 106)

361.729. Persons, firms and corporations not subject to administrative penalty for acts performed in reliance on written interpretations. - Any other provisions of the law to the contrary notwithstanding, any person, firm or corporation shall not be subject to any administrative proceeding or penalty for any acts or omissions done in reliance on a written interpretation of any sections of chapter 408, RSMo, by the division of finance, which is applicable to a specific set of facts originally proposed by the person, firm or corporation prior to committing such acts or omissions.
(L. 1992 S.B. 705 § 9)

20 CSR 1140-12.010 Sale of Checks (Money Order) Bonds

PURPOSE: All licensees, pursuant to the Missouri sale of checks law (sections 361.700–361.727, RSMo), must post a bond or an irrevocable letter of credit to insure faithful performance and that all checks (that is, money orders and travelers checks) will be paid. This rule sets the minimum acceptable standards for those bonds or irrevocable letters of credit.

No sale of checks license will be issued or renewed without the posting of a corporate surety bond or irrevocable letter of credit in the amount of one (1) million dollars; provided, however, that a lesser bond or letter of credit in an amount equal to five (5) times the high

outstanding balance of checks sold in Missouri by the applicant and its agents during the previous calendar year rounded to the nearest one thousand dollars (\$1,000) will be acceptable upon a verification of the high outstanding balance and provided further that in no event may the bond or letter of credit be less than twenty-five thousand dollars (\$25,000). Verification shall be a sworn statement, on a form provided by the director, of the high outstanding balance; documents and records to prove such sworn statement must be maintained at the principal office of the licensee and be available for examination by the Division of Finance at all reasonable times and failure to maintain such records will subject the licensee to revocation per sections 361.700–361.727, RSMo. Money order accounts must be dedicated and no funds commingled with other funds of the agent. For purposes of this rule, the high outstanding balance of checks shall mean the highest dollar amount of checks sold but not yet paid on any day. The bond or irrevocable letter of credit shall be in a form satisfactory to the director and, if a bond, shall be issued by a bonding company or insurance company authorized to do business in Missouri or, if an irrevocable letter of credit, be issued by a federally insured financial institution, to secure the faithful performance of the obligations of the applicant and the receipt, transmission and payment of the money in connection with the sale or issuance of checks. At the time an application is forwarded to an initial applicant and at the renewal of any existing license, the applicant/renewal applicant must provide an affidavit declaring the high outstanding balance of checks sold within Missouri during the previous calendar year and must provide a bond or irrevocable letter of credit sufficient to cover all those liabilities within the limits stated here. In consideration of the tasks necessary to complete the process, compliance with the verification procedures for the licensing year which began April 15, 1995, will be considered timely if completed by July 17, 1995.

AUTHORITY: section 361.727, RSMo 2000.* This rule originally filed as 4 CSR 140-12.010. Original rule filed Dec. 11, 1990, effective April 29, 1991. Emergency amendment filed March 27, 1995, effective April 14, 1995, terminated May 1, 1995. Emergency amendment filed May 1, 1995, effective May 11, 1995, expired Sept. 11, 1995. Amended: Filed March 27, 1995, effective Sept. 30, 1995. Amended: Filed Feb. 15, 2002, effective Aug. 30, 2002. Moved to 20 CSR 1140-12.010, effective Aug. 28, 2006.

*Original authority: 361.727, RSMo 1984, amended 1993.