

Chapter 120-1-18
Unsolicited Live Checks

Rule 120-1-18-.01 Statutory Authority

Rule 120-1-18-.02 Purpose

Rule 120-1-18-.03 Definitions

Rule 120-1-18-.04 Opportunity for a Hearing

Rule 120-1-18-.05 Submission of Required Documents prior to Approval

Rule 120-1-18-.06 Requirements on the Unsolicited Live Check and in the Attached Materials

Rule 120-1-18-.07 Restrictions

Rule 120-1-18-.08 Reports of Complaints or Fraud

Rule 120-1-18-.09 Severability

Rule 120-1-18-.01 Statutory Authority

This Regulation is made and promulgated by the Industrial Loan Commissioner pursuant to O.C.G.A. §§7-3-7, 7-3-13, 7-3-14, and 7-3-15.

Authority: §§7-3-7, 7-3-13, 7-3-14, and 7-3-15

Rule 120-1-18-.02 Purpose

The purpose of this Regulation is to establish procedures for the use of unsolicited live checks for loans offered pursuant to the Georgia Industrial Loan Act (“Act”), O.C.G.A. §7-3-1 *et seq.*

Authority: §§7-3-7, 7-3-13, 7-3-14 and 7-3-15

Rule 120-1-18-.03 Definitions

The following terms shall have the following meanings as used in this Regulation unless a different meaning or construction is clearly required by the context:

(1) “Live check” means a negotiable check or other negotiable instrument that may be used by a consumer to activate a loan regulated by the Act.

(2) As used in Rule 120-1-9-.01(1), “simulated check or other negotiable instrument” means any document that resembles but is not a check or other negotiable instrument and is used for the purpose of soliciting a customer for a loan regulated by the Act.

Authority: §7-3-7

Rule 120-1-18-.04 Opportunity for a Hearing

The Commissioner may after notice and the opportunity for a hearing as provided in Rule 120-1-

2-.02: (a) disapprove of a licensee's application to use an unsolicited live check; (b) rescind any prior approval of a licensee's use of an unsolicited live check if the Commissioner determines the licensee has violated the Act or is non-compliant with the Rules and Regulations of the Commissioner; or (c) disallow all licensees from using unsolicited live checks if the Commissioner determines that the risks and disadvantages associated with the practice outweigh the convenience and advantage of the community.

Authority: §§7-3-7, 7-3-13, 7-3-14, and 7-3-15

Rule 120-1-18-.05 Submission of Required Documents prior to Approval

(1) No licensee shall offer an unsolicited live check to an individual unless the conditions contained within this Regulation Chapter and the Act are met to the satisfaction of the Commissioner.

(2) The licensee must obtain prior written approval from the Commissioner of the format and content of the live check and the format and content of the solicitation in accordance with Rule 120-1-2-.08.

(3) The licensee must maintain in its office its system for:

(a) preventing the offering of an unsolicited live check to an individual who is not credit-worthy; and

(b) protecting the intended recipient of an unsolicited live check and the licensee in the event of the fraudulent conversion of the unsolicited live check.

Authority: §§7-3-7, 7-3-13, 7-3-14, and 7-3-15

Rule 120-1-18-.06 Requirements on the Unsolicited Live Check and in the Attached Materials

Any use of an unsolicited live check must contain:

(1) the ZIP+4 code and the name of the county of the recipient in the address line of the live check;

(2) a check number or other unique identifier for the loan offered on the live check;

(3) the following statement, printed in 14 point size font boldface type on the face of the live check: **"This is a loan."**;

(4) the following statements, printed on the face of the live check: "Cashing this check requires repayment of the loan plus potential charges. Read all terms.";

(5) the following statement, printed in 14 point size font boldface type at the top of the

solicitation: **“If you have a question or complaint about this loan, please call the Office of the Industrial Loan Commissioner toll-free at 1-800-656-2298.”**; and

(6) the following statement, printed in the solicitation: “You have the right to file a written complaint with the licensee and with the Industrial Loan Commissioner.”

Authority: §§7-3-7, 7-3-13, 7-3-14, and 7-3-15

Rule 120-1-18-.07 Restrictions

- (1) The terms of the loan resulting from an unsolicited live check must comply with the Act and the rules and regulations of the Commissioner.
- (2) The licensee may not sell or provide insurance or other ancillary products in conjunction with a loan obtained through an unsolicited live check.
- (3) The licensee may not send an unsolicited live check to an individual who resides beyond the boundaries of the county for which the license was issued.

Authority: §§7-3-7, 7-3-13, 7-3-14, and 7-3-15

Rule 120-1-18-.08 Reports of Complaints or Fraud

- (1) The licensee must report any written complaints concerning an unsolicited live check that it receives to the Industrial Loan Department within five business days of receipt of the complaint.
- (2) The licensee must report any issue of suspected or confirmed fraud related to an unsolicited live check to the Industrial Loan Department within five business days of knowledge thereof.

Authority: §7-3-7

Rule 120-1-18-.09 Severability

If any provision of this Regulation Chapter or the application thereof to any person or circumstance is for any reason held to be invalid by a court of competent jurisdiction, the remainder of the Regulation Chapter or applicability of such provision to other persons or circumstances shall not be affected.

Authority: §7-3-7

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