

**BEFORE THE COMMISSIONER OF INSURANCE**

**STATE OF GEORGIA**

**IN THE MATTER OF:**

**CHAPTER 120-1-18  
UNSOLICITED LIVE CHECKS**

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**DOCKET NUMBERS: I-17-I-2  
and I-17-I-5**

**ORDER**

**I. STATEMENT OF PROCEEDINGS**

On August 30, 2017, a Notice of Hearing and Intent to Adopt Rule Changes was given regarding proposed Regulation Chapter 120-1-18 entitled "Unsolicited Live Checks." (Exhibit 1) The primary purpose of the proposed Chapter is to ensure that consumers cashing certain checks are aware that they are obtaining a loan.

Pursuant to O.C.G.A. §50-13-4(e), the proposed Chapter was sent to Wayne R. Allen, Legislative Counsel for the General Assembly, for assignment to the appropriate standing committees of the Senate and House of Representatives. (Exhibit 4) It was assigned accordingly. (Exhibit 5)

**II. CONSIDERATION OF EVIDENCE ADMITTED AT THE HEARING**

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments by October 6, 2017, and by making oral comments at the public hearing held on October 11, 2017. One written comment letter was submitted. That letter is dated October 4, 2017 and was submitted by Rex Ellison, President and Chief Executive Officer of Republic Finance. (Exhibit 6) Mr. Ellison requested that the proposed Chapter have a delayed effective date of not less than 120 days "post-final regulation."

Chris Stephens, Director of the Industrial Loan Division of this Office, spoke at the hearing in favor of the proposed Chapter. (Transcript, pp. 7-10) According to Mr. Stephens, the proposed Chapter is needed to protect the public from unknowingly obtaining high interest loans when cashing certain kinds of checks called "Unsolicited Live Checks." He recommended that the proposed Chapter have an effective date of December 1, 2017.

A prior draft version of the proposed Chapter was provided to the public and a public hearing was held on that version on June 29, 2017 (the "Prior Hearing"). With regard to the Prior Hearing, one written comment letter was offered into evidence. (Exhibit 7 – Prior Hearing) In that letter dated June 23, 2017, Ronald Gorsline, an attorney with Hudson Cook law firm, requested a few changes to the version of the proposed Chapter being examined at the Prior Hearing.

In key parts, Mr. Gorsline requested the following: 1) extending the number of working days from three to five that a licensee has to report fraud, suspected fraud or complaints that it receives; 2) clarifying licensees' opportunity for a hearing in the instance that this Office disapproves of the proposed live check materials, withdraws approval of materials previously submitted or disallows all licensees from using unsolicited live checks; and 3) clarifying that unsolicited live check applications need to adhere to the same requirements as other submitted advertising materials. Specifically, Mr. Gorsline requested that this Office clarify that applicants would need to submit two copies of their proposed materials. Moreover, he sought clarification that if this Office has neither approved nor disapproved of the submitted materials within 45 days of the date that the materials are submitted for review, the unsolicited live check materials would be deemed approved.


Eddie Dotson, Senior Vice President with Republic Finance spoke at the Prior Hearing. (Transcript of Prior Hearing, pp. 10-11) Mr. Dotson requested that the proposed Chapter allow five instead of three work days for licensees to report fraud, suspected fraud or complaints that the licensees receive.

### III. DECISION

**WHEREAS** the Commissioner has considered all of the evidence offered at both the October 11, 2017, hearing and the Prior Hearing, and **WHEREAS**, he considers the oral and written comments of Messrs. Stephens, Gorsline and Dotson to be generally persuasive, **IT IS HEREBY ORDERED** that proposed Regulation Chapter 120-1-18 entitled “Unsolicited Live Checks,” a copy of which is attached hereto and made a part hereof by reference, is **HEREBY ADOPTED**.

**WHEREAS** the Commissioner also finds Mr. Stephens’ recommendation persuasive regarding the effective date, **IT IS ADDITIONALLY ORDERED** that Regulation Chapter 120-1-18 shall become effective December 1, 2017.

Given under my Hand and Seal this 6<sup>th</sup> day of November, 2017.



RALPH T. HUDGENS  
INDUSTRIAL LOAN COMMISSIONER  
STATE OF GEORGIA

