**Section 125.30 Procedure and Criteria for Rate Making**

a) Types of Rates to be Established by the Director

The Director will establish maximum rate schedules for fees charged for check cashing and the issuance of money orders by community and ambulatory currency exchanges. Such schedules of maximum fees to be established by the Director may provide maximum fees for community currency exchanges which may be different than the maximum fees for ambulatory currency exchanges.

b) Criteria

In establishing the maximum rate schedules set forth in paragraph (a) above, the Director will consider the following criteria:

1) Rates charged in the past for the cashing of checks and the issuance of money orders by community and ambulatory currency exchanges;

2) Rates charged by banks or other business entities for rendering the same or similar services and the factors upon which those rates are based;

3) The income, cost and expense of the operation of currency exchanges;

4) Rates charged by currency exchanges or other similar entities located in other states for the same or similar services and the factors upon which those rates are based;

5) Rates charged by the United States Postal Service for the issuing of money orders and the factors upon which those rates are based;

6) A reasonable profit for a currency exchange operation.

c) Matters to be Considered in Setting Rates

1) In establishing the maximum rate schedules set forth in paragraph (a) above, the Director shall consider the oral and written submissions of interested parties as set forth in paragraph (e) herein. In addition, the Director may consider:

A) any of the files, records and documents on file at the Department of Financial Institutions which have been filed or submitted by community or ambulatory currency exchanges pursuant to Section 16 of the Act.

B) any audit or examination reports of currency exchanges on file at the Department prepared by the Department pursuant to Section 16 of the Act and

C) generally recognized technical facts within the Department's specialized knowledge relating to community and ambulatory currency exchanges.

2) All written information submitted to the Director, pursuant to this Section, will be made available for examination to any interested persons upon request and will be made available for copying by any interested persons at such person's expense. In supplying such information, the Director will take whatever precautions necessary to insure the anonymity and privacy of those entities submitting confidential information to the Department.

d) Submission of Additional Information Required by the Director

1) In addition to the matters set forth in paragraph (c) above if at any time the Director deems it appropriate to secure any further information from any community or ambulatory currency exchange in order to establish the maximum rate schedules set forth in paragraph (a) above, the Director may require any such currency exchange or exchanges to submit additional data or information. The Director may require that such additional information be submitted under oath, or on forms prescribed by the Director, or both.

2) The Director shall make such request if he or his designee finds that the material(s) originally filed are:

A) Ambiguous, or

B) Not accompanied with specific detail to support allegation(s), or

C) Not complete in substance, or

D) Otherwise do not afford sufficient information to enable the Director to determine whether a change in rates would be warranted.

e) Oral and Written Submissions Allowed

1) All interested persons shall submit data, views, comments or arguments with respect to the maximum rate schedules to be established pursuant to paragraph (a) above; and these submissions may be made either orally or in writing, or both, provided that such submissions comply with the requirements of these Rules.

2) All written submissions which set forth the information in the nature of expert testimony and/or opinions, including but not limited to statistical data, compilations, charts, diagrams, accounting procedures and/or computer printouts, must be filed with the Director at least 15 days prior to the first date for each annual rate hearing.

f) Procedure for Oral Submissions

1) Public Hearings

A) The Director shall conduct public hearings on the establishment, revision or modification of the maximum rate schedules described in paragraph (a) above. Upon written request by an interested party hearings will be conducted annually on the revision, modification or repeal of the maximum rate schedules provided that any request for an increase of the rates set forth in the maximum rate schedule must comply with the requirements of Section 19.3 of the Currency Exchange Act (Ill. Rev. Stat. 1983, ch. 17, par. 4838) and Section 125.50 of this Part.

B) Notification of the exact date or dates, times and location of the hearings must be published in a newspaper of general circulation in the State of Illinois at least forty-five (45) days prior to the commencement of the first day of the hearings.

2) Manner of Making Oral Submissions at Public Hearings

Any interested person who gives timely notice to the Director of his intention to do so as set forth in paragraph (f)(3) below may orally submit data, views, comments or arguments by testifying under oath at the public hearings with respect to the maximum rate schedules to be established by the Director.

3) Notice of Intention to Testify at Public Hearings

Any interested party wishing to testify under oath at the public hearings and submit data, views, comments or arguments on the maximum rate schedules to be established by the Director must give written notice to the Director of his or her intention to do so at least five (5) days prior to the commencement of rate-making hearings. Such notice shall be filed in person or by mail with the Director of the Department of Financial Institutions either at The State of Illinois Building, 100 W. Randolph Suite 15-700, Chicago, Illinois 60601, or at 421 East Capitol Street, Springfield, Illinois 62706. Such notice must be received by the Director no later than 5:00 PM on the fifth day preceding the commencement of the hearing. In the event that the deadline for the filing of such notice falls on a day when the Department is not open for business, then the deadline shall be extended to the next available date on which the Department is open for business. Any person failing to file timely notice under this Section will not be permitted to testify at the public hearings. However, any interested person who fails to file timely notice under this Section will not be precluded from submitting his or her views, comments, data or arguments in writing in accord with the requirements of paragraph (g). With respect to the rate-making hearings, any interested person wishing to orally offer views, comments, data or arguments by testifying under oath at said hearings must file notice of his or her intention to do so with the Director as previously set forth.

4) Availability of Transcript of Proceedings

The proceedings of the public rate-making hearings must be recorded and a transcript of the proceedings will be made available to any person at his or her cost and expense. Orders for such a transcript should be placed directly with the reporting service responsible for recording the proceedings.

5) Questioning of Persons Testifying

The Director, or any person designated by the Director to assist him in the conduct of the public hearings pursuant to paragraph(i) of this Section, may ask questions of persons testifying at said hearings.

g) Procedure for Filing Written Submissions

1) In addition to or in lieu of offering oral testimony as previously described, any interested person may submit his or her views, comments, data or arguments on the maximum rate schedules to be established by the Director in writing by filing said written submission with the Director by no later than 5:00 PM of the last day of the scheduled public hearings, except as to all written submissions which set forth information in the nature of expert testimony pursuant to paragraph (d) which written submissions must be submitted no later than 15 days prior to the first date for each annual rate hearing along with ten copies of each such written submission. Written submissions may be filed in person or by mail with the Director of the Department of Financial Institutions either at The State of Illinois Building, 100 W. Randolph Suite 15-700, Chicago, Illinois 60601, or 421 East Capitol Street, Springfield, Illinois 62706. Any written submission which is not timely filed will not be considered by the Director in establishing the maximum rate schedules.

2) Expert testimony shall be considered any testimony given by individuals with a specialized knowledge of the currency exchange business or of rate making in general.

h) Procedure for Filing Written Rebuttal Submissions

Any interested person wishing to respond to oral testimony presented at the public hearings and/or written submissions filed with the Director pursuant to paragraph (g) above, may submit his or her views, comments, data, or arguments in writing by filing said written submission with the Director by no later than 5:00 p.m. of the tenth day following the last day of the scheduled public hearings. Such written submissions may be filed in person or by mail with the Director of the Department of Financial Institutions either at the State of Illinois Building, 100 W. Randolph Suite 15-700, Chicago, Illinois 60601, or 421 East Capitol Street, Springfield, Illinois 62706. Any written submission which is not timely filed will not be considered by the Director in establishing the maximum rate schedules.

i) All Written Submissions Available for Public Inspection

All written submissions filed timely with the Director pursuant to paragraph (g) and (h) above will be available for public inspection at any time when the Department is open for business either at The State of Illinois Building, 100 W. Randolph Suite 15-700, Chicago, Illinois 60601, or at 421 East Capitol Street, Springfield, Illinois 62706.

j) Persons Authorized to Assist Director

The Director may seek and contract for legal or technical assistance and advice with persons, partnerships, corporations or businesses who are not employees of the Department in connection with the conduct of the rate-making hearings and the establishment of the maximum rate schedules. The Director may designate any such person or persons and one or more employees of the Department to assist him in the conduct of the public hearings as previously set forth and in the establishment of maximum rate schedules.

k) Filing and Effective Date of Maximum Rate Schedules

1) With respect to the rate-making hearings scheduled to take place, the Director will issue and adopt maximum rate schedules for check cashing and writing of money orders and file said rate schedules with the Administrative Code Unit of the Illinois State Library of the Secretary of State's Office in Springfield, Illinois expeditiously upon approval of said rules by the Joint Committee on Administrative Rules pursuant to the provisions of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, pars. 1001-1 et seq.) Said rates will be effective ten (10) days after such filing.

2) With respect to the future revisions, modification, amendment or repeal of the maximum rate schedules pursuant to public hearings, the Director will file a certified copy of such revisions, modifications, amendments or repeals, as the case may be, with the Administrative Code Unit of the Illinois State Library of the Secretary of State's Office in Springfield pursuant to the requirements of Section 5-40(d) of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-40(d)). Any revisions, modifications, amendments or repeals of the maximum rate schedules will be effective ten (10) days after such filing.

3) At the time the Director issues and adopts the maximum rate schedules, or emergency rates pursuant to this Section, or Section 125.30 (l), or with respect to the future revision, modification, amendment, or repeal of the maximum rate schedules, the Director will also publish in the Illinois Register a statement setting forth the Director's findings regarding the criteria established in Section 125.30(b) and the information upon which such findings are based.

l) Emergency Rates

In the event that the Director deems it appropriate, pursuant to the requirements of Section 5-45 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-45), the Director may adopt and issue emergency maximum rate schedules which may be effective for a period of not longer than 150 days.

m) Rates and Rules of Practice and Procedure Available for Public Inspection

These Rules and any maximum rate schedules, or any revisions, modifications, amendments or repeal thereof, will be available for public inspection at all times on any day the Department of Financial Institutions is open for business at the offices of the Department located either at The State of Illinois Building, 100 W. Randolph Suite 15-700, Chicago, Illinois 60601, or at 421 East Capitol Street, Springfield, Illinois 62706.

(Source: Amended at 9 Ill. Reg. 12284, effective July 30, 1985)