§ 369. Conditions precedent to issuing license; issuance and filing of license; posting license. 1. If the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant be a co-partnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this article, and if the superintendent shall find that the granting of such application will promote the convenience and advantage of the area in which such business is to be conducted, and if the superintendent shall find that the applicant has available for the operation of such business for each location and for each mobile unit specified in the application liquid assets of at least ten thousand dollars, the superintendent shall thereupon execute a license in duplicate to permit the cashing of checks, drafts and money orders in accordance with the provisions of this article at the location or in the area specified in such application. In finding whether the application will promote the convenience and advantage to the public, the superintendent shall determine whether there is a community need for a new licensee in the proposed area to be served. No license shall be issued to an applicant for a license, at a location to be licensed which is closer than one thousand five hundred eighty-four feet (three-tenths of a mile) from an existing licensee, except with the written consent of such existing licensee or pursuant to subdivision three of section three hundred seventy of this article, subject to any restriction or condition as the superintendent may promulgate by regulation; provided, however, the superintendent may permit a location to be licensed that is closer than three-tenths of a mile from an existing licensee provided such applicant engages in the cashing of checks, drafts or money orders only for payees of such checks, drafts or money orders that are other than natural persons at the location to be licensed and such applicant was engaged in the cashing of such checks, drafts or money orders for payees that are other than natural persons at such location on or before the fourteenth day of July, two thousand four, and provided further that upon licensing any such location by the superintendent, such license as it pertains solely to such location shall not be affected thereafter by any change

of control of such license pursuant to section three hundred seventy-a of this article, provided that the licensee continues thereafter to engage at that location in the cashing of checks, drafts or money orders only for payees that are other than natural persons and provided further that such license shall bear a legend stating that such location is restricted to the cashing of checks, drafts or money orders only for payees that are other than natural persons. The three-tenths of a mile distance requirement as set forth in this section shall not apply in cases where the existing licensee is a restricted location as authorized in the preceding sentence, or is any other licensed location that engages solely in the cashing of checks, drafts or money orders only for payees that are other than natural persons. For purposes of this section, such distance shall be measured on a straight line along the street between the nearest point of the store fronts of the check cashing facilities. The primary business of the licensee, at the location to be licensed, shall be financial services. The superintendent shall transmit one copy of such license to the applicant and file another in the office of the department. Notwithstanding the foregoing provisions of this subdivision, the superintendent, upon application by an applicant and for good cause shown, may permit a reduction from ten thousand dollars to not less than five thousand dollars of minimum liquid assets required for each location.

2. Such license shall state the name of the licensee; and if the licensee is a co-partnership or association, the names of the members thereof; and if the licensee is a corporation, the date of its incorporation; and if the business is to be conducted at a specific address, the address at which such business is to be conducted; and if the business is to be conducted through the use of a mobile unit, the New York state registration number or other identification of such mobile unit and the area in which such mobile unit is authorized to do business.

3. Such license shall be kept conspicuously posted in the place of business of the licensee or, in the case of a mobile unit, upon such mobile unit. Such license shall not be transferable or assignable.

4. Such license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as provided in this article.

5. If the superintendent shall find that the applicant fails to meet any of the conditions set forth in subdivision one of this section, he shall not issue such license, and he shall notify the applicant of the denial. If an application is denied or withdrawn, the superintendent shall retain the investigation fee to cover the costs of investigating the application and return the license fee to the applicant.

6. The superintendent may, consistent with article twenty-three-A of the correction law, refuse to issue a license pursuant to this article if he shall find that the applicant, or any person who is a director, officer, partner, agent, employee or substantial stockholder of the applicant, (a) has been convicted of a crime in any jurisdiction or (b) is associating or consorting with any person who has, or persons who have, been convicted of a crime or crimes in any jurisdiction or jurisdictions. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court or magistrate, or shall have been found guilty thereof by the decision or judgment of a court or magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof. The term "substantial stockholder," as used in this subdivision, shall be deemed to refer to a person owning or controlling ten per centum or more of the total outstanding stock of the corporation in which such person is a stockholder. In making a determination pursuant to this subdivision, the superintendent shall require fingerprinting of the applicant. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

7. No license pursuant to this article shall be issued to any applicant to do business at the place specified in the application as

the place where the business is to be conducted if, within the twelve months preceding such application, a license to engage in business pursuant to this article at such place shall have been revoked.