

2SHB 1980 - H AMD 264

By Representative Appleton

WITHDRAWN 03/13/2007

1 On page 3, after line 24, insert the following:

2 "Sec. 5. RCW 31.45.050 and 2003 c 86 s 5 are each amended to read
3 as follows:

4 (1) Each applicant and licensee shall pay to the director an
5 investigation or examination fee as established in rule and an annual
6 assessment fee for the coming year in an amount determined by rule as
7 necessary to cover the operation of the program. The annual assessment
8 fee is due upon the annual assessment fee due date as established in
9 rule. Nonpayment of the annual assessment fee may result in expiration
10 of the license as provided in subsection (2) of this section. In
11 establishing the fees, the director shall differentiate between check
12 cashing and check selling and making small loans, and consider at least
13 the volume of business, level of risk, and potential harm to the public
14 related to each activity. The fees collected shall be deposited to the
15 credit of the financial services regulation fund in accordance with RCW
16 43.320.110.

17 (2) If a licensee does not pay its annual assessment fee by the
18 annual assessment fee due date as specified in rule, the director or
19 the director's designee shall send the licensee a notice of suspension
20 and assess the licensee a late fee not to exceed twenty-five percent of
21 the annual assessment fee as established in rule by the director. The
22 licensee's payment of both the annual assessment fee and the late fee
23 must arrive in the department's offices by 5:00 p.m. on the tenth day
24 after the annual assessment fee due date, unless the department is not
25 open for business on that date, in which case the licensee's payment of
26 both the annual assessment fee and the late fee must arrive in the
27 department's offices by 5:00 p.m. on the next occurring day that the
28 department is open for business. If the payment of both the annual
29 assessment fee and the late fee does not arrive prior to such time and
30 date, then the expiration of the licensee's license is effective at

1 5:00 p.m. on the thirtieth day after the assessment fee due date. The
2 director or the director's designee may reinstate the license if,
3 within twenty days after the effective date of expiration, the
4 licensee:

5 (a) Pays both the annual assessment fee and the late fee; and

6 (b) Attests under penalty of perjury that it did not engage in
7 conduct requiring a license under this chapter during the period its
8 license was expired, as confirmed by an investigation by the director
9 or the director's designee.

10 (3) If a licensee intends to do business at a new location, to
11 close an existing place of business, or to relocate an existing place
12 of business, the licensee shall provide written notification of that
13 intention to the director no less than thirty days before the proposed
14 establishing, closing, or moving of a place of business.

15 (4) In addition to all other fees authorized by law, each licensee
16 shall pay to the director a fee equal to twenty-five cents per small
17 loan made by the licensee during the previous calendar year. This fee
18 is due upon the annual assessment fee due date as established in rule.
19 Each licensee shall begin collecting the fee on all loans made on or
20 after July 1, 2007.

21 NEW SECTION. Sec. 6. A new section is added to chapter 31.45 RCW
22 to read as follows:

23 The small loan financial literacy account is created in the custody
24 of the state treasurer. All receipts from the fee imposed by RCW
25 31.45.050(4) must be deposited into this account. Expenditures from
26 the account must be made in the following manner: (1) Not more than
27 seven percent of all funds deposited during the year for administering
28 the account; (2) not more than seven percent of all funds in the
29 account for investigation of licensees regulated under this chapter;
30 (3) not more than twenty-one percent of all funds in the account for
31 training consumers in the appropriate use of small loans by the
32 department of financial institutions or by grants to accredited
33 consumer credit counseling agencies; and (4) not less than sixty-five
34 percent for financial consumer education, the financial literacy
35 public-private partnership established in RCW 28A.300.450, and public
36 service announcements. The training program shall be developed by the
37 department of financial institutions. The department of financial

1 institutions shall consult with representatives of consumer advocacy
2 groups in the development of the training program. Only the director
3 or the director's designee may authorize expenditures from the account.
4 The account is subject to allotment procedures under chapter 43.88 RCW,
5 but an appropriation is not required for expenditures.

6 **Sec. 7.** RCW 31.45.110 and 2003 c 86 s 17 are each amended to read
7 as follows:

8 (1) The director may issue and serve upon a licensee or applicant
9 a statement of charges if, in the opinion of the director, any licensee
10 or applicant:

11 (a) Is engaging or has engaged in an unsafe or unsound financial
12 practice in conducting the business of a check seller governed by this
13 chapter;

14 (b) Is violating or has violated this chapter, including rules,
15 orders, or subpoenas, any rule adopted under chapter 86, Laws of 2003,
16 any order issued under chapter 86, Laws of 2003, any subpoena issued
17 under chapter 86, Laws of 2003, or any condition imposed in writing by
18 the director or the director's designee in connection with the granting
19 of any application or other request by the licensee or any written
20 agreement made with the director;

21 (c) Is about to do the acts prohibited in (a) or (b) of this
22 subsection when the opinion that the threat exists is based upon
23 reasonable cause;

24 (d) Obtains a license by means of fraud, misrepresentation,
25 concealment, or through mistake or inadvertence of the director;

26 (e) Provides false statements or omissions of material information
27 on the application that, if known, would have allowed the director to
28 deny the application for the original license;

29 (f) Fails to pay a fee required by the director or maintain the
30 required bond;

31 (g) Commits a crime against the laws of the state of Washington or
32 any other state or government involving moral turpitude, financial
33 misconduct, or dishonest dealings;

34 (h) Knowingly commits or is a party to any material fraud,
35 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
36 or device whereby any other person relying upon the word,
37 representation, or conduct acts to his or her injury or damage;

1 (i) Converts any money or its equivalent to his or her own use or
2 to the use of his or her principal or of any other person;

3 (j) Fails, upon demand by the director or the director's designee,
4 to disclose any information within his or her knowledge to, or to
5 produce any document, book, or record in his or her possession for
6 inspection of, the director or the director's designee;

7 (k) Commits any act of fraudulent or dishonest dealing, and a
8 certified copy of the final holding of any court, tribunal, agency, or
9 administrative body of competent jurisdiction regarding that act is
10 conclusive evidence in any hearing under this chapter; (~~or~~)

11 (l) Commits an act or engages in conduct that demonstrates
12 incompetence or untrustworthiness, or is a source of injury and loss to
13 the public; or

14 (m) Fails to pay the fee required under RCW 31.45.050(4).

15 (2) The statement of charges shall be issued under chapter 34.05
16 RCW. The director or the director's designee may impose the following
17 sanctions against any licensee or applicant, or any director, officer,
18 sole proprietor, partner, controlling person, or employee of a licensee
19 or applicant:

20 (a) Deny, revoke, suspend, or condition the license;

21 (b) Order the licensee to cease and desist from practices in
22 violation of this chapter or practices that constitute unsafe and
23 unsound financial practices in the sale of checks;

24 (c) Impose a fine not to exceed one hundred dollars per day for
25 each day's violation of this chapter;

26 (d) Order restitution to borrowers or other parties damaged by the
27 licensee's violation of this chapter or take other affirmative action
28 as necessary to comply with this chapter; and

29 (e) Remove from office or ban from participation in the affairs of
30 any licensee any director, officer, sole proprietor, partner,
31 controlling person, or employee of a licensee.

32 (3) The proceedings to impose the sanctions described in subsection
33 (2) of this section, including any hearing or appeal of the statement
34 of charges, are governed by chapter 34.05 RCW.

35 Unless the licensee personally appears at the hearing or is
36 represented by a duly authorized representative, the licensee is deemed
37 to have consented to the statement of charges and the sanctions imposed
38 in the statement of charges.

1 **Sec. 8.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are
2 each reenacted and amended to read as follows:

3 (1) Money in the treasurer's trust fund may be deposited, invested,
4 and reinvested by the state treasurer in accordance with RCW 43.84.080
5 in the same manner and to the same extent as if the money were in the
6 state treasury.

7 (2) All income received from investment of the treasurer's trust
8 fund shall be set aside in an account in the treasury trust fund to be
9 known as the investment income account.

10 (3) The investment income account may be utilized for the payment
11 of purchased banking services on behalf of treasurer's trust funds
12 including, but not limited to, depository, safekeeping, and
13 disbursement functions for the state treasurer or affected state
14 agencies. The investment income account is subject in all respects to
15 chapter 43.88 RCW, but no appropriation is required for payments to
16 financial institutions. Payments shall occur prior to distribution of
17 earnings set forth in subsection (4) of this section.

18 (4)(a) Monthly, the state treasurer shall distribute the earnings
19 credited to the investment income account to the state general fund
20 except under (b) and (c) of this subsection.

21 (b) The following accounts and funds shall receive their
22 proportionate share of earnings based upon each account's or fund's
23 average daily balance for the period: The Washington promise
24 scholarship account, the college savings program account, the
25 Washington advanced college tuition payment program account, the
26 agricultural local fund, the American Indian scholarship endowment
27 fund, the foster care scholarship endowment fund, the foster care
28 endowed scholarship trust fund, the students with dependents grant
29 account, the basic health plan self-insurance reserve account, the
30 contract harvesting revolving account, the Washington state combined
31 fund drive account, the commemorative works account, the Washington
32 international exchange scholarship endowment fund, the developmental
33 disabilities endowment trust fund, the energy account, the fair fund,
34 the fruit and vegetable inspection account, the future teachers
35 conditional scholarship account, the game farm alternative account, the
36 grain inspection revolving fund, the juvenile accountability incentive
37 account, the law enforcement officers' and fire fighters' plan 2
38 expense fund, the local tourism promotion account, the produce railcar

1 pool account, the regional transportation investment district account,
2 the rural rehabilitation account, the stadium and exhibition center
3 account, the youth athletic facility account, the self-insurance
4 revolving fund, the sulfur dioxide abatement account, the children's
5 trust fund, the Washington horse racing commission Washington bred
6 owners' bonus fund account, the Washington horse racing commission
7 class C purse fund account, the individual development account program
8 account, the Washington horse racing commission operating account
9 (earnings from the Washington horse racing commission operating account
10 must be credited to the Washington horse racing commission class C
11 purse fund account), the life sciences discovery fund, the small loan
12 financial literacy account, and the reading achievement account.
13 However, the earnings to be distributed shall first be reduced by the
14 allocation to the state treasurer's service fund pursuant to RCW
15 43.08.190.

16 (c) The following accounts and funds shall receive eighty percent
17 of their proportionate share of earnings based upon each account's or
18 fund's average daily balance for the period: The advanced right of way
19 revolving fund, the advanced environmental mitigation revolving
20 account, the city and county advance right-of-way revolving fund, the
21 federal narcotics asset forfeitures account, the high occupancy vehicle
22 account, the local rail service assistance account, and the
23 miscellaneous transportation programs account.

24 (5) In conformance with Article II, section 37 of the state
25 Constitution, no trust accounts or funds shall be allocated earnings
26 without the specific affirmative directive of this section."

27 Renumber the remaining section consecutively.

28 Correct the title.

EFFECT: A twenty-five cents per loan fee for small loans is added. The distribution formula for the funds raised by the fee is: (1) Not more than seven percent for administration; (2) not more than seven percent for investigations; (3) not more than 21% for a consumer training program; and (4) not less than 65% for consumer education, the Financial Public Private Partnership, and public service announcements.

The Department of Financial Institutions (DFI) must develop the consumer training program. The DFI must consult with representatives of consumer advocacy groups while developing the program.

--- END ---