
SENATE BILL 5750

State of Washington

61st Legislature

2009 Regular Session

By Senators Pridemore, Swecker, Hargrove, Kastama, Kauffman, Fairley, Kohl-Welles, Kline, Tom, Murray, Keiser, Jacobsen, and Shin

Read first time 01/30/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to protection of consumers by providing flexibility
2 in the repayment of certain debts; amending RCW 31.45.010, 31.45.073,
3 and 31.45.084; and adding a new section to chapter 31.45 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 31.45.010 and 2003 c 86 s 1 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Applicant" means a person that files an application for a
10 license under this chapter, including the applicant's sole proprietor,
11 owners, directors, officers, partners, members, and controlling
12 persons.

13 (2) "Borrower" means a natural person who receives a small loan.

14 (3) "Business day" means any day that the licensee is open for
15 business in at least one physical location.

16 (4) "Check" means the same as defined in RCW 62A.3-104(f) and, for
17 purposes of conducting the business of making small loans, includes
18 other electronic forms of payment, including stored value cards,
19 internet transfers, and automated clearing house transactions.

1 (5) "Check casher" means an individual, partnership, unincorporated
2 association, or corporation that, for compensation, engages, in whole
3 or in part, in the business of cashing checks, drafts, money orders, or
4 other commercial paper serving the same purpose.

5 (6) "Check seller" means an individual, partnership, unincorporated
6 association, or corporation that, for compensation, engages, in whole
7 or in part, in the business of or selling checks, drafts, money orders,
8 or other commercial paper serving the same purpose.

9 (7) "Collateral" means the same as defined in chapter 62A.9A RCW.

10 (8) "Controlling person" means a person owning or controlling ten
11 percent or more of the total outstanding shares of the applicant or
12 licensee, if the applicant or licensee is a corporation, and a member
13 who owns ten percent or more of a limited liability company or limited
14 liability partnership.

15 (9) "Default" means the borrower's failure to repay the small loan
16 in compliance with the terms contained in the small loan agreement or
17 note or failure to make payments in compliance with a loan payment
18 plan.

19 (10) "Director" means the director of financial institutions.

20 (11) "Financial institution" means a commercial bank, savings bank,
21 savings and loan association, or credit union.

22 (12) "Licensee" means a check casher or seller licensed by the
23 director to engage in business in accordance with this chapter. For
24 purposes of the enforcement powers of this chapter, including the power
25 to issue cease and desist orders under RCW 31.45.110, "licensee" also
26 means a check casher or seller who fails to obtain the license required
27 by this chapter.

28 (13) "Origination date" means the date upon which the borrower and
29 the licensee initiate a small loan transaction.

30 (14) "Outstanding principal balance" of a small loan means any of
31 the principal amount that has not been paid by the borrower.

32 (15) "Paid" means that moment in time when the licensee deposits
33 the borrower's check or accepts cash for the full amount owing on a
34 valid small loan.

35 (16) "Person" means an individual, partnership, association,
36 limited liability company, limited liability partnership, trust,
37 corporation, and any other legal entity.

1 (17) "Principal" means the loan proceeds advanced for the benefit
2 of the borrower in a small loan, excluding any fee or interest charge.

3 (18) "Rescission" means annulling the loan contract and, with
4 respect to the small loan contract, returning the borrower and the
5 licensee to their financial condition prior to the origination date of
6 the loan.

7 (19) "Small loan" means a loan of up to the maximum amount and for
8 a period of time up to the maximum term specified in RCW 31.45.073.

9 ~~((20) ("Successive loans" means a series of loans made by the same
10 licensee to the same borrower in such a manner that no more than three
11 business days separate the termination date of any one loan and the
12 origination date of any other loan in the series.~~

13 ~~(21))~~ "Termination date" means the date upon which payment for the
14 small loan transaction is due or paid to the licensee, whichever occurs
15 first.

16 ~~((22))~~ (21) "Total of payments" means the principal amount of the
17 small loan plus all fees or interest charged on the loan.

18 ~~((23))~~ (22) "Trade secret" means the same as defined in RCW
19 19.108.010.

20 **Sec. 2.** RCW 31.45.073 and 2003 c 86 s 8 are each amended to read
21 as follows:

22 (1) No licensee may engage in the business of making small loans
23 without first obtaining a small loan endorsement to its license from
24 the director in accordance with this chapter. An endorsement will be
25 required for each location where a licensee engages in the business of
26 making small loans, but a small loan endorsement may authorize a
27 licensee to make small loans at a location different than the licensed
28 locations where it cashes or sells checks. A licensee may have more
29 than one endorsement.

30 (2) The termination date of a small loan may not exceed the
31 origination date of that same small loan by ~~((more than forty five))~~
32 less than sixty days, including weekends and holidays~~((, unless the
33 term of the loan is extended by agreement of both the borrower and the
34 licensee and no additional fee or interest is charged))~~. The maximum
35 principal amount of any small loan, or the outstanding principal
36 balances of all small loans made by a licensee to a single borrower at
37 any one time, may not exceed seven hundred dollars.

1 (3) A licensee that has obtained the required small loan
2 endorsement may charge interest or fees for small loans not to exceed
3 in the aggregate (~~(fifteen percent of the first five hundred dollars of~~
4 ~~principal. If the principal exceeds five hundred dollars, a licensee~~
5 ~~may charge interest or fees not to exceed in the aggregate ten percent~~
6 ~~of that portion of the principal in excess of five hundred dollars. If~~
7 ~~a licensee makes more than one loan to a single borrower, and the~~
8 ~~aggregated principal of all loans made to that borrower exceeds five~~
9 ~~hundred dollars at any one time, the licensee may charge interest or~~
10 ~~fees not to exceed in the aggregate ten percent on that portion of the~~
11 ~~aggregated principal of all loans at any one time that is in excess of~~
12 ~~five hundred dollars. The director may determine by rule which fees,~~
13 ~~if any, are not subject to the interest or fee limitations described in~~
14 ~~this section)) ten percent of principal. The licensee may not charge~~
15 ~~any penalty, fee, or charge to the borrower for prepayment of the loan~~
16 ~~by the borrower.~~ It is a violation of this chapter for any licensee to
17 knowingly loan to a single borrower at any one time, in a single loan
18 or in the aggregate, more than the maximum principal amount described
19 in this section.

20 (4) In connection with making a small loan, a licensee may advance
21 moneys on the security of a postdated check. The licensee may not
22 accept any other property, title to property, or other evidence of
23 ownership of property as collateral for a small loan. The licensee may
24 accept only one postdated check per loan as security for the loan. A
25 licensee may permit a borrower to redeem a postdated check with a
26 payment of cash or the equivalent of cash. The licensee must return
27 any postdated check when the borrower enters into a payment plan as
28 provided for in RCW 31.45.084. The licensee may disburse the proceeds
29 of a small loan in cash, in the form of a check, or in the form of the
30 electronic equivalent of cash or a check.

31 (5) No person may at any time cash or advance any moneys on a
32 postdated check or draft in excess of the amount of goods or services
33 purchased without first obtaining a small loan endorsement to a check
34 casher or check seller license.

35 **Sec. 3.** RCW 31.45.084 and 2003 c 86 s 12 are each amended to read
36 as follows:

37 (1) (~~A licensee and borrower may agree to a payment plan for a~~

1 ~~small loan at any time. After four successive loans and prior to~~
2 ~~default upon the last loan, each))~~ If a borrower cannot repay a loan
3 when it is due, the borrower may convert their small loan to a payment
4 plan. Each agreement for a loan payment plan must be in writing and
5 acknowledged by both the borrower and the licensee. The licensee may
6 charge the borrower(, at the time both parties enter into the payment
7 plan, a one-time fee for the payment plan in)) an amount up to ((the
8 ~~fee or interest)) five percent on the outstanding principal of the loan~~
9 ~~((as allowed under RCW 31.45.073(3)))).~~ The amount charged must be
10 financed in the payment plan. The licensee may not assess any other
11 fee, interest charge, or other charge on the borrower as a result of
12 converting the small loan into a payment plan. This payment plan must
13 provide for the payment of the total of payments due on the small loan
14 over a period not less than ((~~sixty~~)) thirty days per hundred dollars
15 borrowed in ((three or more payments, unless the borrower and licensee
16 agree to a shorter payment period)) equal, fifteen-day installments.
17 The borrower may pay the total of payments at any time. The licensee
18 may not charge any penalty, fee, or charge to the borrower for
19 prepayment of the loan payment plan by the borrower. Each licensee
20 shall conspicuously disclose to each borrower in the small loan
21 agreement or small loan note that the borrower has access to such a
22 payment plan ((~~after four successive loans~~)). A licensee's violation
23 of such a payment plan constitutes a violation of this chapter.

24 (2) The licensee ((~~may take~~)) must return any postdated checks that
25 the borrower has given to the licensee at the initiation of the payment
26 plan ((~~for the payments agreed to under the plan. If any check~~
27 ~~accepted by the licensee as payment under the payment plan is~~
28 ~~dishonored, the licensee may not charge the borrower any fee for the~~
29 ~~dishonored check~~)).

30 (3) A borrower defaults on a payment plan by failing to make two
31 consecutive installment payments. If the borrower defaults on the
32 payment plan, the licensee may ((~~initiate action to collect the total~~
33 ~~of payments under RCW 31.45.082. The licensee may charge the borrower~~
34 ~~a one-time payment plan default fee of twenty-five dollars~~)) collect
35 the entire outstanding amount.

36 (4) If the licensee enters into a payment plan with the borrower
37 through an accredited third party, with certified credit counselors,

1 that is representing the borrower, the licensee's failure to comply
2 with the terms of that payment plan constitutes a violation of this
3 chapter.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 31.45 RCW
5 to read as follows:

6 The director must collect and submit the following information in
7 a report to the financial services committees of the senate and house
8 of representatives:

9 (1) The number of borrowers entered into a payment plan since the
10 effective date of this section;

11 (2) How the number of borrowers in payment plans compares to the
12 number of borrowers in payment plans in years previous to the effective
13 date of this section;

14 (3) The number of borrowers who have defaulted since the effective
15 date of this section;

16 (4) If known on the effective date of this section, how the number
17 of borrowers who have defaulted compares to the number of borrowers who
18 defaulted in years previous to the effective date of this section; and

19 (5) Any other information that the director believes is relevant or
20 useful.

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