
SUBSTITUTE HOUSE BILL 2019

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Green, Schual-Berke, Kenney, Darneille, Cody, Dickerson, Kagi, Hasegawa, McCoy, McDermott, Lantz, Lovick, Hudgins, Conway, Kessler, P. Sullivan, Hunt, Flannigan, Morrell, O'Brien, B. Sullivan, Moeller, Chase, Quall, McIntire, Williams, Kirby, Ericks, Ormsby and Upthegrove)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to small loans; amending RCW 31.45.060, 31.45.073,
2 31.45.090, and 31.45.100; and adding a new section to chapter 31.45
3 RCW.

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

5 **Sec. 1.** RCW 31.45.060 and 2003 c 86 s 6 are each amended to read
6 as follows:

7 (1) A schedule of the fees and the charges for the cashing and
8 selling of checks, drafts, money orders, or other commercial paper
9 serving the same purpose shall be conspicuously and continuously posted
10 in every location licensed under this chapter. The licensee shall
11 provide to its customer a receipt for each transaction. The receipt
12 must include the name of the licensee, the type and amount of the
13 transaction, and the fee or fees charged for the transaction.

14 (2) Each licensee shall keep and maintain such business books,
15 accounts, and records as the director may require in rule to fulfill
16 the purposes of this chapter and shall provide the director with any
17 data required in rule by the department for monitoring the business of
18 check cashing and selling in Washington state and a licensee's
19 participation in furthering financial literacy through the public-

1 private partnership authorized in RCW 28A.300.450. Every licensee
2 shall preserve such books, accounts, and records as required in rule by
3 the director for at least two years from the completion of the
4 transaction. Records may be maintained on an electronic, magnetic,
5 optical, or other storage media. However, the licensee must maintain
6 the necessary technology to permit access to the records by the
7 department for the period required under this chapter.

8 (3) A check, draft, or money order sold by a licensee shall be
9 drawn on an account of a licensee maintained in a federally insured
10 financial institution authorized to do business in the state of
11 Washington.

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

14 (1) No licensee may engage in the business of making small loans
15 without first obtaining a small loan endorsement to its license from
16 the director in accordance with this chapter. An endorsement will be
17 required for each location where a licensee engages in the business of
18 making small loans, but a small loan endorsement may authorize a
19 licensee to make small loans at a location different than the licensed
20 locations where it cashes or sells checks. A licensee may have more
21 than one endorsement.

22 (2) The termination date of a small loan may not exceed the
23 origination date of that same small loan by more than forty-five days,
24 including weekends and holidays, unless the term of the loan is
25 extended by agreement of both the borrower and the licensee and no
26 additional fee or interest is charged. The maximum principal amount of
27 any small loan, or the outstanding principal balances of all small
28 loans made by a licensee to a single borrower at any one time, may not
29 exceed seven hundred dollars. Each licensee shall conspicuously
30 disclose in writing to the borrower in the loan application that if the
31 origination date of the small loan is within ten days of the borrower's
32 next payday, the borrower has the option of skipping a payday and
33 having the loan repaid out of a subsequent paycheck within forty-five
34 days at no additional fee or interest.

35 (3) A licensee that has obtained the required small loan
36 endorsement may charge interest or fees for small loans not to exceed
37 in the aggregate fifteen percent of the first five hundred dollars of

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

15 (4) In connection with making a small loan, a licensee may advance
16 moneys on the security of a postdated check. The licensee may not
17 accept any other property, title to property, or other evidence of
18 ownership of property as collateral for a small loan. The licensee may
19 accept only one postdated check per loan as security for the loan. A
20 licensee may permit a borrower to redeem a postdated check with a
21 payment of cash or the equivalent of cash. The licensee may disburse
22 the proceeds of a small loan in cash, in the form of a check, or in the
23 form of the electronic equivalent of cash or a check.

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

28 **Sec. 3.** RCW 31.45.090 and 2003 c 86 s 15 are each amended to read
29 as follows:

30 (1) Each licensee shall submit to the director, in a form approved
31 by the director, a report containing financial statements as defined by
32 rule covering the calendar year or, if the licensee has an established
33 fiscal year, then for such fiscal year, within one hundred five days
34 after the close of each calendar or fiscal year. The licensee shall
35 also file such additional relevant information as the director may
36 require by rule. Any information provided by a licensee in an annual
37 report that constitutes a trade secret under chapter 19.108 RCW is

1 exempt from disclosure under chapter 42.17 RCW, unless aggregated with
2 information supplied by other licensees in such a manner that the
3 licensee's individual information is not identifiable. Any information
4 provided by the licensee that allows identification of the licensee may
5 only be used for purposes reasonably related to the regulation of
6 licensees to ensure compliance with this chapter.

7 (2) A licensee whose license has been suspended or revoked shall
8 submit to the director, at the licensee's expense, within one hundred
9 five days after the effective date of such surrender or revocation, a
10 closing audit report containing audited financial statements as of such
11 effective date for the twelve months ending with such effective date.

12 (3) The director shall adopt rules specifying the form and content
13 of such audit reports and may require by rule additional reporting as
14 is necessary for the director to ensure compliance with this chapter.

15 **Sec. 4.** RCW 31.45.100 and 2003 c 86 s 16 are each amended to read
16 as follows:

17 (1)(a)(i) The director or the director's designee may at any time
18 examine and investigate the business and examine the books, accounts,
19 records, and files, or other information, wherever located, of any
20 licensee or person who the director has reason to believe is engaging
21 in the business governed by this chapter.

22 (ii) In conducting the examination of the business, the director
23 shall investigate and assess the record of performance of the business
24 in meeting the credit needs of the entire community in which the
25 business is located, including the needs of low- and moderate-income
26 neighborhoods. However, the director shall not investigate or assess
27 the record of performance of businesses that do not extend credit.

28 (b) For these purposes, the director or the director's designee may
29 require the attendance of and examine under oath all persons whose
30 testimony may be required about the business or the subject matter of
31 the investigation. The director or the director's designee may require
32 the production of original books, accounts, records, files, or other
33 information, or may make copies of such original books, accounts,
34 records, files, or other information. The director or the director's
35 designee may issue a subpoena or subpoena duces tecum requiring
36 attendance and testimony, or the production of the books, accounts,
37 records, files, or other information.

1 (c) The director shall collect from the licensee the actual cost of
2 the examination or investigation.

3 (2) In making an investigation required under subsection (1) of
4 this section, the director shall consider, independent of any federal
5 determination, the following factors in assessing the business's record
6 of performance:

7 (a) Activities conducted by the business to ascertain credit needs
8 of its community, including the extent of the business's efforts to
9 communicate with members of its community regarding the credit services
10 being provided by the business;

11 (b) The extent of the business's marketing and special credit-
12 related programs to make members of the community aware of the credit
13 services offered by the institution;

14 (c) The extent of participation by the institution's board of
15 directors or board of trustees in formulating the business's policies
16 and reviewing its performance with respect to the purposes of the
17 community reinvestment act of 1977;

18 (d) Any practices intended to discourage applications for types of
19 credit set forth in the business's community reinvestment act
20 statements;

21 (e) The geographic distribution of the business's credit
22 extensions, credit applications, and credit denials;

23 (f) Evidence of prohibited discriminatory or other illegal credit
24 practices;

25 (g) The business's record of opening and closing offices and
26 providing services at offices;

27 (h) The business's participation, including investments, in local
28 community development projects;

29 (i) The business's ability to meet various community credit needs
30 based on its financial condition, size, legal impediments, local
31 economic condition, and other factors; and

32 (j) Other factors that, in the judgment of the director, reasonably
33 bear upon the extent to which a business is helping to meet the credit
34 needs of its entire community.

35 (3) The director shall include as part of the examination report,
36 a summary of the results of the assessment required under subsection
37 (1) of this section and shall assign to each business a numerical

1 community reinvestment rating based on a one through five scoring
2 system. Such numerical scores shall represent performance assessments
3 as follows:

- 4 (a) Excellent performance: 1
- 5 (b) Good performance: 2
- 6 (c) Satisfactory performance: 3
- 7 (d) Inadequate performance: 4
- 8 (e) Poor performance: 5

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

11 By January 1, 2006, the director shall adopt all rules necessary to
12 implement RCW 31.45.100.

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