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SENATE BILL 5686

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State of Washington

59th Legislature

2005 Regular Session

By Senators Fairley, Kline and Rasmussen

Read first time 02/02/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to check cashers and sellers; and amending RCW  
2 31.45.010 and 31.45.079.

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

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

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

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

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

13 (3) "Broker" means a person engaged in brokering as defined in  
14 subsection (4) of this section.

15 (4) "Brokering" means receiving compensation or gain of any kind,  
16 directly or indirectly, in connection with (a) assisting a consumer in  
17 applying for or obtaining a small loan from a licensee or exempt  
18 entity, (b) referring a consumer to a licensee or exempt entity for the  
19 purpose of obtaining a small loan, or (c) advertising or soliciting for

1 or on behalf of a licensee or exempt entity, or otherwise holding  
2 oneself out to the public as being engaged in (a), (b), or (c) of this  
3 subsection.

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

6 ~~((+4))~~ (6) "Check" means the same as defined in RCW 62A.3-104(f)  
7 and, for purposes of conducting the business of making small loans,  
8 includes other electronic forms of payment, including stored value  
9 cards, internet transfers, and automated clearing house transactions.

10 ~~((+5))~~ (7) "Check casher" means an individual, partnership,  
11 unincorporated association, or corporation that, for compensation,  
12 engages, in whole or in part, in the business of cashing checks,  
13 drafts, money orders, or other commercial paper serving the same  
14 purpose.

15 ~~((+6))~~ (8) "Check seller" means an individual, partnership,  
16 unincorporated association, or corporation that, for compensation,  
17 engages, in whole or in part, in the business of or selling checks,  
18 drafts, money orders, or other commercial paper serving the same  
19 purpose.

20 ~~((+7))~~ (9) "Collateral" means the same as defined in chapter  
21 62A.9A RCW.

22 ~~((+8))~~ (10) "Controlling person" means a person owning or  
23 controlling ten percent or more of the total outstanding shares of the  
24 applicant or licensee, if the applicant or licensee is a corporation,  
25 and a member who owns ten percent or more of a limited liability  
26 company or limited liability partnership.

27 ~~((+9))~~ (11) "Default" means the borrower's failure to repay the  
28 small loan in compliance with the terms contained in the small loan  
29 agreement or note or failure to make payments in compliance with a loan  
30 payment plan.

31 ~~((+10))~~ (12) "Director" means the director of financial  
32 institutions.

33 ~~((+11))~~ (13) "Financial institution" means a commercial bank,  
34 savings bank, savings and loan association, or credit union.

35 ~~((+12))~~ (14) "Licensee" means a check casher or seller licensed by  
36 the director to engage in business in accordance with this chapter.  
37 For purposes of the enforcement powers of this chapter, including the

1 power to issue cease and desist orders under RCW 31.45.110, "licensee"  
2 also means a check casher or seller who fails to obtain the license  
3 required by this chapter.

4 ~~((+13+))~~ (15) "Origination date" means the date upon which the  
5 borrower and the licensee initiate a small loan transaction.

6 ~~((+14+))~~ (16) "Outstanding principal balance" of a small loan means  
7 any of the principal amount that has not been paid by the borrower.

8 ~~((+15+))~~ (17) "Paid" means that moment in time when the licensee  
9 deposits the borrower's check or accepts cash for the full amount owing  
10 on a valid small loan.

11 ~~((+16+))~~ (18) "Person" means an individual, partnership,  
12 association, limited liability company, limited liability partnership,  
13 trust, corporation, and any other legal entity.

14 ~~((+17+))~~ (19) "Principal" means the loan proceeds advanced for the  
15 benefit of the borrower in a small loan, excluding any fee or interest  
16 charge.

17 ~~((+18+))~~ (20) "Rescission" means annulling the loan contract and,  
18 with respect to the small loan contract, returning the borrower and the  
19 licensee to their financial condition prior to the origination date of  
20 the loan.

21 ~~((+19+))~~ (21) "Servicer" means a person who engages in the  
22 servicing of a small loan for a licensee or exempt entity.

23 (22) "Servicing" means to service a small loan, or a refinance of  
24 a small loan, for a licensee or exempt entity, including, without  
25 limitation, collection activities by contract or salaried employees of  
26 the servicer who are not independent attorneys or collection agencies.

27 (23) "Small loan" means a loan of up to the maximum amount and for  
28 a period of time up to the maximum term specified in RCW 31.45.073.

29 ~~((+20+))~~ (24) "Successive loans" means a series of loans made by  
30 the same licensee to the same borrower in such a manner that no more  
31 than three business days separate the termination date of any one loan  
32 and the origination date of any other loan in the series.

33 ~~((+21+))~~ (25) "Termination date" means the date upon which payment  
34 for the small loan transaction is due or paid to the licensee,  
35 whichever occurs first.

36 ~~((+22+))~~ (26) "Total of payments" means the principal amount of the  
37 small loan plus all fees or interest charged on the loan.

1           ((+23+)) (27) "Trade secret" means the same as defined in RCW  
2 19.108.010.

3           **Sec. 2.** RCW 31.45.079 and 2003 c 86 s 10 are each amended to read  
4 as follows:

5           A person may not engage in the business of brokering, servicing, or  
6 making small loans as an agent, broker, or servicer for a licensee or  
7 exempt entity without first obtaining a small loan endorsement to a  
8 check casher or check seller license under this chapter. An agent,  
9 broker, or servicer of a licensee or exempt entity engaged in the  
10 business of making small loans is subject to this chapter. To the  
11 extent that federal law preempts the applicability of any part of this  
12 chapter, all other parts of this chapter remain in effect.

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