

HB 1027 - H AMD 402

By Representative Santos

1 On page 2, after line 3, insert the following:

2 "Sec. 2. 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 ten cents per small loan made
17 by the licensee during the previous calendar year. This fee is due
18 upon the annual assessment fee due date as established in rule. Each
19 licensee shall begin collecting the fee on all loans made on or after
20 July 1, 2007.

21 NEW SECTION. Sec. 3. A new section is added to chapter 31.45 RCW
22 to read as follows:

23 The small loan enforcement and financial literacy account is
24 created in the custody of the state treasurer. All receipts from the
25 fee imposed by RCW 31.45.050(4) must be deposited into the account.
26 Expenditures from the account must be made in the following manner:

27 (1) Not more than thirty percent of all funds deposited during the year
28 for investigation of licensees regulated under this chapter and
29 enforcement activities; and (2) not less than seventy percent for the
30 financial literacy public-private partnership established in RCW
31 28A.300.450. Only the director or the director's designee may
32 authorize expenditures from the account. The account is subject to
33 allotment procedures under chapter 43.88 RCW, but an appropriation is
34 not required for expenditures.

35 **Sec. 4.** RCW 31.45.110 and 2003 c 86 s 17 are each amended to read
36 as follows:

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

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

7 (b) Is violating or has violated this chapter, including rules,
8 orders, or subpoenas, any rule adopted under chapter 86, Laws of 2003,
9 any order issued under chapter 86, Laws of 2003, any subpoena issued
10 under chapter 86, Laws of 2003, or any condition imposed in writing by
11 the director or the director's designee in connection with the granting
12 of any application or other request by the licensee or any written
13 agreement made with the director;

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

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

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

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

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

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

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

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

37 (k) Commits any act of fraudulent or dishonest dealing, and a

1 certified copy of the final holding of any court, tribunal, agency, or
2 administrative body of competent jurisdiction regarding that act is
3 conclusive evidence in any hearing under this chapter; (~~or~~)

4 (1) Commits an act or engages in conduct that demonstrates
5 incompetence or untrustworthiness, or is a source of injury and loss to
6 the public; or

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

8 (2) The statement of charges shall be issued under chapter 34.05
9 RCW. The director or the director's designee may impose the following
10 sanctions against any licensee or applicant, or any director, officer,
11 sole proprietor, partner, controlling person, or employee of a licensee
12 or applicant:

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

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

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

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

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

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

28 Unless the licensee personally appears at the hearing or is
29 represented by a duly authorized representative, the licensee is deemed
30 to have consented to the statement of charges and the sanctions imposed
31 in the statement of charges.

32 **Sec. 5.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are
33 each reenacted and amended to read as follows:

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

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

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

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

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

1 class C purse fund account, the individual development account program
2 account, the Washington horse racing commission operating account
3 (earnings from the Washington horse racing commission operating account
4 must be credited to the Washington horse racing commission class C
5 purse fund account), the life sciences discovery fund, the small loan
6 enforcement and financial literacy account, and the reading achievement
7 account. However, the earnings to be distributed shall first be
8 reduced by the allocation to the state treasurer's service fund
9 pursuant to RCW 43.08.190.

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

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

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

23 After the director or the director's designee examines or
24 investigates a licensee that makes small loans, the director or the
25 director's designee must provide the licensee with an explanatory
26 statement of the work done in the examination and the costs associated
27 with the examination or investigation."

28 Correct the title.

EFFECT: A fee of ten cents is placed on each small loan. Thirty
percent of the funds raised by the fee are dedicated to investigation
and enforcement activities related to licensees who make small loans.
Seventy percent of the funds go to the Financial Literacy
Public-Private Partnership. After the investigation of a licensee
that makes small loans, the Director of the Department of Financial

Institutions must provide a written explanation concerning the investigation and the costs billed to the licensee.

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