
HOUSE BILL 2385

State of Washington

60th Legislature

2007 Regular Session

By Representatives Green and Appleton

Read first time 03/14/2007. Referred to Committee on Insurance,
Financial Services & Consumer Protection.

1 AN ACT Relating to small loan rollovers; and amending RCW 31.45.010
2 and 31.45.073.

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

15 (4) "Check" means the same as defined in RCW 62A.3-104(f) and, for
16 purposes of conducting the business of making small loans, includes
17 other electronic forms of payment, including stored value cards,
18 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) "Rollover" is any loan made by a licensee to a borrower within
8 twenty-four hours after the repayment of a previous small loan made by
9 that licensee to that borrower.

10 (20) "Small loan" means a loan of up to the maximum amount and for
11 a period of time up to the maximum term specified in RCW 31.45.073.

12 ((+20+)) (21) "Successive loans" means a series of loans made by
13 the same licensee to the same borrower in such a manner that no more
14 than three business days separate the termination date of any one loan
15 and the origination date of any other loan in the series.

16 ((+21+)) (22) "Termination date" means the date upon which payment
17 for the small loan transaction is due or paid to the licensee,
18 whichever occurs first.

19 ((+22+)) (23) "Total of payments" means the principal amount of the
20 small loan plus all fees or interest charged on the loan.

21 ((+23+)) (24) "Trade secret" means the same as defined in RCW
22 19.108.010.

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

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

33 (2) The termination date of a small loan may not exceed the
34 origination date of that same small loan by more than forty-five days,
35 including weekends and holidays, unless the term of the loan is
36 extended by agreement of both the borrower and the licensee and no
37 additional fee or interest is charged. The maximum principal amount of

1 any small loan, or the outstanding principal balances of all small
2 loans made by a licensee to a single borrower at any one time, may not
3 exceed seven hundred dollars.

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

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

30 (5) No licensee may make a loan that is a rollover.

31 (6) 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.

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