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HOUSE BILL 1807

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State of Washington

61st Legislature

2009 Regular Session

By Representative Kelley

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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