

ESSB 5312 - S AMD 358
By Senator Hobbs

NOT CONSIDERED

1 Strike everything after the enacting clause and insert the
2 following:

3 "CHECK CASHERS AND SELLERS

4 **Sec. 1.** RCW 31.45.010 and 2012 c 17 s 7 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))~~ The definitions in this
8 section apply throughout this subchapter unless the context clearly
9 requires otherwise.

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

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

15 ~~(3) "Business day" means any day that the licensee is open for~~
16 ~~business in at least one physical location.~~

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

21 ~~((+5))~~ (3) "Check casher" means an individual, partnership,
22 unincorporated association, or corporation that, for compensation,
23 engages, in whole or in part, in the business of cashing checks,
24 drafts, money orders, or other commercial paper serving the same
25 purpose.

26 ~~((+6))~~ (4) "Check seller" means an individual, partnership,
27 unincorporated association, or corporation that, for compensation,
28 engages, in whole or in part, in the business of or selling checks,

1 drafts, money orders, or other commercial paper serving the same
2 purpose.

3 ~~((7) "Collateral" means the same as defined in chapter 62A.9A RCW.~~
4 ~~(8))~~ (5) "Controlling person" means a person owning or controlling
5 ten percent or more of the total outstanding shares of the applicant or
6 licensee, if the applicant or licensee is a corporation, and a member
7 who owns ten percent or more of a limited liability company or limited
8 liability partnership.

9 ~~((9) "Default" means the borrower's failure to repay the small
10 loan in compliance with the terms contained in the small loan agreement
11 or note or failure to pay any installment plan payment on an
12 installment plan within ten days after the date upon which the
13 installment was scheduled to be paid.~~

14 ~~(10))~~ (6) "Department" means the department of financial
15 institutions.

16 (7) "Director" means the director of financial institutions.

17 ~~((11))~~ (8) "Financial institution" means a commercial bank,
18 savings bank, savings and loan association, or credit union.

19 ~~((12) "Installment plan" is a contract between a licensee and
20 borrower that provides that the loaned amount will be repaid in
21 substantially equal installments scheduled on or after a borrower's pay
22 dates and no less than fourteen days apart.~~

23 ~~(13))~~ (9) "Licensee" means a check casher or seller licensed by
24 the director to engage in business in accordance with this ~~((chapter))~~
25 subchapter. "Licensee" also means a check casher or seller, whether
26 located within or outside of this state, who fails to obtain the
27 license ~~((or small loan endorsement))~~ required by this ~~((chapter))~~
28 subchapter.

29 ~~((14) "Loaned amount" means the outstanding principal balance and
30 any fees authorized under RCW 31.45.073 that have not been paid by the
31 borrower.~~

32 ~~(15) "Origination date" means the date upon which the borrower and
33 the licensee initiate a small loan transaction.~~

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

36 ~~(17) "Paid" means that moment in time when the licensee deposits
37 the borrower's check or accepts cash for the full amount owing on a~~

1 ~~valid small loan. If the borrower's check is returned by the~~
2 ~~borrower's bank for any reason, the licensee shall not consider the~~
3 ~~loan paid.~~

4 ~~(18))~~ (10) "Person" means an individual, partnership, association,
5 limited liability company, limited liability partnership, trust,
6 corporation, and any other legal entity.

7 ~~((19) "Principal" means the loan proceeds advanced for the benefit~~
8 ~~of the borrower in a small loan, excluding any fee or interest charge.~~

9 ~~(20) "Rescission" means annulling the loan contract and, with~~
10 ~~respect to the small loan contract, returning the borrower and the~~
11 ~~licensee to their financial condition prior to the origination date of~~
12 ~~the loan.~~

13 ~~(21) "Small loan" means a loan of up to the maximum amount and for~~
14 ~~a period of time up to the maximum term specified in RCW 31.45.073.~~

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

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

20 ~~(24) "Trade secret" means the same as defined in RCW 19.108.010.)~~

21 **Sec. 2.** RCW 31.45.020 and 2003 c 86 s 2 are each amended to read
22 as follows:

23 (1) This ~~(chapter)~~ subchapter does not apply to:

24 (a) Any financial institution or trust company authorized to do
25 business in Washington;

26 (b) The cashing of checks, drafts, or money orders by any person
27 who cashes checks, drafts, or money orders as a convenience, as a minor
28 part of its customary business, and not for profit;

29 (c) The issuance or sale of checks, drafts, or money orders by any
30 corporation, partnership, or association that has a net worth of not
31 less than three million dollars as shown by audited financial
32 statements; and

33 (d) The issuance or sale of checks, drafts, money orders, or other
34 commercial paper serving the same purpose by any agent of a
35 corporation, partnership, or association described in (c) of this
36 subsection.

1 (2) Upon application to the director, the director may exempt a
2 person from any or all provisions of this (~~chapter~~) subchapter upon
3 a finding by the director that although not otherwise exempt under this
4 section, the applicant is not primarily engaged in the business of
5 cashing or selling checks and a total or partial exemption would not be
6 detrimental to the public.

7 **Sec. 3.** RCW 31.45.030 and 2005 c 274 s 255 are each amended to
8 read as follows:

9 (1) Except as provided in RCW 31.45.020, no check casher or seller
10 may engage in business without first obtaining a license from the
11 director in accordance with this (~~chapter~~) subchapter. A license is
12 required for each location where a licensee engages in the business of
13 cashing or selling checks or drafts.

14 (2) Each application for a license (~~shall~~) must be in writing in
15 a form prescribed by the director and (~~shall~~) must contain the
16 following information:

17 (a) The legal name, residence, and business address of the
18 applicant and, if the applicant is a partnership, association, or
19 corporation, of every member, officer, and director thereof;

20 (b) The location where the initial registered office of the
21 applicant will be located in this state;

22 (c) The complete address of any other locations at which the
23 applicant proposes to engage in business as a check casher or seller;
24 and

25 (d) Such other data, financial statements, and pertinent
26 information as the director may require with respect to the applicant,
27 its directors, trustees, officers, members, or agents.

28 (3) Any information in the application regarding the personal
29 residential address or telephone number of the applicant, and any trade
30 secret as defined in RCW 19.108.010 including any financial statement
31 that is a trade secret, is exempt from the public records disclosure
32 requirements of chapter 42.56 RCW.

33 (4) The application (~~shall~~) must be filed together with an
34 investigation and supervision fee established by rule by the director.
35 Such fees collected (~~shall~~) must be deposited to the credit of the
36 financial services regulation fund in accordance with RCW 43.320.110.

1 (5)(a) Before granting a license to sell checks, drafts, or money
2 orders under this ~~((chapter))~~ subchapter, the director ~~((shall))~~ must
3 require that the licensee file with the director a surety bond running
4 to the state of Washington, which bond ~~((shall))~~ must be issued by a
5 surety insurer which meets the requirements of chapter 48.28 RCW, and
6 be in a format acceptable to the director. The director ~~((shall))~~ must
7 adopt rules to determine the penal sum of the bond that ~~((shall))~~ must
8 be filed by each licensee. The bond ~~((shall))~~ must be conditioned upon
9 the licensee paying all persons who purchase checks, drafts, or money
10 orders from the licensee the face value of any check, draft, or money
11 order which is dishonored by the drawee bank, savings bank, or savings
12 and loan association due to insufficient funds or by reason of the
13 account having been closed. The bond ~~((shall))~~ is only ~~((be))~~ liable
14 for the face value of the dishonored check, draft, or money order, and
15 ~~((shall))~~ is not ~~((be))~~ liable for any interest or consequential
16 damages.

17 ~~((b))~~ ~~((Before granting a small loan endorsement under this chapter,~~
18 ~~the director shall require that the licensee file with the director a~~
19 ~~surety bond, in a format acceptable to the director, issued by a surety~~
20 ~~insurer that meets the requirements of chapter 48.28 RCW. The director~~
21 ~~shall adopt rules to determine the penal sum of the bond that shall be~~
22 ~~filed by each licensee. A licensee who wishes to engage in both check~~
23 ~~selling and making small loans may combine the penal sums of the~~
24 ~~bonding requirements and file one bond in a form acceptable to the~~
25 ~~director. The bond shall run to the state of Washington as obligee,~~
26 ~~and shall run to the benefit of the state and any person or persons who~~
27 ~~suffer loss by reason of the licensee's violation of this chapter or~~
28 ~~any rules adopted under this chapter. The bond shall only be liable~~
29 ~~for damages suffered by borrowers as a result of the licensee's~~
30 ~~violation of this chapter or rules adopted under this chapter, and~~
31 ~~shall not be liable for any interest or consequential damages.~~

32 ~~((e))~~ The bond ~~((shall))~~ must be continuous and may be canceled by
33 the surety upon the surety giving written notice to the director and
34 licensee of its intent to cancel the bond. The cancellation is
35 effective thirty days after the notice is received by the director.
36 Whether or not the bond is renewed, continued, reinstated, reissued, or
37 otherwise extended, replaced, or modified, including increases or
38 decreases in the penal sum, it ~~((shall))~~ must be considered one

1 continuous obligation, and the surety upon the bond (~~shall~~) is not
2 (~~be~~) liable in an aggregate or cumulative amount exceeding the penal
3 sum set forth on the face of the bond. In no event (~~shall~~) may the
4 penal sum, or any portion thereof, at two or more points in time be
5 added together in determining the surety's liability. The bond
6 (~~shall~~) is not (~~be~~) liable for any liability of the licensee for
7 tortious acts, whether or not such liability is imposed by statute or
8 common law, or is imposed by contract. The bond (~~shall~~) may not be
9 a substitute or supplement to any liability or other insurance required
10 by law or by the contract. If the surety desires to make payment
11 without awaiting court action against it, the penal sum of the bond
12 (~~shall~~) must be reduced to the extent of any payment made by the
13 surety in good faith under the bond.

14 (~~(d)~~) (c) Any person who is a purchaser of a check, draft, or
15 money order from the licensee having a claim against the licensee for
16 the dishonor of any check, draft, or money order by the drawee bank,
17 savings bank, or savings and loan association due to insufficient funds
18 or by reason of the account having been closed, or who obtained a small
19 loan from the licensee and was damaged by the licensee's violation of
20 this (~~chapter~~) subchapter or rules adopted under this (~~chapter~~)
21 subchapter, may bring suit upon such bond or deposit in the superior
22 court of the county in which the check, draft, or money order was
23 purchased, or in the superior court of a county in which the licensee
24 maintains a place of business. Jurisdiction (~~shall be~~) is
25 exclusively in the superior court. Any such action must be brought not
26 later than one year after the dishonor of the check, draft, or money
27 order on which the claim is based. In the event valid claims against
28 a bond or deposit exceed the amount of the bond or deposit, each
29 claimant (~~shall~~) is only (~~be~~) entitled to a pro rata amount, based
30 on the amount of the claim as it is valid against the bond, or deposit,
31 without regard to the date of filing of any claim or action.

32 (~~(e)~~) (d) In lieu of the surety bond required by this section,
33 the applicant for a check seller license may file with the director a
34 deposit consisting of cash or other security acceptable to the director
35 in an amount equal to the penal sum of the required bond. (~~In lieu of~~
36 ~~the surety bond required by this section, the applicant for a small~~
37 ~~loan endorsement may file with the director a deposit consisting of~~
38 ~~cash or other security acceptable to the director in an amount equal to~~

1 ~~the penal sum of the required bond, or may demonstrate to the director~~
2 ~~net worth in excess of three times the amount of the penal sum of the~~
3 ~~required bond.))~~

4 The director may adopt rules necessary for the proper
5 administration of the security or to establish reporting requirements
6 to ensure that the net worth requirements continue to be met. A
7 deposit given instead of the bond required by this section is not an
8 asset of the licensee for the purpose of complying with the liquid
9 asset provisions of this ((chapter)) subchapter. A deposit given
10 instead of the bond required by this section is a fund held in trust
11 for the benefit of eligible claimants under this section and is not an
12 asset of the estate of any licensee that seeks protection voluntarily
13 or involuntarily under the bankruptcy laws of the United States.

14 ((+f)) (e) Such security may be sold by the director at public
15 auction if it becomes necessary to satisfy the requirements of this
16 ((chapter)) subchapter. Notice of the sale ((shall)) must be served
17 upon the licensee who placed the security personally or by mail. If
18 notice is served by mail, service ((shall)) must be addressed to the
19 licensee at its address as it appears in the records of the director.
20 Bearer bonds of the United States or the state of Washington without a
21 prevailing market price must be sold at public auction. Such bonds
22 having a prevailing market price may be sold at private sale not lower
23 than the prevailing market price. Upon any sale, any surplus above
24 amounts due ((shall)) must be returned to the licensee, and the
25 licensee ((shall)) must deposit with the director additional security
26 sufficient to meet the amount required by the director. A deposit
27 given instead of the bond required by this section ((shall)) is not
28 ((be)) deemed an asset of the licensee for the purpose of complying
29 with the liquid asset provisions of this ((chapter)) subchapter.

30 **Sec. 4.** RCW 31.45.040 and 2003 c 86 s 4 are each amended to read
31 as follows:

32 (1) The director ((shall)) must conduct an investigation of every
33 applicant to determine the financial responsibility, experience,
34 character, and general fitness of the applicant. The director
35 ((shall)) must issue the applicant a license to engage in the business
36 of cashing or selling checks, or both, ((or a small loan endorsement,))
37 if the director determines to his or her satisfaction that:

1 (a) The applicant has satisfied the requirements of RCW 31.45.030;
2 (b) The applicant is financially responsible and appears to be able
3 to conduct the business of cashing or selling checks (~~(or making small~~
4 ~~loans)~~) in an honest, fair, and efficient manner with the confidence
5 and trust of the community; and

6 (c) The applicant has the required bonds, or has provided an
7 acceptable alternative form of financial security.

8 (2) The director may refuse to issue a license (~~(or small loan~~
9 ~~endorsement)~~) if he or she finds that the applicant, or any person who
10 is a director, officer, partner, agent, sole proprietor, owner, or
11 controlling person of the applicant, has been convicted of a felony in
12 any jurisdiction within seven years of filing the present application
13 or is associating or consorting with any person who has been convicted
14 of a felony in any jurisdiction within seven years of filing the
15 present application. The term "substantial stockholder" as used in
16 this subsection, means a person owning or controlling ten percent or
17 more of the total outstanding shares of the applicant corporation.

18 (3) A license (~~(or small loan endorsement)~~) may not be issued to an
19 applicant:

20 (a) Whose license to conduct business under this (~~chapter~~)
21 subchapter, or any similar statute in any other jurisdiction, has been
22 suspended or revoked within five years of the filing of the present
23 application;

24 (b) Who has been banned from the industry by an administrative
25 order issued by the director or the director's designee, for the period
26 specified in the administrative order; or

27 (c) When any person who is a sole proprietor, owner, director,
28 officer, partner, agent, or controlling person of the applicant has
29 been banned from the industry in an administrative order issued by the
30 director, for the period specified in the administrative order.

31 (4) A license (~~(or small loan endorsement)~~) issued under this
32 (~~chapter shall~~) subchapter must be conspicuously posted in the place
33 of business of the licensee. The license is not transferable or
34 assignable.

35 (5) A license (~~(or small loan endorsement)~~) issued in accordance
36 with this (~~chapter~~) subchapter remains in force and effect until
37 surrendered, suspended, or revoked, or until the license expires as a
38 result of nonpayment of the annual assessment fee.

1 **Sec. 5.** RCW 31.45.050 and 2003 c 86 s 5 are each amended to read
2 as follows:

3 (1) Each applicant and licensee (~~shall~~) must pay to the director
4 an investigation or examination fee as established in rule and an
5 annual assessment fee for the coming year in an amount determined by
6 rule as necessary to cover the operation of the program. The annual
7 assessment fee is due upon the annual assessment fee due date as
8 established in rule. Nonpayment of the annual assessment fee may
9 result in expiration of the license as provided in subsection (2) of
10 this section. (~~In establishing the fees, the director shall~~
11 ~~differentiate between check cashing and check selling and making small~~
12 ~~loans, and consider at least~~) The director must establish, set, and
13 adjust by rule the amount of all fees authorized by this subsection,
14 and consider the volume of business, level of risk, and potential harm
15 to the public related to each activity. The fees collected (~~shall~~)
16 must be deposited to the credit of the financial services regulation
17 fund in accordance with RCW 43.320.110.

18 (2) If a licensee does not pay its annual assessment fee by the
19 annual assessment fee due date as specified in rule, the director or
20 the director's designee (~~shall~~) must send the licensee a notice of
21 suspension and assess the licensee a late fee not to exceed twenty-five
22 percent of the annual assessment fee as established in rule by the
23 director. The licensee's payment of both the annual assessment fee and
24 the late fee must arrive in the department's offices by 5:00 p.m. on
25 the tenth day after the annual assessment fee due date, unless the
26 department is not open for business on that date, in which case the
27 licensee's payment of both the annual assessment fee and the late fee
28 must arrive in the department's offices by 5:00 p.m. on the next
29 occurring day that the department is open for business. If the payment
30 of both the annual assessment fee and the late fee does not arrive
31 prior to such time and date, then the expiration of the licensee's
32 license is effective at 5:00 p.m. on the thirtieth day after the
33 assessment fee due date. The director or the director's designee may
34 reinstate the license if, within twenty days after the effective date
35 of expiration, the licensee:

36 (a) Pays both the annual assessment fee and the late fee; and

37 (b) Attests under penalty of perjury that it did not engage in

1 conduct requiring a license under this (~~chapter~~) subchapter during
2 the period its license was expired, as confirmed by an investigation by
3 the director or the director's designee.

4 (3) If a licensee intends to do business at a new location, to
5 close an existing place of business, or to relocate an existing place
6 of business, the licensee (~~shall~~) must provide written notification
7 of that intention to the director no less than thirty days before the
8 proposed establishing, closing, or moving of a place of business.

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

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

19 (2) Each licensee (~~shall~~) must keep and maintain such business
20 books, accounts, and records as the director may require to fulfill the
21 purposes of this (~~chapter~~) subchapter. Every licensee (~~shall~~) must
22 preserve such books, accounts, and records as required in rule by the
23 director for at least two years from the completion of the transaction.
24 Records may be maintained on an electronic, magnetic, optical, or other
25 storage media. However, the licensee must maintain the necessary
26 technology to permit access to the records by the department for the
27 period required under this (~~chapter~~) subchapter.

28 (3) A check, draft, or money order sold by a licensee (~~shall~~)
29 must be drawn on an account of a licensee maintained in a federally
30 insured financial institution authorized to do business in the state of
31 Washington.

32 **Sec. 7.** RCW 31.45.070 and 2012 c 17 s 9 are each amended to read
33 as follows:

34 (1) No licensee may engage in a loan business; the negotiation of
35 loans; or the discounting of notes, bills of exchange, checks, or other

1 evidences of debt in the same premises where a check cashing or selling
2 business is conducted, unless the licensee:

3 (a) Is conducting the activities of pawnbroker as defined in RCW
4 19.60.010;

5 (b) Is a properly licensed consumer loan company under chapter
6 31.04 RCW; or

7 (c) Is conducting other lending activity permitted in the state of
8 Washington(~~or~~

9 ~~(d) Has a small loan endorsement issued under this chapter~~)).

10 (2) Except as otherwise permitted in this (~~chapter~~) subchapter,
11 no licensee may at any time cash or advance any moneys on a postdated
12 check or draft. However, a licensee may cash a check payable on the
13 first banking day following the date of cashing if:

14 (a) The check is drawn by the United States, the state of
15 Washington, or any political subdivision of the state, or by any
16 department or agency of the state or its subdivisions; or

17 (b) The check is a payroll check drawn by an employer to the order
18 of its employee in payment for services performed by the employee.

19 (3) Except as otherwise permitted in this (~~chapter~~) subchapter,
20 no licensee may agree to hold a check or draft for later deposit. A
21 licensee must deposit all checks and drafts cashed by the licensee as
22 soon as practicable.

23 (4) No licensee may issue or cause to be issued any check, draft,
24 or money order, or other commercial paper serving the same purpose,
25 that is drawn upon the trust account of a licensee without concurrently
26 receiving the full principal amount, in cash, or by check, draft, or
27 money order from a third party believed to be valid.

28 (5) Each licensee (~~shall~~) must comply with all applicable state
29 and federal statutes relating to the activities governed by this
30 (~~chapter~~) subchapter.

31 **Sec. 8.** RCW 31.45.090 and 2005 c 274 s 257 are each amended to
32 read as follows:

33 (1) Each licensee (~~shall~~) must submit to the director, in a form
34 approved by the director, a report containing financial statements
35 covering the calendar year or, if the licensee has an established
36 fiscal year, then for such fiscal year, within one hundred five days
37 after the close of each calendar or fiscal year. The licensee

1 (~~shall~~) must also file such additional relevant information as the
2 director may require. Any information provided by a licensee in an
3 annual report that constitutes a trade secret under chapter 19.108 RCW
4 is exempt from disclosure under chapter 42.56 RCW, unless aggregated
5 with information supplied by other licensees in such a manner that the
6 licensee's individual information is not identifiable. Any information
7 provided by the licensee that allows identification of the licensee may
8 only be used for purposes reasonably related to the regulation of
9 licensees to ensure compliance with this (~~chapter~~) subchapter.

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

16 (3) The director (~~shall~~) must adopt rules specifying the form and
17 content of such audit reports and may require additional reporting as
18 is necessary for the director to ensure compliance with this
19 (~~chapter~~) subchapter.

20 **Sec. 9.** RCW 31.45.100 and 2003 c 86 s 16 are each amended to read
21 as follows:

22 The director or the director's designee may at any time examine and
23 investigate the business and examine the books, accounts, records, and
24 files, or other information, wherever located, of any licensee or
25 person who the director has reason to believe is engaging in the
26 business governed by this (~~chapter~~) subchapter. For these purposes,
27 the director or the director's designee may require the attendance of
28 and examine under oath all persons whose testimony may be required
29 about the business or the subject matter of the investigation. The
30 director or the director's designee may require the production of
31 original books, accounts, records, files, or other information, or may
32 make copies of such original books, accounts, records, files, or other
33 information. The director or the director's designee may issue a
34 subpoena or subpoena duces tecum requiring attendance and testimony, or
35 the production of the books, accounts, records, files, or other
36 information. The director (~~shall~~) must collect from the licensee the
37 actual cost of the examination or investigation.

1 **Sec. 10.** RCW 31.45.105 and 2012 c 17 s 10 are each amended to read
2 as follows:

3 (1) It is a violation of this (~~chapter~~) subchapter for any person
4 subject to this (~~chapter~~) subchapter to:

5 (a) Directly or indirectly employ any scheme, device, or artifice
6 to defraud or mislead any (~~borrower, to defraud or mislead any lender,~~
7 ~~or to defraud or mislead any~~) person;

8 (b) Directly or indirectly engage in any unfair or deceptive
9 practice toward any person; and

10 (c) Directly or indirectly obtain property by fraud or
11 misrepresentation(~~+~~

12 ~~(d) Make a small loan to any person physically located in~~
13 ~~Washington through use of the internet, facsimile, telephone, kiosk, or~~
14 ~~other means without first obtaining a small loan endorsement; and~~

15 ~~(e) Sell in a retail installment transaction under chapter 63.14~~
16 ~~RCW open loop prepaid access (prepaid access as defined in 31 C.F.R.~~
17 ~~Part 1010.100(ww) and not closed loop prepaid access as defined in 31~~
18 ~~C.F.R. Part 1010.100(kkk)))).~~

19 (2) It is a violation of this (~~chapter~~) subchapter for any person
20 subject to this (~~chapter~~) subchapter to:

21 (a) Advertise, print, display, publish, distribute, or broadcast or
22 cause or permit to be advertised, printed, displayed, published,
23 distributed, or (~~broadcast~~ [~~broadcasted~~]) broadcasted any statement
24 or representation that is false, misleading, or deceptive, or that
25 omits material information;

26 (b) Fail to pay the annual assessment by the date and time as
27 specified in RCW 31.45.050;

28 (c) Fail to pay any other fee, assessment, or moneys due the
29 department.

30 (3) In addition to any other penalties, any transaction in
31 violation of subsection (1) of this section is uncollectible and
32 unenforceable.

33 **Sec. 11.** RCW 31.45.110 and 2012 c 17 s 11 are each amended to read
34 as follows:

35 (1) The director may issue and serve upon a licensee or applicant,
36 or any director, officer, sole proprietor, partner, or controlling
37 person of a licensee or applicant, a statement of charges if, in the

1 opinion of the director, any licensee or applicant, or any director,
2 officer, sole proprietor, partner, or controlling person of a licensee
3 or applicant:

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

7 (b) Is violating or has violated this ((chapter)) subchapter,
8 including violations of:

9 (i) Any rules, orders, or subpoenas issued by the director under
10 any act;

11 (ii) Any condition imposed in writing by the director in connection
12 with the granting of any application or other request by the licensee;
13 or

14 (iii) Any written agreement made with the director;

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

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

20 (e) Provides false statements or omits material information on an
21 application;

22 (f) Knowingly or negligently omits material information during or
23 in response to an examination or in connection with an investigation by
24 the director;

25 (g) Fails to pay a fee or assessment required by the director or
26 any multistate licensing system prescribed by the director, or fails to
27 maintain the required bond or deposit;

28 (h) Commits a crime against the laws of any jurisdiction involving
29 moral turpitude, financial misconduct, or dishonest dealings. For the
30 purposes of this section, a certified copy of the final holding of any
31 court, tribunal, agency, or administrative body of competent
32 jurisdiction is conclusive evidence in any hearing under this
33 ((chapter)) subchapter;

34 (i) Knowingly commits or is a party to any material fraud,
35 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
36 or device whereby any other person relying upon the word,
37 representation, or conduct acts to his or her injury or damage;

1 (j) Converts any money or its equivalent to his or her own use or
2 to the use of his or her principal or of any other person;

3 (k) Fails to disclose any information within his or her knowledge
4 or fails to produce any document, book, or record in his or her
5 possession for inspection by the director upon demand;

6 (l) Commits any act of fraudulent or dishonest dealing. For the
7 purposes of this section, a certified copy of the final holding of any
8 court, tribunal, agency, or administrative body of competent
9 jurisdiction is conclusive evidence in any hearing under this
10 ((chapter)) subchapter;

11 (m) Commits an act or engages in conduct that demonstrates
12 incompetence or untrustworthiness, or is a source of injury and loss to
13 the public;

14 (n) Violates any applicable state or federal law relating to the
15 activities governed by this ((chapter)) subchapter.

16 (2) The statement of charges must be issued under chapter 34.05
17 RCW. The director or the director's designee may impose the following
18 sanctions against any licensee or applicant, or any directors,
19 officers, sole proprietors, partners, controlling persons, or employees
20 of a licensee or applicant:

21 (a) Deny, revoke, suspend, or condition a license ((or small loan
22 endorsement));

23 (b) Order the licensee or person to cease and desist from practices
24 that violate this ((chapter)) subchapter or constitute unsafe and
25 unsound financial practices;

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

28 (d) Order restitution or refunds to borrowers or other parties for
29 violations of this ((chapter)) subchapter or take other affirmative
30 action as necessary to comply with this ((chapter)) subchapter; and

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

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

37 (4) Unless the licensee or person personally appears at the hearing

1 or is represented by a duly authorized representative, the licensee is
2 deemed to have consented to the statement of charges and the sanctions
3 imposed in the statement of charges.

4 (5) Except to the extent prohibited by another statute, the
5 director may engage in informal settlement of complaints or enforcement
6 actions including, but not limited to, payment to the department for
7 purposes of financial literacy and education programs authorized under
8 RCW 43.320.150.

9 **Sec. 12.** RCW 31.45.150 and 1994 c 92 s 287 are each amended to
10 read as follows:

11 Whenever as a result of an examination or report it appears to the
12 director that:

- 13 (1) The capital of any licensee is impaired;
- 14 (2) Any licensee is conducting its business in such an unsafe or
15 unsound manner as to render its further operations hazardous to the
16 public;
- 17 (3) Any licensee has suspended payment of its trust obligations;
- 18 (4) Any licensee has refused to submit its books, papers, and
19 affairs to the inspection of the director or the director's examiner;
- 20 (5) Any officer of any licensee refuses to be examined under oath
21 regarding the business of the licensee;
- 22 (6) Any licensee neglects or refuses to comply with any order of
23 the director made pursuant to this ((chapter)) subchapter unless the
24 enforcement of such order is restrained in a proceeding brought by such
25 licensee;

26 the director may immediately take possession of the property and
27 business of the licensee and retain possession until the licensee
28 resumes business or its affairs are finally liquidated as provided in
29 RCW 31.45.160. The licensee may resume business upon such terms as the
30 director may prescribe.

31 **Sec. 13.** RCW 31.45.180 and 1994 c 92 s 290 are each amended to
32 read as follows:

33 Any person who violates or participates in the violation of any
34 provision of the rules or orders of the director or of this ((chapter))
35 subchapter is guilty of a misdemeanor.

1 **Sec. 14.** RCW 31.45.190 and 1991 c 355 s 19 are each amended to
2 read as follows:

3 The legislature finds and declares that any violation of this
4 ((chapter)) subchapter substantially affects the public interest and is
5 an unfair and deceptive act or practice and an unfair method of
6 competition in the conduct of trade or commerce as set forth in RCW
7 19.86.020. Remedies available under chapter 19.86 RCW ((shall)) does
8 not affect any other remedy the injured party may have.

9 **Sec. 15.** RCW 31.45.200 and 1994 c 92 s 291 are each amended to
10 read as follows:

11 The director has the power, and broad administrative discretion, to
12 administer and interpret the provisions of this ((chapter)) subchapter
13 to ensure the protection of the public.

14 NEW SECTION. **Sec. 16.** A new section is added to chapter 31.45 RCW
15 under the subchapter heading "check cashers and sellers" to read as
16 follows:

17 PRIVACY, CONFIDENTIALITY, PRIVILEGE. (1) The requirements under
18 any federal law or laws of another state regarding the privacy or
19 confidentiality of any information or material provided to the
20 department, and any privilege arising under federal or state law,
21 including the rules of any federal or state court, with respect to that
22 information or material, continues to apply to the information or
23 material after the information or material has been disclosed to the
24 department. If consistent with applicable law, the information and
25 material may be shared with all state and federal regulatory officials
26 with mortgage industry oversight authority without the loss of
27 privilege or the loss of confidentiality protections provided by
28 federal law or state law.

29 (2) When the department is a party to a memoranda of understanding
30 or enforcement order issued by the consumer financial protection
31 bureau, the privacy, confidentiality, or privilege accorded to the
32 document by federal law continues to apply even after the memoranda or
33 order has been signed by the director or a designee.

34 NEW SECTION. **Sec. 17.** Subject to section 19 of this act, the

1 following acts or parts of acts are each repealed, effective January 1,
2 2016:

3 (1) RCW 31.45.073 (Making small loans--Endorsement required--Due
4 date--Termination date--Maximum amount--Installment plans--Interest--
5 Fees--Postdated check or draft as security) and 2009 c 510 s 3, 2003 c
6 86 s 8, & 1995 c 18 s 2;

7 (2) RCW 31.45.077 (Small loan endorsement--Application--Form--
8 Information--Exemption from disclosure--Fees) and 2005 c 274 s 256,
9 2003 c 86 s 9, 2001 c 177 s 13, & 1995 c 18 s 3;

10 (3) RCW 31.45.079 (Making small loans--Agent for a licensee or
11 exempt entity--Federal preemption) and 2003 c 86 s 10;

12 (4) RCW 31.45.082 (Delinquent small loan--Restrictions on
13 collection by licensee or third party--Definitions) and 2009 c 13 s 1
14 & 2003 c 86 s 11;

15 (5) RCW 31.45.084 (Small loan installment plan--Terms--
16 Restrictions) and 2009 c 510 s 4 & 2003 c 86 s 12;

17 (6) RCW 31.45.085 (Loan application--Required statement--Rules) and
18 2009 c 510 s 5;

19 (7) RCW 31.45.086 (Small loans--Right of rescission) and 2003 c 86
20 s 13;

21 (8) RCW 31.45.088 (Small loans--Disclosure requirements--
22 Advertising--Making loan) and 2003 c 86 s 14;

23 (9) RCW 31.45.093 (Information system--Access--Required
24 information--Fees--Rules) and 2009 c 510 s 6;

25 (10) RCW 31.45.095 (Report by director--Contents) and 2009 c 510 s
26 7; and

27 (11) RCW 31.45.210 (Military borrowers--Licensee's duty--
28 Definition) and 2005 c 256 s 1.

29 NEW SECTION. **Sec. 18.** A new section is added to chapter 31.45 RCW
30 under the subchapter heading "check cashers and sellers" to read as
31 follows:

32 (1) Small loans made pursuant to this chapter as it existed before
33 the effective date of this section may no longer be made on and after
34 January 1, 2016, provided the subchapter "small consumer installment
35 loans" becomes law as it is enacted by the legislature.

36 (2) All small loan licensees must surrender their small loan
37 endorsement in accordance with the closure rules adopted by the

1 director and pay any applicable assessments due. Notwithstanding
2 surrender or such closure rules, a small loan licensee may collect a
3 small loan with an outstanding balance.

4 (3) The director has the authority to transition the database for
5 small loans as necessary. The director may adopt rules to implement
6 this section.

7 (4) During the transition period of 2014 to 2016, the director has
8 the authority to establish, set, and adjust by rule the amount of all
9 fees authorized by this chapter as necessary to cover the operation of
10 the programs in this chapter.

11 NEW SECTION. **Sec. 19.** Sections 1 through 18 of this act take
12 effect January 1, 2016, provided the subchapter "small consumer
13 installment loans" becomes law as it is enacted by the legislature.

14 NEW SECTION. **Sec. 20.** RCW 31.45.010 through 31.45.210 constitute
15 the subchapter "check cashers and sellers."

16 **SMALL CONSUMER INSTALLMENT LOANS**

17 NEW SECTION. **Sec. 21.** DEFINITION. The definitions in this
18 section apply throughout this subchapter unless the context clearly
19 requires otherwise.

20 (1) "Authenticate" means the same as defined in RCW 62A.9A-102.

21 (2) "Borrower" means a natural person who receives a small consumer
22 installment loan.

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

28 (4) "Department" means the department of financial institutions.

29 (5) "Director" means the director of financial institutions.

30 (6) "Final payment date" means the date of the borrower's last
31 scheduled payment on a small consumer installment loan.

32 (7) "Gross monthly income" means a borrower's or potential
33 borrower's gross monthly income as demonstrated by documentation of
34 income, including, but not limited to, a pay stub, documentation

1 reflecting receipt of public benefits, tax returns, bank statements, or
2 other documentation showing the source of income. A lender must
3 require a borrower or potential borrower to provide a pay stub or other
4 evidence of income at least once every one hundred eighty days. This
5 evidence must not be over forty-five days old when presented.

6 (8) "License" means a license issued by the director under this
7 subchapter.

8 (9) "Licensee" means a single small consumer installment lender
9 licensed by the director to engage in business in accordance with this
10 subchapter. "Licensee" also means a small consumer installment lender,
11 whether located within or outside of this state, who fails to obtain a
12 license required by this subchapter.

13 (10) "Loaned amount" means the initial principal amount of the loan
14 exclusive of any interest, fees, penalties, or charges authorized by
15 this subchapter.

16 (11) "Military borrower" means:

17 (a) A "covered borrower" as defined in 32 C.F.R. Sec. 323.3; and

18 (b)(i) A member of the reserve components of the United States
19 army, navy, air force, marine corps, coast guard, army national guard,
20 or air national guard; and

21 (ii) A spouse or dependent child of a person under (b)(i) of this
22 subsection.

23 (12) "Person" means an individual, partnership, association,
24 limited liability company, limited liability partnership, trust,
25 corporation, and any other legal entity.

26 (13) "Record" means the same as defined in RCW 62A.1-201.

27 (14) "Scheduled payment" means any single payment disclosed in a
28 payment schedule on a federal truth in lending act disclosure.
29 "Scheduled payment" does not mean an actual payment on a date different
30 than a payment on the loan payment schedule, or the payment in full of
31 a loan before the final payment date on the loan payment schedule.

32 (15) "Small consumer installment loan" means a loan made to a
33 natural person in a single advance with terms as provided for in this
34 subchapter.

35 (16) "Truth in lending act" means the truth in lending act, 15
36 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Part 1026.

1 NEW SECTION. **Sec. 22.** APPLICABILITY. (1) Any small consumer
2 installment loan made to a resident of this state is subject to the
3 authority and restrictions of this subchapter.

4 (2) This subchapter does not apply to the following:

5 (a) Any person doing business under, and as permitted by, any law
6 of this state or of the United States relating to banks, savings banks,
7 trust companies, savings and loan or building and loan associations, or
8 credit unions; or

9 (b) Loans made under chapters 19.60 and 31.04.

10 NEW SECTION. **Sec. 23.** LICENSE REQUIRED. No person may engage in
11 advertising or making small consumer installment loans without first
12 obtaining a license from the director in accordance with this
13 subchapter. A license is required for each location where a licensee
14 engages in the business of making small consumer installment loans.

15 NEW SECTION. **Sec. 24.** LICENSE--APPLICATION--FEE--BOND--
16 INFORMATION FROM APPLICANTS. (1) Each application for a license must
17 be in writing in a form prescribed by the director and must contain the
18 following information:

19 (a) The legal name, residence, and business address of the
20 applicant and, if the applicant is a partnership, association, limited
21 liability company, limited liability partnership, or corporation, of
22 every member, officer, principal, or director thereof;

23 (b) The location where the initial registered office of the
24 applicant will be located;

25 (c) The complete address of any other locations at which the
26 applicant currently proposes to engage in making small consumer
27 installment loans; and

28 (d) Such other data, financial statements, and pertinent
29 information as the director may require with respect to the applicant,
30 its members, principals, or officers.

31 (2) As part of or in connection with an application for any license
32 under this section, or periodically, each officer, director, and owner
33 applicant must furnish information concerning his or her identity,
34 including fingerprints for submission to the Washington state patrol or
35 the federal bureau of investigation for a state and national criminal
36 history background check, personal history, experience, business

1 record, purposes, and other pertinent facts, as the director may
2 reasonably require. As part of or in connection with an application
3 for a license under this subchapter, or periodically upon license
4 renewal, the director is authorized to receive criminal history record
5 information that includes nonconviction data as defined in RCW
6 10.97.030. The director may only disseminate nonconviction data
7 obtained under this section to criminal justice agencies. This section
8 does not apply to financial institutions regulated under chapters 31.12
9 and 31.13 RCW and Titles 30, 32, and 33 RCW.

10 (3) Any information in the application regarding the personal
11 residential address or telephone number of the applicant, any financial
12 information about the applicant and entities owned or controlled by the
13 applicant, and any trade secret as defined in RCW 19.108.010 including
14 any financial statement that is a trade secret, is exempt from the
15 public records disclosure requirements of chapter 42.56 RCW.

16 (4) The application must be filed together with an application fee
17 established by rule by the director. The fees collected must be
18 deposited to the credit of the financial services regulation fund in
19 accordance with RCW 43.320.110.

20 (5) Each applicant must file and maintain a surety bond, approved
21 by the director, executed by the applicant as obligor and by a surety
22 company authorized to do a surety business in this state as surety,
23 whose liability as a surety does not exceed, in the aggregate, the
24 penal sum of the bond. The penal sum of the bond must be a minimum of
25 thirty thousand dollars and a maximum of two hundred fifty thousand
26 dollars based on the annual dollar amount of loans originated. The
27 bond must run to the state of Washington as obligee for the use and
28 benefit of the state and of any person or persons who may have a cause
29 of action against the obligor under this subchapter. The bond must be
30 conditioned that the obligor as licensee will faithfully conform to and
31 abide by this subchapter and all the rules adopted under this
32 subchapter. The bond will pay to the state and any person or persons
33 having a cause of action against the obligor all moneys that may become
34 due and owing to the state and those persons under and by virtue of
35 this subchapter.

36 NEW SECTION. **Sec. 25.** APPLICATION FOR LICENSE--FINANCIAL
37 RESPONSIBILITY--DIRECTOR'S INVESTIGATION. (1) The director must

1 conduct an investigation of every applicant to determine the financial
2 responsibility, experience, character, and general fitness of the
3 applicant. The director must issue the applicant a license to engage
4 in the business of making small consumer installment loans, if the
5 director determines that:

6 (a) The applicant has satisfied the licensing requirements of this
7 subchapter;

8 (b) The applicant is financially responsible and appears to be able
9 to conduct the business of making small consumer installment loans in
10 an honest, fair, and efficient manner with the confidence and trust of
11 the community and in accordance with this subchapter; and

12 (c) The applicant has the required bond.

13 (2) The director may refuse to issue a license if he or she finds
14 that the applicant, or any person who is a director, officer, partner,
15 agent, sole proprietor, owner, or controlling person of the applicant,
16 has been convicted of a felony in any jurisdiction within seven years
17 of filing the present application or is associating or consorting with
18 any person who has been convicted of a felony in any jurisdiction
19 within seven years of filing the present application.

20 (3) A license may not be issued to an applicant:

21 (a) Whose license to conduct business under this subchapter, or any
22 similar statute in any other jurisdiction, has been suspended or
23 revoked within five years of the filing of the present application;

24 (b) Who has been banned from the industry by an administrative
25 order issued by the director or the director's designee, for the period
26 specified in the administrative order; or

27 (c) Who has advertised or made internet loans in violation of this
28 subchapter.

29 (4) A license issued in accordance with this subchapter remains in
30 force and effect until surrendered, suspended, or revoked, or until the
31 license expires as a result of nonpayment of the annual assessment fee
32 as defined in this subchapter.

33 NEW SECTION. **Sec. 26.** MULTISTATE LICENSING SYSTEM--DIRECTOR'S
34 DISCRETION. Applicants may be required to make application through a
35 multistate licensing system as prescribed by the director. Existing
36 licensees may be required to transition onto a multistate licensing
37 system as prescribed by the director.

1 NEW SECTION. **Sec. 27.** TERMS OF LOANS. A small consumer
2 installment loan must include the following terms:

3 (1) The interest charged on the loaned amount is less than or equal
4 to thirty-six percent per annum, exclusive of fees, penalties, or
5 charges authorized by this subchapter;

6 (2) A maximum loaned amount of one thousand dollars;

7 (3) The loaned amount is fully repayable in substantially equal and
8 consecutive installments according to a payment schedule agreed to by
9 the parties with not less than fourteen days and not more than thirty-
10 five days between each scheduled payment;

11 (4) A minimum loan term of ninety days with no prepayment penalty
12 or added fees to a borrower who pays off a loan in less than ninety
13 days;

14 (5) A maximum loan term of one hundred eighty-three days;

15 (6) The loan amortizes;

16 (7) The borrower's repayment obligations are not secured by a lien
17 on any real or personal property; and

18 (8) The loan is made primarily for personal, family, or household
19 purposes.

20 NEW SECTION. **Sec. 28.** LIMITATIONS ON INTEREST AND CHARGES.
21 Notwithstanding any other provision of law, a licensee:

22 (1) May charge, contract for, and receive interest of no more than
23 thirty-six percent per annum on the outstanding unpaid principal
24 balance of the loaned amount, exclusive of fees, penalties, or charges
25 authorized by this subchapter;

26 (2) May charge a loan origination fee on a small consumer
27 installment loan not to exceed fifteen percent of the loaned amount.
28 The fee is earned at the time the small consumer installment loan is
29 made and up to half of which is subject to a pro rata refund. If the
30 small consumer installment loan is paid in full prior to the final
31 payment date, the borrower is entitled to a refund equal to fifty
32 percent of the loan origination fee multiplied by a fraction whose
33 numerator is the number of days between the date on which the loan is
34 paid in full and the final payment date, and whose denominator is the
35 number of days in the original loan term. Notwithstanding this
36 subsection, a small consumer installment loan licensee must provide a

1 full refund of all charges after rescission as provided in section 32
2 of this act;

3 (3) May charge a monthly maintenance fee on a small consumer
4 installment loan not to exceed seven dollars and fifty cents per one
5 hundred dollars of the loaned amount for each month in which the loan
6 has an outstanding balance, which charge is fully earned every thirty
7 days after the origination date of the loan and is not subject to
8 refund. Notwithstanding this subsection, monthly maintenance fees for
9 a loan may not exceed sixty dollars per month;

10 (4) Is prohibited from making a small consumer installment loan to
11 a borrower if the total of all scheduled payments to be made in any
12 month exceeds fifteen percent of the borrower's gross monthly income;

13 (5) May, in the event that any scheduled payment is delinquent ten
14 days or more:

15 (a) Charge and collect a penalty of not more than twenty-five
16 dollars per loan; or

17 (b) Declare the entire loan due and payable and proceed to collect
18 the small consumer installment loan, including the interest, loan
19 origination fee, and monthly maintenance fees that would have been due
20 if the loan had been paid in full on the final payment date;

21 (6) May collect from the borrower reasonable attorneys' fees,
22 actual expenses, and costs incurred in connection with the collection
23 of any amounts due to a licensee with respect to a small consumer
24 installment loan;

25 (7) Is prohibited from charging a prepayment fee. A borrower is
26 allowed to pay all or part of a loan before the maturity date without
27 incurring any additional fee;

28 (8) Is prohibited from requiring a borrower to purchase add-on
29 products such as credit insurance; and

30 (9) Is prohibited from charging any other interest, fees,
31 penalties, or charges, except those provided in subsections (1) through
32 (3), (5), and (6) of this section.

33 NEW SECTION. **Sec. 29.** LOAN AGREEMENT--REQUIRED CONTENTS. A
34 licensee making a small consumer installment loan must document the
35 transaction by use of a record authenticated by the licensee and the
36 borrower. This record must set forth the terms and conditions of the
37 loan, including, but not limited to:

- 1 (1) The name and address of the borrower and the licensee;
- 2 (2) The transaction date;
- 3 (3) The loaned amount;
- 4 (4) A statement of the total amount of finance charges charged,
5 expressed both as a dollar amount and an annual percentage rate,
6 calculated in accordance with the truth in lending act;
- 7 (5) The installment payment schedule;
- 8 (6) The right to rescind the loan on or before the close of
9 business on the next day of business at the location where the loan was
10 originated;
- 11 (7) A notice to the borrower that delinquency on one scheduled
12 payment may result in a penalty of not more than twenty-five dollars
13 per loan and/or acceleration of the loan;
- 14 (8) A description of the manner and methods by which loan payments
15 may be made, which include cash, check, automatic clearing house
16 transactions, debit authorization, or additional method of loan payment
17 authorized by the director after rule making; and
- 18 (9) A notice to the borrower in at least ten-point type that
19 states:

20 A SMALL CONSUMER INSTALLMENT LOAN IS NOT INTENDED TO MEET LONG-TERM
21 FINANCIAL NEEDS.

22 A SMALL CONSUMER INSTALLMENT LOAN SHOULD BE USED ONLY TO MEET
23 SHORT-TERM CASH NEEDS.

24 WHILE YOU ARE NOT REQUIRED TO REPAY THIS LOAN BEFORE ITS DUE DATE,
25 IT IS IN YOUR BEST INTEREST TO DO SO. THE SOONER YOU REPAY THE LOAN,
26 THE LESS IN INTEREST, FEES, AND OTHER CHARGES YOU WILL PAY.

27 No licensee may condition an extension of credit under a small
28 consumer installment loan on the borrower's repayment by preauthorized
29 electronic fund transfers. Payment options including, but not limited
30 to, automatic clearing house transactions and other electronic fund
31 transfers may be offered to borrowers as a choice with the method or
32 methods of payment chosen by the borrower.

33 NEW SECTION. **Sec. 30.** NOTICE OF FEES AND CHARGES--RECEIPT. (1)
34 A schedule of the fees, penalties, and charges for taking out a small
35 consumer installment loan must be conspicuously and continuously posted
36 in every location licensed under this subchapter.

1 (2) The licensee must provide to its customer a receipt for each
2 transaction. The receipt must include the name of the licensee, the
3 type and amount of the transaction, and the fees and charges charged
4 for the transaction.

5 NEW SECTION. **Sec. 31.** DISBURSEMENT OF PROCEEDS. A licensee may
6 disburse the proceeds of a small consumer installment loan in the form
7 of a check drawn on the licensee's bank account, in cash, by money
8 order, by prepaid card, by electronic funds transfer, or by other
9 method authorized by the director after rule making.

10 NEW SECTION. **Sec. 32.** RESCISSION. A borrower may rescind a small
11 consumer installment loan, on or before the close of business on the
12 next day of business at the location where the loan was originated, by
13 returning the principal in cash, the original check disbursed by the
14 licensee, or the other disbursement of loan proceeds from the licensee
15 to fund the loan. The licensee may not charge the borrower for
16 rescinding the loan and must refund any loan fees and interest
17 received. The licensee must conspicuously disclose to the borrower the
18 right of rescission in writing in the loan agreement.

19 NEW SECTION. **Sec. 33.** DELINQUENT SMALL CONSUMER INSTALLMENT
20 LOAN--RESTRICTIONS ON COLLECTION BY LICENSEE OR THIRD PARTY. (1) A
21 licensee must comply with all applicable state and federal laws when
22 collecting a delinquent small consumer installment loan. A licensee
23 may take civil action to collect principal, interest, fees, penalties,
24 charges, and costs allowed under this subchapter. A licensee may not
25 threaten criminal prosecution as a method of collecting a delinquent
26 small consumer installment loan or threaten to take any legal action
27 against the borrower which the licensee may not legally take.

28 (2) Unless invited by the borrower, a licensee may not visit a
29 borrower's residence or place of employment for the purpose of
30 collecting a delinquent small consumer installment loan. A licensee
31 may not impersonate a law enforcement official, or make any statements
32 which might be construed as indicating an official connection with any
33 federal, state, county, or city law enforcement agency, or any other
34 governmental agency, while engaged in collecting a small consumer
35 installment loan.

1 (3) A licensee may not communicate with a borrower in such a manner
2 as to harass, intimidate, abuse, or embarrass a borrower, including but
3 not limited to communication at an unreasonable hour, with unreasonable
4 frequency, by threats of force or violence, or by use of offensive
5 language. A communication is presumed to have been made for the
6 purposes of harassment if it is initiated by the licensee for the
7 purposes of collection and:

8 (a) It is made with a borrower, spouse, or domestic partner in any
9 form, manner, or place, more than three times in a single week;

10 (b) It is made with a borrower at his or her place of employment
11 more than one time in a single week or made to a borrower after the
12 licensee has been informed that the borrower's employer prohibits these
13 communications;

14 (c) It is made with the borrower, spouse, or domestic partner at
15 his or her place of residence between the hours of 9:00 p.m. and 7:30
16 a.m.; or

17 (d) It is made to a party other than the borrower, the borrower's
18 attorney, the licensee's attorney, or a consumer reporting agency if
19 otherwise permitted by law except for purposes of acquiring location or
20 contact information about the borrower.

21 (4) A licensee is required to maintain a communication log of all
22 telephone and written communications with a borrower initiated by the
23 licensee regarding any collection efforts including date, time, and the
24 nature of each communication.

25 (5) If a dishonored check is assigned to any third party for
26 collection, this section applies to the third party for the collection
27 of the dishonored check.

28 (6) For the purposes of this section, "communication" includes any
29 contact with a borrower, initiated by the licensee, in person, by
30 telephone, or in writing (including e-mails, text messages, and other
31 electronic writing) regarding the collection of a delinquent small
32 consumer installment loan, but does not include any of the following:

33 (a) Communication while a borrower is physically present in the
34 licensee's place of business;

35 (b) An unanswered telephone call in which no message (other than a
36 caller ID) is left, unless the telephone call violates subsection
37 (3)(c) of this section; and

1 (c) An initial letter to the borrower that includes disclosures
2 intended to comply with the federal fair debt collection practices act.

3 (7) For the purposes of this section:

4 (a) A communication occurs at the time it is initiated by a
5 licensee regardless of the time it is received or accessed by the
6 borrower; and

7 (b) A call to a number that the licensee reasonably believes is the
8 borrower's cell phone will not constitute a communication with a
9 borrower at the borrower's place of employment.

10 (8) For the purposes of this section, "week" means a series of
11 seven consecutive days beginning on a Sunday.

12 NEW SECTION. **Sec. 34.** LOAN FREQUENCY LIMITATIONS. (1) No

13 licensee may extend to or have open with a borrower a small consumer
14 installment loan at any time when that borrower has another small
15 consumer installment loan with an outstanding balance with the licensee
16 or another licensee unless:

17 (a) The total of all scheduled payments to be made in any month
18 under all of the small consumer installment loans made by any licensee
19 to a borrower does not exceed fifteen percent of the borrower's gross
20 monthly income; and

21 (b) The unpaid principal balance of any and all small consumer
22 installment loans to a borrower does not exceed one thousand dollars.

23 (2) A borrower is prohibited from receiving more than eight small
24 consumer installment loans from all licensees in any twelve-month
25 period. A licensee is prohibited from making a small consumer
26 installment loan to a borrower if making that small consumer
27 installment loan would result in a borrower receiving more than eight
28 small consumer installment loans from all licensees in any twelve-month
29 period.

30 (3) A licensee is prohibited from extending a small consumer
31 installment loan to a borrower who:

32 (a) Is in default on another small consumer installment loan until
33 after that loan is paid in full or two years have passed from the
34 origination date of the small consumer installment loan, whichever
35 occurs first; or

36 (b) Is in a repayment plan for a small consumer installment loan
37 with another licensee.

1 (4) A licensee is prohibited from extending a small consumer
2 installment loan at any time to a borrower who:

3 (a) Has a small loan made by a licensee under chapter 31.45 RCW; or

4 (b) Is in an installment plan under RCW 31.45.088.

5 (5) The director has broad rule-making authority to adopt and
6 implement a database system to implement this section. This includes,
7 but is not limited to, taking the steps necessary to contract a
8 database vendor, and set licensee fees to operate and administer the
9 database system.

10 (6) The information in the database described in this section is
11 exempt from public disclosure under chapter 42.56 RCW.

12 NEW SECTION. **Sec. 35.** MILITARY BORROWERS. (1) A licensee is
13 prohibited from extending a small consumer installment loan to any
14 military borrower. In determining if a borrower is a military borrower
15 and is ineligible to obtain a small consumer installment loan, a
16 licensee may rely upon a statement provided by a borrower on a form
17 prescribed by rule by the director. The form must apply standards to
18 all military borrowers that are similar to the covered borrower
19 identification statement standards of 32 C.F.R. Sec. 232.5(a)(1).

20 (2) The director must adopt rules to implement this section.

21 NEW SECTION. **Sec. 36.** REPAYMENT PLAN. (1) If a small consumer
22 installment loan licensee attempts to collect the outstanding balance
23 on a small consumer installment loan in default by commencing any civil
24 action, the small consumer installment loan licensee must first offer
25 the borrower an opportunity to enter into a repayment plan. The small
26 consumer installment loan licensee:

27 (a) Is required to make the repayment plan offer available to the
28 borrower for a period of at least thirty days after the date of the
29 offer; and

30 (b) Is not required to make such an offer more than once for each
31 loan.

32 (2) The repayment plan offer must:

33 (a) Be in writing and sent to the borrower's last known address;

34 (b) State the date by which the borrower must act to enter into a
35 repayment plan;

1 (c) Explain the procedures the borrower must follow to enter into
2 a repayment plan;

3 (d) If the licensee requires the borrower to make an initial
4 payment to enter into a repayment plan, explain the requirement and
5 state the amount of the initial payment and the date the initial
6 payment must be made;

7 (e) State that the borrower has the opportunity to enter into a
8 repayment plan with a term of at least ninety days after the date the
9 repayment plan is entered into; and

10 (f) Include the following amounts:

11 (i) The total of payments or the remaining balance on the original
12 loan;

13 (ii) Any payments made on the loan;

14 (iii) Any charges added to the loan amount allowed pursuant to the
15 provisions of this subchapter; and

16 (iv) The total amount due if the borrower enters into a repayment
17 plan.

18 (3) Under the terms of any repayment plan pursuant to this section:

19 (a) The borrower must enter into the repayment plan not later than
20 thirty days after the date of the repayment plan offer, unless the
21 licensee allows a longer period;

22 (b) The licensee must allow the period for repayment to extend at
23 least ninety days after the date of the repayment plan, unless the
24 borrower agrees to a shorter term; and

25 (c) The licensee may require the borrower to make an initial
26 payment of not more than twenty percent of the total amount due under
27 the terms of the repayment plan.

28 (4) If the licensee and borrower enter into a repayment plan
29 pursuant to this section, the licensee must honor the terms of the
30 repayment plan, and the licensee may not:

31 (a) Except as otherwise provided by this subchapter, charge any
32 other amount to a borrower, including, without limitation, any amount
33 or charge payable directly or indirectly by the borrower and imposed
34 directly or indirectly by the licensee as an incident to or as a
35 condition of entering into a repayment plan. Such an amount includes,
36 without limitation:

37 (i) Any interest, regardless of the name given to the interest,

1 other than the interest charged pursuant to the original loan agreement
2 at a rate which does not exceed the annual percentage rate charged
3 during the term of the original loan agreement; or

4 (ii) Any origination fees, set-up fees, collection fees,
5 transaction fees, negotiation fees, handling fees, processing fees,
6 late fees, default fees, or any other fees, regardless of the name
7 given to the fee;

8 (b) Accept any security or collateral from the borrower to enter
9 into the repayment plan;

10 (c) Sell to the borrower any insurance or require the borrower to
11 purchase insurance or any other goods or services to enter into the
12 repayment plan; and

13 (d) Attempt to collect an amount that is greater than the amount
14 owed under the terms of the repayment plan.

15 (5) If the licensee and borrower enter into a repayment plan
16 pursuant to this section, the licensee must:

17 (a) Prepare a written agreement establishing the repayment plan;
18 and

19 (b) Give the borrower a copy of the written repayment agreement.
20 The written repayment agreement must:

21 (i) Be signed by the licensee and borrower; and

22 (ii) Contain all of the terms of the repayment plan, including,
23 without limitation, the total amount due under the terms of the
24 repayment plan.

25 (6) If the borrower defaults on the repayment plan, the licensee
26 may, to collect the outstanding balance, commence any civil action
27 and/or pursue any remedy as otherwise authorized by law.

28 (7) The repayment plan in this section applicable to small consumer
29 installment loans is different than the installment plan applicable to
30 small loans.

31 NEW SECTION. **Sec. 37.** RESTRICTION ON TRANSFER. No licensee may
32 pledge, negotiate, sell, or assign a small consumer installment loan,
33 except to another licensee or to a bank, savings bank, trust company,
34 savings and loan or building and loan association, or credit union
35 organized under the laws of Washington or the laws of the United
36 States.

1 NEW SECTION. **Sec. 38.** PROHIBITED ACTS. (1) It is a violation of
2 this subchapter for a licensee, its officers, directors, employees, or
3 independent contractors, or any other person subject to this subchapter
4 to:

5 (a) Fail to make disclosures to loan applicants as required by any
6 applicable state or federal law;

7 (b) Directly or indirectly employ any scheme, device, or artifice
8 to defraud or mislead any borrower, to defraud or mislead any lender,
9 or to defraud or mislead any person;

10 (c) Directly or indirectly engage in any unfair or deceptive
11 practice toward any person;

12 (d) Directly or indirectly obtain property by fraud or
13 misrepresentation;

14 (e) Make a small consumer installment loan to any person physically
15 located in Washington through the use of the internet, facsimile,
16 telephone, kiosk, or other means without first obtaining a license;

17 (f) Make, in any manner, any false or deceptive statement or
18 representation with regard to the rates, points, or other financing
19 terms or conditions for a small consumer installment loan or engage in
20 bait and switch advertising;

21 (g) Negligently make any false statement or knowingly and willfully
22 make any omission of material fact in connection with any reports filed
23 with the department of financial institutions by a licensee or in
24 connection with any investigation conducted by the department of
25 financial institutions;

26 (h) Advertise any rate of interest without conspicuously disclosing
27 the annual percentage rate implied by that rate of interest or
28 otherwise fail to comply with any requirement of the truth in lending
29 act, or any other applicable state or federal statutes or regulations;

30 (i) Make small consumer installment loans from any unlicensed
31 location;

32 (j) Fail to comply with all applicable state and federal statutes
33 relating to the activities governed by this subchapter; or

34 (k) Fail to pay any other fee, assessment, or moneys due the
35 department.

36 (2) In addition to any other penalties, any transaction in
37 violation of subsection (1) of this section is uncollectible and
38 unenforceable.

1 NEW SECTION. **Sec. 39.** INTERNET LENDING. (1) A licensee may
2 advertise and accept applications for small consumer installment loans
3 by any lawful medium, including the internet.

4 (2) Nonlicensees are prohibited from advertising or making small
5 consumer installment loans to any person physically located in this
6 state through the use of the internet or other means.

7 NEW SECTION. **Sec. 40.** INVESTIGATION AND EXAMINATION FEES AND
8 ANNUAL ASSESSMENT FEE REQUIRED--AMOUNTS DETERMINED BY RULE--FAILURE TO
9 PAY--NOTICE REQUIREMENTS OF LICENSEE. (1) Each applicant and licensee
10 must pay to the director an investigation and examination fee as
11 established in rule and an annual assessment fee for the coming year in
12 an amount determined by rule as necessary to cover the operation of the
13 program. The annual assessment fee is due upon the annual assessment
14 fee due date as established in rule. Nonpayment of the annual
15 assessment fee may result in expiration of the license as provided in
16 subsection (2) of this section. In establishing the fees, the director
17 must consider at least the volume of business, level of risk, and
18 potential harm to the public related to each activity. The fees
19 collected must be deposited to the credit of the financial services
20 regulation fund in accordance with RCW 43.320.110.

21 (2) If a licensee does not pay its annual assessment fee by the
22 annual assessment fee due date as specified in rule, the director or
23 the director's designee must send the licensee a notice of expiration
24 and assess the licensee a late fee not to exceed fifteen percent of the
25 annual assessment fee as established in rule by the director. The
26 licensee's payment of both the annual assessment fee and the late fee
27 must arrive in the department of financial institutions' offices by
28 5:00 p.m. on the tenth day after the annual assessment fee due date,
29 unless the department of financial institutions is not open for
30 business on that date, in which case the licensee's payment of both the
31 annual assessment fee and the late fee must arrive in the department of
32 financial institutions' offices by 5:00 p.m. on the next occurring day
33 that the department of financial institutions is open for business. If
34 the payment of both the annual assessment fee and the late fee does not
35 arrive prior to such time and date, then the expiration of the
36 licensee's license is effective at 5:00 p.m. on the thirtieth day after

1 the assessment fee due date. The director or the director's designee
2 may reinstate the license if, within twenty days after the effective
3 date of expiration, the licensee:

4 (a) Pays both the annual assessment fee and the late fee; and

5 (b) Attests under penalty of perjury that it did not engage in
6 conduct requiring a license under this subchapter during the period its
7 license was expired, as confirmed by an investigation by the director
8 or the director's designee.

9 (3) If a licensee intends to do business at a new location, to
10 close an existing place of business, or to relocate an existing place
11 of business, the licensee must provide written notification of that
12 intention to the director no less than thirty days before the proposed
13 establishing, closing, or moving of a place of business.

14 (4) The fees and obligations imposed on a licensee by this section
15 are in addition to any fees and obligations imposed on the licensee by
16 RCW 31.45.050.

17 NEW SECTION. **Sec. 41.** LICENSEE--RECORDKEEPING. Each licensee
18 shall keep and maintain the business books, accounts, and records the
19 director may require to fulfill the purposes of this subchapter. Every
20 licensee must preserve the books, accounts, and records as required in
21 rule by the director for at least two years from the completion of the
22 transaction. Records may be maintained on an electronic, magnetic,
23 optical, or other storage media. However, the licensee must maintain
24 the necessary technology to permit access to the records by the
25 department of financial institutions for the period required under this
26 subchapter.

27 NEW SECTION. **Sec. 42.** EXAMINATION OR INVESTIGATION--DIRECTOR'S
28 AUTHORITY--COSTS. The director or the director's designee may at any
29 time examine and investigate the business and examine the books,
30 accounts, records, and files, or other information, wherever located,
31 of any licensee or person who the director has reason to believe is
32 engaging in the business governed by this subchapter. For these
33 purposes, the director or the director's designee may require the
34 attendance of and examine under oath all persons whose testimony may be
35 required about the business or the subject matter of the investigation.
36 The director or the director's designee may require the production of

1 original books, accounts, records, files, or other information, or may
2 make copies of such original books, accounts, records, files, or other
3 information. The director or the director's designee may issue a
4 subpoena or subpoena duces tecum requiring attendance and testimony, or
5 the production of the books, accounts, records, files, or other
6 information. The director must collect from the licensee the actual
7 cost of the examination and investigation.

8 NEW SECTION. **Sec. 43.** SUBPOENA AUTHORITY--APPLICATION--CONTENTS--
9 NOTICE--FEES. (1) The director or authorized assistants may apply for
10 and obtain a superior court order approving and authorizing a subpoena
11 in advance of its issuance. The application may be made in the county
12 where the subpoenaed person resides or is found, or the county where
13 the subpoenaed documents, records, or evidence are located, or in
14 Thurston county. The application must:

15 (a) State that an order is sought under this section;

16 (b) Adequately specify the documents, records, evidence, or
17 testimony; and

18 (c) Include a declaration made under oath that an investigation is
19 being conducted for a lawfully authorized purpose related to an
20 investigation within the director's authority and that the subpoenaed
21 documents, records, evidence, or testimony are reasonably related to an
22 investigation within the director's authority.

23 (2) When an application under this section is made to the
24 satisfaction of the court, the court must issue an order approving the
25 subpoena. An order under this subsection constitutes authority of law
26 for the director to subpoena the documents, records, evidence, or
27 testimony.

28 (3) The director or authorized assistants may seek approval and a
29 court may issue an order under this section without prior notice to any
30 person, including the person to whom the subpoena is directed and the
31 person who is the subject of an investigation. An application for
32 court approval is subject to the fee and process set forth in RCW
33 36.18.012(3).

34 NEW SECTION. **Sec. 44.** REPORT REQUIREMENTS--DISCLOSURE OF
35 INFORMATION--RULES. (1) Each licensee must submit to the director, in
36 a form approved by the director, a report containing financial

1 statements covering the calendar year or, if the licensee has an
2 established fiscal year, then for that fiscal year, within one hundred
3 five days after the close of each calendar or fiscal year. The
4 licensee must also file additional relevant information as the director
5 may require. Any information provided by a licensee in an annual
6 report is exempt from disclosure under chapter 42.56 RCW, unless
7 aggregated with information supplied by other licensees in a manner
8 that the licensee's individual information is not identifiable. Any
9 information provided by the licensee that allows identification of the
10 licensee may only be used by the director for purposes reasonably
11 related to the regulation of licensees to ensure compliance with this
12 subchapter.

13 (2) The director must adopt rules specifying the form and content
14 of annual reports and may require additional reporting as is necessary
15 for the director to ensure compliance with this subchapter.

16 (3) A licensee whose license has been suspended or revoked must
17 submit to the director, at the licensee's expense, within one hundred
18 five days after the effective date of the suspension or revocation, a
19 closing audit report containing audited financial statements as of the
20 effective date for the twelve months ending with the effective date.

21 (4) The director is authorized to enter into agreements or sharing
22 arrangements regarding licensee reports, examination, or investigation
23 information with other governmental agencies, the conference of state
24 bank supervisors, the American association of residential mortgage
25 regulators, the national association of consumer credit administrators,
26 or other associations representing governmental agencies as established
27 by rule, regulation, or order of the director.

28 NEW SECTION. **Sec. 45.** DIRECTOR--BROAD ADMINISTRATIVE DISCRETION--
29 RULE MAKING--ACTIONS IN SUPERIOR COURT. The director has the power,
30 and broad administrative discretion, to administer, liberally construe,
31 and interpret this subchapter to facilitate the delivery of financial
32 services to the citizens of this state by licensees subject to this
33 subchapter, and to effectuate the legislature's goal to protect
34 borrowers. The director must adopt all rules necessary to administer
35 this subchapter, to establish and set fees authorized by this
36 subchapter, and to ensure complete and full disclosure by licensees of
37 lending transactions governed by this subchapter.

1 NEW SECTION. **Sec. 46.** VIOLATIONS OR UNSOUND FINANCIAL PRACTICES--
2 STATEMENT OF CHARGES--HEARING--SANCTIONS--DIRECTOR'S AUTHORITY. (1)
3 The director may issue and serve upon a licensee or applicant, or any
4 director, officer, sole proprietor, partner, or controlling person of
5 a licensee or applicant, a statement of charges if, in the opinion of
6 the director, any licensee or applicant, or any director, officer, sole
7 proprietor, partner, or controlling person of a licensee or applicant:
8 (a) Is engaging or has engaged in an unsafe or unsound financial
9 practice in conducting a business governed by this subchapter;
10 (b) Is violating or has violated this subchapter, including
11 violations of:
12 (i) Any rules, orders, or subpoenas issued by the director under
13 any act;
14 (ii) Any condition imposed in writing by the director in connection
15 with the granting of any application or other request by the licensee;
16 or
17 (iii) Any written agreement made with the director;
18 (c) Obtains a license by means of fraud, misrepresentation, or
19 concealment;
20 (d) Provides false statements or omits material information on an
21 application;
22 (e) Knowingly or negligently omits material information during or
23 in response to an examination or in connection with an investigation by
24 the director;
25 (f) Fails to pay a fee or assessment required by the director or
26 any multistate licensing system prescribed by the director, or fails to
27 maintain the required bond;
28 (g) Commits a crime against the laws of any jurisdiction involving
29 moral turpitude, financial misconduct, or dishonest dealings. For the
30 purposes of this section, a certified copy of the final holding of any
31 court, tribunal, agency, or administrative body of competent
32 jurisdiction is conclusive evidence in any hearing under this
33 subchapter;
34 (h) Knowingly commits or is a party to any material fraud,
35 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
36 or device whereby any other person relying upon the word,
37 representation, or conduct acts to his or her injury or damage;

1 (i) Wrongly converts any money or its equivalent of any other
2 person to his or her own use or to the use of his or her principal;

3 (j) Fails to disclose to the director any material information
4 within his or her knowledge or fails to produce any document, book, or
5 record in his or her possession for inspection by the director upon
6 lawful demand;

7 (k) Commits any act of fraudulent or dishonest dealing. For the
8 purposes of this section, a certified copy of the final holding of any
9 court, tribunal, agency, or administrative body of competent
10 jurisdiction is conclusive evidence in any hearing under this
11 subchapter;

12 (l) Commits an act or engages in conduct that demonstrates
13 incompetence or untrustworthiness, or is a source of injury and loss to
14 the public; or

15 (m) Violates any applicable state or federal law relating to the
16 activities governed by this subchapter.

17 (2) The director may issue and serve upon a licensee or applicant,
18 or any director, officer, sole proprietor, partner, or controlling
19 person of the licensee or applicant, a statement of charges if the
20 director has reasonable cause to believe that the licensee or applicant
21 is about to do acts prohibited in subsection (1) of this section.

22 (3) The statement of charges must be issued under chapter 34.05
23 RCW. The director or the director's designee may impose the following
24 sanctions against any licensee or applicant, or any directors,
25 officers, sole proprietors, partners, controlling persons, or employees
26 of a licensee or applicant:

27 (a) Deny, revoke, suspend, or condition a license;

28 (b) Order the licensee or person to cease and desist from practices
29 that violate this subchapter;

30 (c) Impose a fine not to exceed one hundred dollars per day per
31 violation of this subchapter;

32 (d) Order restitution or refunds, or both, to borrowers or other
33 affected parties for violations of this subchapter or take other
34 affirmative action as necessary to comply with this subchapter; and

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

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

4 (5) Unless the licensee or person personally appears at the hearing
5 or is represented by a duly authorized representative, the licensee is
6 deemed to have consented to the statement of charges and the sanctions
7 imposed in the statement of charges.

8 (6) Except to the extent prohibited by another statute, the
9 director may engage in informal settlement of complaints or enforcement
10 actions including, but not limited to, payment to the department of
11 financial institutions for purposes of financial literacy and education
12 programs authorized under RCW 43.320.150.

13 NEW SECTION. **Sec. 47.** PRIVACY, CONFIDENTIALITY, PRIVILEGE. (1)
14 The requirements under any federal law or laws of another state
15 regarding the privacy or confidentiality of any information or material
16 provided to the department, and any privilege arising under federal or
17 state law, including the rules of any federal or state court, with
18 respect to that information or material, continues to apply to the
19 information or material after the information or material has been
20 disclosed to the department. If consistent with applicable law, the
21 information and material may be shared with all state and federal
22 regulatory officials with mortgage industry oversight authority without
23 the loss of privilege or the loss of confidentiality protections
24 provided by federal law or state law.

25 (2) When the department is a party to a memoranda of understanding
26 or enforcement order issued by the consumer financial protection
27 bureau, the privacy, confidentiality, or privilege accorded to the
28 document by federal law continues to apply even after the memoranda or
29 order has been signed by the director or a designee.

30 NEW SECTION. **Sec. 48.** VIOLATIONS OR UNSOUND PRACTICES--TEMPORARY
31 CEASE AND DESIST ORDER--DIRECTOR'S AUTHORITY. Whenever the director
32 determines that the acts specified in section 46 of this act or their
33 continuation is likely to cause insolvency or substantial injury to the
34 public, the director may also issue a temporary cease and desist order
35 requiring the licensee to cease and desist from the violation or
36 practice. The order becomes effective upon service upon the licensee

1 and remains effective unless set aside, limited, or suspended by a
2 court under section 49 of this act pending the completion of the
3 administrative proceedings under the notice and until the time the
4 director dismisses the charges specified in the notice or until the
5 effective date of a superior court injunction under section 49 of this
6 act.

7 NEW SECTION. **Sec. 49.** TEMPORARY CEASE AND DESIST ORDER--
8 LICENSEE'S APPLICATION FOR INJUNCTION. Within ten days after a
9 licensee has been served with a temporary cease and desist order, the
10 licensee may apply to the superior court in the county of its principal
11 place of business for an injunction setting aside, limiting, or
12 suspending the order pending the completion of the administrative
13 proceedings pursuant to the notice served under section 48 of this act.
14 The superior court has jurisdiction to issue the injunction.

15 NEW SECTION. **Sec. 50.** VIOLATION OF TEMPORARY CEASE AND DESIST
16 ORDER--DIRECTOR'S APPLICATION FOR INJUNCTION. In the case of a
17 violation or threatened violation of a temporary cease and desist order
18 issued under section 48 of this act, the director may apply to the
19 superior court of the county of the principal place of business of the
20 licensee for an injunction.

21 NEW SECTION. **Sec. 51.** APPOINTMENT OF RECEIVER. The director may
22 petition the superior court for the appointment of a receiver to
23 liquidate the affairs of the licensee.

24 NEW SECTION. **Sec. 52.** VIOLATION--CONSUMER PROTECTION ACT--
25 REMEDIES. The legislature finds and declares that any violation of
26 this subchapter substantially affects the public interest and is an
27 unfair and deceptive act or practice and an unfair method of
28 competition in the conduct of trade or commerce as set forth in RCW
29 19.86.020. Remedies available under chapter 19.86 RCW do not affect
30 any other remedy the injured party may have.

31 NEW SECTION. **Sec. 53.** ADJUSTMENT OF DOLLAR AMOUNTS. The dollar
32 amounts established in sections 27(2), 28(3), and 34(1)(b) of this act
33 must, without discretion, be adjusted for inflation by the director on

1 July 1, 2014, and on each July 1st thereafter, based upon changes in
2 the consumer price index during that time period, and then rounded up
3 to the nearest five dollars. "Consumer price index" means, for any
4 calendar year, that year's annual average consumer price index, for
5 Washington state, for wage earners and clerical workers, all items,
6 compiled by the bureau of labor and statistics, United States
7 department of labor. If the bureau of labor and statistics develops
8 more than one consumer price index for areas within the state, the
9 index covering the greatest number of people, covering areas
10 exclusively within the boundaries of the state, and including all items
11 must be used for the adjustments for inflation in this section. The
12 director must calculate the new dollar threshold and transmit it to the
13 office of the code reviser for publication in the Washington State
14 Register at least one month before the new dollar threshold is to take
15 effect.

16 NEW SECTION. **Sec. 54.** REPORT TO LEGISLATURE. The director must
17 collect and submit the following information to the legislature by
18 December 1, 2015, for data collected during 2014:

- 19 (1) The number of branches and total locations;
- 20 (2) The number of loans made during 2014;
- 21 (3) Loan volume;
- 22 (4) Average loan amount;
- 23 (5) Total fees charged, in total and by category of fee or other
24 charge;
- 25 (6) Average payment per month, in total and by category of fee or
26 other charge;
- 27 (7) Average income of borrower;
- 28 (8) The number of borrowers who are in the military;
- 29 (9) Borrower frequency;
- 30 (10) The number of unique customers;
- 31 (11) Average length of loan repayment;
- 32 (12) The number of borrowers taking out the maximum loan amount;
- 33 (13) The number of borrowers who went into default;
- 34 (14) Average length of time a borrower has a loan before a borrower
35 goes into default;
- 36 (15) Any legislative recommendations by the director; and

1 (16) Any other information that the director believes is relevant
2 or useful.

3 NEW SECTION. **Sec. 55.** SMALL CONSUMER INSTALLMENT LOANS--FINANCIAL
4 LITERACY FUND. (1) For each small consumer installment loan that is
5 made, the database vendor must remit fifty cents to the department of
6 financial institutions for the purpose of funding financial literacy
7 and education programs authorized under RCW 43.320.150. The director
8 must adopt rules to implement this section.

9 (2) For each small consumer installment loan that is made, the
10 database vendor must remit fifty cents to the individual development
11 account program account in the custody of the state treasurer for the
12 purpose of funding individual development accounts, as provided for in
13 RCW 43.31.470. The director of the department of commerce must adopt
14 rules to implement this section. For the purposes of this subsection,
15 "individual development account" has the same meaning as provided in
16 RCW 43.31.455.

17 NEW SECTION. **Sec. 56.** SHORT TITLE. This subchapter may be known
18 and cited as the small consumer installment loan act.

19 NEW SECTION. **Sec. 57.** (1) Sections 21 through 56 of this act take
20 effect January 1, 2014.

21 (2) The director or the director's designee must take the actions
22 necessary to ensure sections 21 through 56 of this act are implemented
23 on January 1, 2014.

24 NEW SECTION. **Sec. 58.** Sections 21 through 56 of this act are each
25 added to chapter 31.45 RCW and codified with the subchapter heading of
26 "small consumer installment loans."

NOT CONSIDERED

1 On page 1, line 1 of the title, after "loans" strike the remainder
2 of the title and insert "and small loans; amending RCW 31.45.010,
3 31.45.020, 31.45.030, 31.45.040, 31.45.050, 31.45.060, 31.45.070,
4 31.45.090, 31.45.100, 31.45.105, 31.45.110, 31.45.150, 31.45.180,
5 31.45.190, and 31.45.200; adding new sections to chapter 31.45 RCW;
6 creating new sections; repealing RCW 31.45.073, 31.45.077, 31.45.079,
7 31.45.082, 31.45.084, 31.45.085, 31.45.086, 31.45.088, 31.45.093,
8 31.45.095, and 31.45.210; prescribing penalties; providing a contingent
9 effective date; and providing effective dates."

EFFECT: The minimum length of a small consumer installment loan is lowered from 6 months to 3 months. The maximum length of a small consumer installment loan is lowered from 12 months to 183 days.

A portion of the loan origination fees may be refundable.

The monthly maintenance fee is earned after each 30-day period, not after the first day of each month. The monthly fee is capped at a maximum of \$60 for any month it is due.

Delinquency fees are altered from 10 percent of the delinquent amount to a maximum of \$25 per delinquent loan.

A repayment plan is created for borrowers who cannot meet the terms of the agreement. A licensee must offer a borrower a repayment plan prior to bringing a civil action on a loan in default. The offer must be open to the borrower for at least 30 days. A repayment plan must be for at least 90 days unless the borrower agrees to a shorter term.

A licensee may charge up to 20 percent of the total defaulted amount as an initial payment. A licensee may charge fees and sums incurred prior to the default and the applicable delinquency fees. A licensee may not charge any other fee or interest for a repayment plan. If a borrower defaults on a repayment plan, a licensee may pursue any legal remedy to collect the outstanding balance on the repayment plan. Additional disclosure language is prescribed.

Active and reserve duty military members, spouses of members, and dependent children of members are ineligible for a small consumer installment loan. A licensee may rely on a safe harbor, adopted by rule, in determining if a borrower is ineligible as a military borrower.

A borrower may not have simultaneous installment loans at multiple lenders even if the loans are within the aggregate limit and meet the gross monthly income restrictions. However, a borrower is prohibited

from receiving, and a licensee is prohibited from making, more than 8 small consumer installment loans from all licensees in a 12-month period.

A borrower may not have a small loan (also known as a payday loan) and a small consumer installment loan simultaneously.

Fifty cents from each small consumer installment loan transaction must be remitted by the database vendor to the Department of Financial Institutions to be used for financial literacy and education.

Fifty cents from each small consumer installment loan transaction must be remitted by the database vendor to the individual development account in the custody of the state treasurer to be used by the Department of Commerce for the purpose of funding individual development accounts.

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