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ENGROSSED SUBSTITUTE SENATE BILL 5899

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State of Washington

64th Legislature

2015 Regular Session

By Senate Financial Institutions & Insurance (originally sponsored by Senators Llias, Keiser, Ranker, Angel, Hobbs, Sheldon, Fain, Rivers, Roach, King, Ericksen, and Honeyford)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to small loans and small consumer installment  
2 loans; amending RCW 31.45.010, 31.45.020, 31.45.030, 31.45.040,  
3 31.45.050, 31.45.060, 31.45.070, 31.45.090, 31.45.100, 31.45.105,  
4 31.45.110, 31.45.150, 31.45.180, 31.45.190, and 31.45.200; adding new  
5 sections to chapter 31.45 RCW; adding new sections to chapter 43.63A  
6 RCW; creating new sections; repealing RCW 31.45.073, 31.45.077,  
7 31.45.079, 31.45.082, 31.45.084, 31.45.085, 31.45.086, 31.45.088,  
8 31.45.093, 31.45.095, and 31.45.210; prescribing penalties; providing  
9 an effective date; and providing a contingent effective date.

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

11 **CHECK CASHERS AND SELLERS**

12 **Sec. 1.** RCW 31.45.010 and 2012 c 17 s 7 are each amended to read  
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this (~~chapter~~) subchapter.

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

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

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

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

9           ((+5)) (3) "Check casher" means an individual, partnership,  
10 unincorporated association, or corporation that, for compensation,  
11 engages, in whole or in part, in the business of cashing checks,  
12 drafts, money orders, or other commercial paper serving the same  
13 purpose.

14           ((+6)) (4) "Check seller" means an individual, partnership,  
15 unincorporated association, or corporation that, for compensation,  
16 engages, in whole or in part, in the business of or selling checks,  
17 drafts, money orders, or other commercial paper serving the same  
18 purpose.

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

21           (+8)) (5) "Controlling person" means a person owning or  
22 controlling ten percent or more of the total outstanding shares of  
23 the applicant or licensee, if the applicant or licensee is a  
24 corporation, and a member who owns ten percent or more of a limited  
25 liability company or limited liability partnership.

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

31           (+10)) (6) "Department" means the department of financial  
32 institutions.

33           (7) "Director" means the director of ~~((financial institutions))~~  
34 the department.

35           ((+11)) (8) "Financial institution" means a commercial bank,  
36 savings bank, savings and loan association, or credit union.

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

1       ~~(13))~~ (9) "Licensee" means a check casher or seller licensed by  
2 the director to engage in business in accordance with this  
3 ~~(chapter)~~ subchapter. "Licensee" also means a check casher or  
4 seller, whether located within or outside of this state, who fails to  
5 obtain the license ~~((or small loan endorsement))~~ required by this  
6 ~~(chapter)~~ subchapter.

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

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

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

14       ~~(17) "Paid" means that moment in time when the licensee deposits  
15 the borrower's check or accepts cash for the full amount owing on a  
16 valid small loan. If the borrower's check is returned by the  
17 borrower's bank for any reason, the licensee shall not consider the  
18 loan paid.~~

19       ~~(18))~~ (10) "Person" means an individual, partnership,  
20 association, limited liability company, limited liability  
21 partnership, trust, corporation, and any other legal entity.

22       ~~((19))~~ (11) "Principal" means the loan proceeds advanced for  
23 the benefit of the borrower in a small loan, excluding any fee or  
24 interest charge.

25       ~~((20) "Rescission" means annulling the loan contract and, with  
26 respect to the small loan contract, returning the borrower and the  
27 licensee to their financial condition prior to the origination date  
28 of the loan.~~

29       ~~(21))~~ (12) "Small loan" means a loan of up to the maximum amount  
30 and for a period of time up to the maximum term specified in RCW  
31 31.45.073.

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

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

37       ~~(24) "Trade secret" means the same as defined in RCW  
38 19.108.010.)~~

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

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

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

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

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

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

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

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

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

30       (2) Each application for a license shall be in writing in a form  
31 prescribed by the director and shall contain the following  
32 information:

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

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

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

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

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

12 (4) The application shall be filed together with an investigation  
13 and supervision fee established by rule by the director. Such fees  
14 collected shall be deposited to the credit of the financial services  
15 regulation fund in accordance with RCW 43.320.110.

16 (5)(a) Before granting a license to sell checks, drafts, or money  
17 orders under this (~~chapter~~) subchapter, the director shall require  
18 that the licensee file with the director a surety bond running to the  
19 state of Washington, which bond shall be issued by a surety insurer  
20 which meets the requirements of chapter 48.28 RCW, and be in a format  
21 acceptable to the director. The director shall adopt rules to  
22 determine the penal sum of the bond that shall be filed by each  
23 licensee. The bond shall be conditioned upon the licensee paying all  
24 persons who purchase checks, drafts, or money orders from the  
25 licensee the face value of any check, draft, or money order which is  
26 dishonored by the drawee bank, savings bank, or savings and loan  
27 association due to insufficient funds or by reason of the account  
28 having been closed. The bond shall only be liable for the face value  
29 of the dishonored check, draft, or money order, and shall not be  
30 liable for any interest or consequential damages.

31 (~~(b) (Before granting a small loan endorsement under this~~  
32 ~~chapter, the director shall require that the licensee file with the~~  
33 ~~director a surety bond, in a format acceptable to the director,~~  
34 ~~issued by a surety insurer that meets the requirements of chapter~~  
35 ~~48.28 RCW. The director shall adopt rules to determine the penal sum~~  
36 ~~of the bond that shall be filed by each licensee. A licensee who~~  
37 ~~wishes to engage in both check selling and making small loans may~~  
38 ~~combine the penal sums of the bonding requirements and file one bond~~  
39 ~~in a form acceptable to the director. The bond shall run to the state~~  
40 ~~of Washington as obligee, and shall run to the benefit of the state~~

1 ~~and any person or persons who suffer loss by reason of the licensee's~~  
2 ~~violation of this chapter or any rules adopted under this chapter.~~  
3 ~~The bond shall only be liable for damages suffered by borrowers as a~~  
4 ~~result of the licensee's violation of this chapter or rules adopted~~  
5 ~~under this chapter, and shall not be liable for any interest or~~  
6 ~~consequential damages.~~

7 (e)) The bond shall be continuous and may be canceled by the  
8 surety upon the surety giving written notice to the director and  
9 licensee of its intent to cancel the bond. The cancellation is  
10 effective thirty days after the notice is received by the director.  
11 Whether or not the bond is renewed, continued, reinstated, reissued,  
12 or otherwise extended, replaced, or modified, including increases or  
13 decreases in the penal sum, it shall be considered one continuous  
14 obligation, and the surety upon the bond shall not be liable in an  
15 aggregate or cumulative amount exceeding the penal sum set forth on  
16 the face of the bond. In no event shall the penal sum, or any portion  
17 thereof, at two or more points in time be added together in  
18 determining the surety's liability. The bond shall not be liable for  
19 any liability of the licensee for tortious acts, whether or not such  
20 liability is imposed by statute or common law, or is imposed by  
21 contract. The bond shall not be a substitute or supplement to any  
22 liability or other insurance required by law or by the contract. If  
23 the surety desires to make payment without awaiting court action  
24 against it, the penal sum of the bond shall be reduced to the extent  
25 of any payment made by the surety in good faith under the bond.

26 ((d)) (c) Any person who is a purchaser of a check, draft, or  
27 money order from the licensee having a claim against the licensee for  
28 the dishonor of any check, draft, or money order by the drawee bank,  
29 savings bank, or savings and loan association due to insufficient  
30 funds or by reason of the account having been closed, or who obtained  
31 a small loan from the licensee and was damaged by the licensee's  
32 violation of this ~~(chapter)~~ subchapter or rules adopted under this  
33 ~~(chapter)~~ subchapter, may bring suit upon such bond or deposit in  
34 the superior court of the county in which the check, draft, or money  
35 order was purchased, or in the superior court of a county in which  
36 the licensee maintains a place of business. Jurisdiction shall be  
37 exclusively in the superior court. Any such action must be brought  
38 not later than one year after the dishonor of the check, draft, or  
39 money order on which the claim is based. In the event valid claims  
40 against a bond or deposit exceed the amount of the bond or deposit,

1 each claimant shall only be entitled to a pro rata amount, based on  
2 the amount of the claim as it is valid against the bond, or deposit,  
3 without regard to the date of filing of any claim or action.

4 ~~((e))~~ (d) In lieu of the surety bond required by this section,  
5 the applicant for a check seller license may file with the director a  
6 deposit consisting of cash or other security acceptable to the  
7 director in an amount equal to the penal sum of the required bond.  
8 ~~((In lieu of the surety bond required by this section, the applicant  
9 for a small loan endorsement may file with the director a deposit  
10 consisting of cash or other security acceptable to the director in an  
11 amount equal to the penal sum of the required bond, or may  
12 demonstrate to the director net worth in excess of three times the  
13 amount of the penal sum of the required bond.))~~

14 The director may adopt rules necessary for the proper  
15 administration of the security or to establish reporting requirements  
16 to ensure that the net worth requirements continue to be met. A  
17 deposit given instead of the bond required by this section is not an  
18 asset of the licensee for the purpose of complying with the liquid  
19 asset provisions of this ~~((chapter))~~ subchapter. A deposit given  
20 instead of the bond required by this section is a fund held in trust  
21 for the benefit of eligible claimants under this section and is not  
22 an asset of the estate of any licensee that seeks protection  
23 voluntarily or involuntarily under the bankruptcy laws of the United  
24 States.

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

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

3       (1) The director shall conduct an investigation of every  
4 applicant to determine the financial responsibility, experience,  
5 character, and general fitness of the applicant. The director shall  
6 issue the applicant a license to engage in the business of cashing or  
7 selling checks, or both, (~~or a small loan endorsement,~~) if the  
8 director determines to his or her satisfaction that:

9       (a) The applicant has satisfied the requirements of RCW  
10 31.45.030;

11       (b) The applicant is financially responsible and appears to be  
12 able to conduct the business of cashing or selling checks (~~or making~~  
13 ~~small loans~~) in an honest, fair, and efficient manner with the  
14 confidence and trust of the community; and

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

17       (2) The director may refuse to issue a license (~~or small loan~~  
18 ~~endorsement~~) if he or she finds that the applicant, or any person  
19 who is a director, officer, partner, agent, sole proprietor, owner,  
20 or controlling person of the applicant, has been convicted of a  
21 felony in any jurisdiction within seven years of filing the present  
22 application or is associating or consorting with any person who has  
23 been convicted of a felony in any jurisdiction within seven years of  
24 filing the present application. The term "substantial stockholder" as  
25 used in this subsection, means a person owning or controlling ten  
26 percent or more of the total outstanding shares of the applicant  
27 corporation.

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

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

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

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



1 (4) A license (~~(or small loan endorsement)~~) issued under this  
2 (~~chapter~~) subchapter shall be conspicuously posted in the place of  
3 business of the licensee. The license is not transferable or  
4 assignable.

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

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

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

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

1 designee may reinstate the license if, within twenty days after the  
2 effective date of expiration, the licensee:

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

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

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

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

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

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

32 (3) A check, draft, or money order sold by a licensee shall be  
33 drawn on an account of a licensee maintained in a federally insured  
34 financial institution authorized to do business in the state of  
35 Washington.

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

1 (1) No licensee may engage in a loan business; the negotiation of  
2 loans; or the discounting of notes, bills of exchange, checks, or  
3 other evidences of debt in the same premises where a check cashing or  
4 selling business is conducted, unless the licensee:

5 (a) Is conducting the activities of pawnbroker as defined in RCW  
6 19.60.010;

7 (b) Is a properly licensed consumer loan company under chapter  
8 31.04 RCW; or

9 (c) Is conducting other lending activity permitted in the state  
10 of Washington(~~(; or~~

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

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

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

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

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

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

31 (5) Each licensee shall comply with all applicable state and  
32 federal statutes relating to the activities governed by this  
33 (~~chapter~~) subchapter.

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

36 (1) Each licensee shall submit to the director, in a form  
37 approved by the director, a report containing financial statements  
38 covering the calendar year or, if the licensee has an established  
39 fiscal year, then for such fiscal year, within one hundred five days

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

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

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

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

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

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

3       (1) It is a violation of this (~~chapter~~) subchapter for any  
4 person 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~~  
7 ~~lender, 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,~~  
14 ~~or 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(w) 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  
20 person subject to this (~~chapter~~) subchapter to:

21       (a) Advertise, print, display, publish, distribute, or broadcast  
22 or 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 2014 c 36 s 7 are each amended to  
34 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) Deny, revoke, suspend, or condition a license ((~~or small loan~~  
20 ~~endorsement~~));

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

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

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

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

33 (3) The proceedings to impose the sanctions described in  
34 subsection (2) of this section, including any hearing or appeal of  
35 the statement of charges, are governed by chapter 34.05 RCW. The  
36 statute of limitations on actions not subject to RCW 4.16.160 that  
37 are brought under this ((~~chapter~~)) subchapter by the director is five  
38 years.

39 (4) Unless the licensee or person personally appears at the  
40 hearing or is represented by a duly authorized representative, the

1 licensee is deemed to have consented to the statement of charges and  
2 the sanctions imposed in the statement of charges.

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

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

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

12 (1) The capital of any licensee is impaired;

13 (2) Any licensee is conducting its business in such an unsafe or  
14 unsound manner as to render its further operations hazardous to the  
15 public;

16 (3) Any licensee has suspended payment of its trust obligations;

17 (4) Any licensee has refused to submit its books, papers, and  
18 affairs to the inspection of the director or the director's examiner;

19 (5) Any officer of any licensee refuses to be examined under oath  
20 regarding the business of the licensee;

21 (6) Any licensee neglects or refuses to comply with any order of  
22 the director made pursuant to this (~~chapter~~) subchapter unless the  
23 enforcement of such order is restrained in a proceeding brought by  
24 such licensee;

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

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

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

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



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

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

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

12 NEW SECTION. **Sec. 16.** Subject to section 59 of this act, the  
13 following acts or parts of acts are each repealed, effective July 1,  
14 2016, or on and after the effective date of the final rules adopted  
15 by the director implementing this act, whichever is later:

16 (1) RCW 31.45.073 (Making small loans—Endorsement required—Due  
17 date—Termination date—Maximum amount—Installment plans—Interest—  
18 Fees—Postdated check or draft as security) and 2009 c 510 s 3, 2003 c  
19 86 s 8, & 1995 c 18 s 2;

20 (2) RCW 31.45.077 (Small loan endorsement—Application—Form—  
21 Information—Exemption from disclosure—Fees) and 2005 c 274 s 256,  
22 2003 c 86 s 9, 2001 c 177 s 13, & 1995 c 18 s 3;

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

25 (4) RCW 31.45.082 (Delinquent small loan—Restrictions on  
26 collection by licensee or third party—Definitions) and 2009 c 13 s 1  
27 & 2003 c 86 s 11;

28 (5) RCW 31.45.084 (Small loan installment plan—Terms—  
29 Restrictions) and 2009 c 510 s 4 & 2003 c 86 s 12;

30 (6) RCW 31.45.085 (Loan application—Required statement—Rules)  
31 and 2009 c 510 s 5;

32 (7) RCW 31.45.086 (Small loans—Right of rescission) and 2003 c 86  
33 s 13;

34 (8) RCW 31.45.088 (Small loans—Disclosure requirements—  
35 Advertising—Making loan) and 2003 c 86 s 14;

36 (9) RCW 31.45.093 (Information system—Access—Required  
37 information—Fees—Rules) and 2009 c 510 s 6;

1 (10) RCW 31.45.095 (Report by director—Contents) and 2009 c 510 s  
2 7; and

3 (11) RCW 31.45.210 (Military borrowers—Licensee's duty—  
4 Definition) and 2005 c 256 s 1.

5 NEW SECTION. **Sec. 17.** A new section is added to chapter 31.45  
6 RCW under the subchapter heading "check cashers and sellers" to read  
7 as follows:

8 (1) Small loans made pursuant to this chapter as it existed  
9 before the effective date of this section may no longer be made on  
10 and after July 1, 2016, or on and after the effective date of the  
11 final rules adopted by the director implementing this act, whichever  
12 is later, provided the subchapter "small consumer installment loans"  
13 becomes law as it is enacted by the legislature.

14 (2) Provided subsection (1) of this section becomes law as  
15 enacted by the legislature and the director adopts final rules  
16 implementing this act, all small loan licensees must surrender their  
17 small loan license in accordance with the closure rules adopted by  
18 the director and pay any applicable assessments due. Notwithstanding  
19 surrender or such closure rules, a small loan licensee may collect a  
20 small loan with an outstanding balance. The director has the  
21 authority to transition the database for small loans as necessary.  
22 The director may adopt rules to implement this section.

23 (3) This section is only effective provided section 16 of this  
24 act becomes law as enacted by the legislature.

25 (4) The director must provide notice of the effective date of the  
26 final rules adopted under this section to affected parties, the chief  
27 clerk of the house of representatives, the secretary of the senate,  
28 the office of the code reviser, and others as deemed appropriate by  
29 the director.

30 (5) The director or the director's designee shall take the  
31 actions necessary to ensure sections 1 through 18 of this act are  
32 implemented.

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

36 Effective January 1, 2016, the director shall establish, set, and  
37 adjust by rule the amount of all fees and charges authorized by this  
38 subchapter.

1 NEW SECTION. **Sec. 19.** RCW 31.45.010 through 31.45.210  
2 constitute the subchapter "check cashers and sellers."

3 **SMALL CONSUMER INSTALLMENT LOANS**

4 NEW SECTION. **Sec. 20.** DEFINITIONS. The definitions in this  
5 section apply throughout this subchapter unless the context clearly  
6 requires otherwise.

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

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

10 (3) "Controlling person" means a person owning or controlling ten  
11 percent or more of the total outstanding shares of the applicant or  
12 licensee, if the applicant or licensee is a corporation, and a member  
13 who owns ten percent or more of a limited liability company or  
14 limited liability partnership.

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

16 (5) "Director" means the director of the department.

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

19 (7) "Gross monthly income" means a borrower's or potential  
20 borrower's gross monthly income as demonstrated by evidence of  
21 income, including, but not limited to, a pay stub, documentation  
22 reflecting receipt of public benefits, tax returns, bank statements,  
23 or other documentation.

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

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

31 (10) "Loaned amount" means the principal amount of the loan  
32 exclusive of any interest, fees, penalties, or charges authorized by  
33 this subchapter.

34 (11) "Military borrower" means:

35 (a) A "covered borrower" as defined in 32 C.F.R. Sec. 232.3; and

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

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

3 (12) "Person" means an individual, partnership, association,  
4 limited liability company, limited liability partnership, trust,  
5 corporation, and any other legal entity.

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

7 (14) "Scheduled payment" means any single payment disclosed in a  
8 payment schedule on a federal truth in lending act disclosure.  
9 "Scheduled payment" does not mean an actual payment on a date  
10 different than a payment on the loan payment schedule, or the payment  
11 in full of a loan before the final payment date on the loan payment  
12 schedule.

13 (15) "Small consumer installment loan" means a loan for personal,  
14 family, or household purposes made to a natural person in a single  
15 advance with terms as provided for in this subchapter.

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

18 NEW SECTION. **Sec. 21.** APPLICABILITY. (1) Any small consumer  
19 installment loan made to a resident of this state is subject to the  
20 authority and restrictions of this subchapter.

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

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

26 (b) Loans made under chapters 19.60 and 31.04 RCW.

27 NEW SECTION. **Sec. 22.** LICENSE REQUIRED. No person may engage in  
28 advertising or making small consumer installment loans without first  
29 obtaining a license from the director in accordance with this  
30 subchapter. A license is required for each location where a licensee  
31 engages in the business of making small consumer installment loans.

32 NEW SECTION. **Sec. 23.** LICENSE—APPLICATION—FEE—BOND—  
33 INFORMATION FROM APPLICANTS. (1) Each application for a license must  
34 be in writing in a form prescribed by the director and must contain  
35 the following information:

36 (a) The legal name, residence, and business address of the  
37 applicant and, if the applicant is a partnership, association,

1 limited liability company, limited liability partnership, or  
2 corporation, of every member, officer, principal, or director  
3 thereof;

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

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

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

12 (2) As part of or in connection with an application for any  
13 license under this section, or periodically, each officer, director,  
14 and owner applicant shall furnish information concerning his or her  
15 identity, including fingerprints for submission to the Washington  
16 state patrol or the federal bureau of investigation for a state and  
17 national criminal history background check, personal history,  
18 experience, business record, purposes, and other pertinent facts, as  
19 the director may reasonably require. As part of or in connection with  
20 an application for a license under this subchapter, or periodically  
21 upon license renewal, the director is authorized to receive criminal  
22 history record information that includes nonconviction data as  
23 defined in RCW 10.97.030. The director may only disseminate  
24 nonconviction data obtained under this section to criminal justice  
25 agencies. This section does not apply to financial institutions  
26 regulated under chapters 31.12 and 31.13 RCW and Titles 30A, 32, and  
27 33 RCW.

28 (3) Any information in the application regarding the personal  
29 residential address or telephone number of the applicant, any  
30 financial information about the applicant and entities owned or  
31 controlled by the applicant, and any trade secret as defined in RCW  
32 19.108.010 including any financial statement that is a trade secret,  
33 is exempt from the public records disclosure requirements of chapter  
34 42.56 RCW.

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

39 (5) Each applicant shall file and maintain a surety bond,  
40 approved by the director, executed by the applicant as obligor and by

1 a surety company authorized to do a surety business in this state as  
2 surety, whose liability as a surety does not exceed, in the  
3 aggregate, the penal sum of the bond. The penal sum of the bond must  
4 be a minimum of thirty thousand dollars and a maximum of two hundred  
5 fifty thousand dollars based on the annual dollar amount of loans  
6 originated. The bond must run to the state of Washington as obligee  
7 for the use and benefit of the state and of any person or persons who  
8 may have a cause of action against the obligor under this subchapter.  
9 The bond must be conditioned that the obligor as licensee will  
10 faithfully conform to and abide by this subchapter and all the rules  
11 adopted under this subchapter. The bond must pay to the state and any  
12 person or persons having a cause of action against the obligor all  
13 moneys that may become due and owing to the state and those persons  
14 under and by virtue of this subchapter.

15 NEW SECTION. **Sec. 24.** APPLICATION FOR LICENSE—FINANCIAL  
16 RESPONSIBILITY—DIRECTOR'S INVESTIGATION. (1) The director shall  
17 conduct an investigation of every applicant to determine the  
18 financial responsibility, experience, character, and general fitness  
19 of the applicant. The director shall issue the applicant a license to  
20 engage in the business of making small consumer installment loans, if  
21 the director determines that:

22 (a) The applicant has satisfied the licensing requirements of  
23 this subchapter;

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

29 (c) The applicant has the required bond.

30 (2) The director may refuse to issue a license if he or she finds  
31 that the applicant, or any person who is a director, officer,  
32 partner, agent, sole proprietor, owner, or controlling person of the  
33 applicant, has been convicted of a felony in any jurisdiction within  
34 seven years of filing the present application or is associating or  
35 consorting with any person who has been convicted of a felony in any  
36 jurisdiction within seven years of filing the present application.

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

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

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

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

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

13 NEW SECTION. **Sec. 25.** MULTISTATE LICENSING SYSTEM—DIRECTOR'S  
14 DISCRETION. Applicants may be required to make application through a  
15 multistate licensing system as prescribed by the director. Existing  
16 licensees may be required to transition onto a multistate licensing  
17 system as prescribed by the director. The applicant shall pay to the  
18 nationwide multistate licensing system any additional fee to  
19 participate in the system.

20 NEW SECTION. **Sec. 26.** TERMS OF LOANS. A small consumer  
21 installment loan is subject to the following limitations:

22 (1) The interest charged on the loaned amount must not exceed  
23 thirty-six percent per annum, exclusive of fees, penalties, or  
24 charges authorized by this subchapter;

25 (2) The loaned amount must not exceed seven hundred dollars;

26 (3) The loaned amount and accrued interest and fees must be fully  
27 repayable in substantially equal and consecutive installments  
28 according to a payment schedule agreed to by the parties;

29 (4) A loan term must not be less than one hundred eighty days;

30 (5) A loan term must not be more than one hundred ninety days;

31 (6) The loaned amount and accrued interest and fees must be fully  
32 amortized over the term of the loan; and

33 (7) The borrower's repayment obligations must not be secured by a  
34 lien on any real or personal property.

35 NEW SECTION. **Sec. 27.** LIMITATIONS ON INTEREST AND CHARGES.  
36 Notwithstanding any other provision of law, a licensee, in addition  
37 to collecting the principal amount of the loan:

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

5 (2) May charge a loan origination fee on a small consumer  
6 installment loan not to exceed fifteen percent of the loaned amount.  
7 The origination fee shall not be precomputed, but shall accrue each  
8 day until the loan is repaid in full. The amount that accrues each  
9 day shall be equal to the total amount of the origination fee divided  
10 by the number of days in the loan term. Notwithstanding this  
11 subsection, a small consumer installment loan licensee must provide a  
12 full refund of all charges after rescission as provided in section 31  
13 of this act;

14 (3) May charge a monthly maintenance fee on a small consumer  
15 installment loan, not to exceed seven and one-half percent of the  
16 loaned amount. A monthly maintenance fee is fully earned at the end  
17 of each month after the loan origination date when the borrower has a  
18 balance outstanding on the last day of the month and is not subject  
19 to refund. Notwithstanding this subsection, maintenance fees for a  
20 small consumer installment loan shall not exceed an amount equal to  
21 forty-five dollars for each month the loan remains unpaid. For the  
22 purpose of this subsection, a "month" is measured from a given date  
23 of a given calendar month to the same date of the subsequent calendar  
24 month. If the origination date of the small consumer installment loan  
25 is the last day of a month, months are measured from the last day of  
26 that month to the last day of each following month. If the  
27 origination date of the small consumer installment loan is the 29th  
28 or 30th of a month, the last day of February must be used when  
29 applicable;

30 (4) Is prohibited from charging or collecting interest or fees  
31 allowed by subsections (1) through (3) of this section in excess of  
32 the interest and fees disclosed in the loan agreement, regardless of  
33 whether there is an outstanding balance after the final payment date;

34 (5) May contract with the borrower to repay the small consumer  
35 installment loan in installments that are substantially equal in  
36 amount which may be repayable weekly, biweekly, semimonthly, monthly,  
37 or in such other repayment frequency as the licensee and borrower may  
38 agree;

39 (6) May include in the amount of each scheduled payment all or  
40 part of the following, as applicable: (a) The accrued, pro rata



1 portion of the origination fee; (b) a portion of the monthly  
2 maintenance fee equal to the aggregate of all monthly maintenance  
3 fees permitted under subsection (3) of this section divided by the  
4 total number of scheduled installment payments; (c) accrued interest;  
5 and (d) principal;

6 (7) Is prohibited from making a small consumer installment loan  
7 to a borrower if the loaned amount exceeds thirty percent of the  
8 borrower's gross monthly income. Gross monthly income must be  
9 evidenced by a pay stub or other evidence of income at least once  
10 every one hundred eighty days, and such evidence must (a) be no more  
11 than forty-five days old when presented to the licensee and (b) have  
12 been presented to the licensee no more than one hundred eighty days  
13 before the date on which the small consumer installment loan is made;

14 (8) May, in the event that any scheduled payment is delinquent  
15 thirty days or more:

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

18 (b) Declare the entire loan due and payable and proceed to  
19 collect the small consumer installment loan, including only the  
20 unpaid balance of the loaned amount and all interest, loan  
21 origination, and monthly maintenance fees and penalties accrued at  
22 the time the entire loan is declared due and payable;

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

27 (10) Is prohibited from charging a prepayment fee. A borrower is  
28 allowed to pay all or part of a small consumer installment loan  
29 before the maturity date without incurring any additional fee;

30 (11) Is prohibited from requiring a borrower to purchase add-on  
31 products such as credit insurance; and

32 (12) Is prohibited from charging any other interest, fees,  
33 penalties, or charges, except those provided in this section.

34 NEW SECTION. **Sec. 28.** LOAN AGREEMENT—REQUIRED CONTENTS. A  
35 licensee making a small consumer installment loan must document the  
36 transaction by use of a record authenticated by the licensee and the  
37 borrower. This record must set forth the terms and conditions of the  
38 loan, including, but not limited to:

39 (1) The name and address of the borrower and the licensee;

- 1 (2) The transaction date;
- 2 (3) The loaned amount;
- 3 (4) A statement of the total amount of finance charges charged,  
4 expressed both as a dollar amount and an annual percentage rate,  
5 calculated in accordance with the truth in lending act;
- 6 (5) The installment payment schedule;
- 7 (6) The right to rescind the loan on or before the close of  
8 business on the next day of business at the location where the loan  
9 was originated;
- 10 (7) A notice to the borrower that delinquency on one scheduled  
11 payment may result in a penalty of not more than twenty-five dollars  
12 per loan and/or acceleration of the loan;
- 13 (8) A description of the methods by which loan payments may be  
14 made, which may include cash, check, electronic fund transfers  
15 through automated clearing house or debit network, or any additional  
16 method of loan payment authorized by the director after rule making.  
17 However, (a) a licensee may not condition an extension of credit  
18 under a small consumer installment loan on the borrower's repayment  
19 by preauthorized electronic fund transfers, and (b) a postdated check  
20 or electronic payment authorization used to make a payment on a small  
21 consumer installment loan must not be considered security or  
22 collateral for the loan; and
- 23 (9) A notice to the borrower in at least ten-point type that  
24 states:

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

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

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

32 NEW SECTION. **Sec. 29.** NOTICE OF FEES AND CHARGES—RECEIPT. (1) A  
33 schedule of the fees, penalties, and charges for taking out a small  
34 consumer installment loan must be conspicuously and continuously  
35 posted in every location licensed under this subchapter.

36 (2) The licensee shall provide to the borrower a receipt for each  
37 small consumer loan transaction. The receipt must include the name of

1 the licensee, the type and amount of the transaction, and the fees  
2 and charges charged for the transaction.

3 NEW SECTION. **Sec. 30.** DISBURSEMENT OF PROCEEDS. A licensee may  
4 disburse the proceeds of a small consumer installment loan in the  
5 form of a check drawn on the licensee's bank account, in cash, by  
6 money order, by prepaid card, by electronic funds transfer, or by  
7 other method authorized by the director after rule making.

8 NEW SECTION. **Sec. 31.** RESCISSION. A borrower may rescind a  
9 small consumer installment loan, on or before the close of business  
10 on the next day of business at the location where the loan was  
11 originated, by returning the principal in cash, the original check  
12 disbursed by the licensee, or the other disbursement of loan proceeds  
13 from the licensee to fund the loan. The licensee may not charge the  
14 borrower for rescinding the loan and must refund any loan fees and  
15 interest received. The licensee shall conspicuously disclose to the  
16 borrower the right of rescission in writing in the loan agreement.

17 NEW SECTION. **Sec. 32.** DELINQUENT SMALL CONSUMER INSTALLMENT  
18 LOAN—RESTRICTIONS ON COLLECTION BY LICENSEE OR THIRD PARTY. (1) A  
19 licensee shall comply with all applicable state and federal laws when  
20 collecting a delinquent small consumer installment loan. A licensee  
21 may take civil action to collect principal, interest, fees,  
22 penalties, charges, and costs allowed under this subchapter. A  
23 licensee may not threaten criminal prosecution as a method of  
24 collecting a delinquent small consumer installment loan or threaten  
25 to take any legal action against the borrower which the licensee may  
26 not legally take.

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

35 (3) A licensee may not communicate with a borrower in such a  
36 manner as to harass, intimidate, abuse, or embarrass a borrower,  
37 including but not limited to communication at an unreasonable hour,

1 with unreasonable frequency, by threats of force or violence, or by  
2 use of offensive language. A communication is presumed to have been  
3 made for the purposes of harassment if it is initiated by the  
4 licensee for the purposes of collection and:

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

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

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

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

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

22 (5) If a dishonored check is assigned to any third party for  
23 collection, this section applies to the third party for the  
24 collection of the dishonored check.

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

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

32 (b) An unanswered telephone call in which no message (other than  
33 a caller identification) is left, unless the telephone call violates  
34 subsection (3)(c) of this section; and

35 (c) An initial letter to the borrower that includes disclosures  
36 intended to comply with the applicable provisions of the federal fair  
37 debt collection practices act.

38 (7) For the purposes of this section:

1 (a) A communication occurs at the time it is initiated by a  
2 licensee regardless of the time it is received or accessed by the  
3 borrower; and

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

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

9 NEW SECTION. **Sec. 33.** LOAN FREQUENCY LIMITATIONS. (1) No  
10 licensee may extend to or have open with a borrower a small consumer  
11 installment loan at any time when that borrower has another small  
12 consumer installment loan with an outstanding balance with the  
13 licensee or another licensee unless the unpaid loaned amount of any  
14 and all small consumer installment loans to a borrower at any time  
15 does not exceed seven hundred dollars.

16 (2) A borrower is prohibited from receiving more than eight small  
17 consumer installment loans from all licensees in any twelve-month  
18 period. A licensee is prohibited from making a small consumer  
19 installment loan to a borrower if making that small consumer  
20 installment loan would result in a borrower receiving more than eight  
21 small consumer installment loans from all licensees in any twelve-  
22 month period.

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

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

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

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

33 (a) Has an unpaid small loan made by a licensee under chapter  
34 31.45 RCW; or

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

36 (5) The director has broad rule-making authority to adopt and  
37 implement a database system to carry out this section. This includes,  
38 but is not limited to, taking the steps necessary to contract a

1 database vendor, and set licensee fees to operate and administer the  
2 database system.

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

5 NEW SECTION. **Sec. 34.** MILITARY BORROWERS. (1) A licensee is  
6 prohibited from extending a small consumer installment loan to any  
7 military borrower. In determining if a borrower is a military  
8 borrower and is ineligible to obtain a small consumer installment  
9 loan, a licensee may rely upon a statement provided by a borrower on  
10 a form prescribed by rule by the director. The form must apply  
11 standards to all military borrowers that are similar to the covered  
12 borrower identification statement standards of 32 C.F.R. Sec.  
13 232.5(a)(1).

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

15 NEW SECTION. **Sec. 35.** REPAYMENT PLAN. (1) If a small consumer  
16 installment loan licensee attempts to collect the outstanding balance  
17 on a small consumer installment loan in default by commencing any  
18 civil action, the small consumer installment loan licensee shall  
19 first offer the borrower an opportunity to enter into a repayment  
20 plan. The small consumer installment loan licensee:

21 (a) Is required to make the repayment plan offer available to the  
22 borrower for a period of at least fifteen days after the date of the  
23 offer; and

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

26 (2) The repayment plan offer must:

27 (a) Be in writing and sent by electronic mail to an electronic  
28 mail address provided by the borrower to the licensee, or by United  
29 States mail, return receipt requested, to the borrower's mailing  
30 address provided by the borrower to the licensee;

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

33 (c) Briefly explain the procedures the borrower must follow to  
34 enter into a repayment plan;

35 (d) If the licensee requires the borrower to make an initial  
36 payment to enter into a repayment plan, briefly explain the  
37 requirement and state the amount of the initial payment and the date  
38 the initial payment must be made;

1 (e) State that the borrower has the opportunity to enter into a  
2 repayment plan with a term of at least one hundred twenty days after  
3 the date the repayment plan is entered into; and

4 (f) Include the following amounts:

5 (i) The initial payment due; and

6 (ii) The total amount due if the borrower enters into a repayment  
7 plan.

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

10 (a) The borrower must enter into the repayment plan not later  
11 than fifteen days after the date of the repayment plan offer, unless  
12 the licensee allows a longer period;

13 (b) The licensee must allow the period for repayment to extend at  
14 least one hundred twenty days after the date of the repayment plan,  
15 unless the borrower agrees to a shorter term; and

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

19 (4) If the licensee and borrower enter into a repayment plan  
20 pursuant to this section, the licensee shall honor the terms of the  
21 repayment plan, and the licensee shall not:

22 (a) Except as otherwise provided by this subchapter, charge any  
23 other amount to a borrower, including, without limitation, any amount  
24 or charge payable directly or indirectly by the borrower and imposed  
25 directly or indirectly by the licensee as an incident to or as a  
26 condition of entering into a repayment plan, other than the fees  
27 charged pursuant to the original loan agreement;

28 (b) Accept any collateral from the borrower to enter into the  
29 repayment plan;

30 (c) Sell to the borrower any insurance or require the borrower to  
31 purchase insurance or any other goods or services to enter into the  
32 repayment plan; and

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

35 (5) If the licensee and borrower enter into a repayment plan  
36 pursuant to this section, the licensee shall:

37 (a) Prepare a written agreement establishing the repayment plan;  
38 and

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

- 1 (i) Be signed by the licensee and borrower; and  
2 (ii) Contain all of the terms of the repayment plan, including,  
3 without limitation, the total amount due under the terms of the  
4 repayment plan.  
5 (6) If the borrower defaults on the repayment plan, the licensee  
6 may, without any further notice to the borrower, commence any civil  
7 action and/or pursue any remedy as otherwise authorized by law.

8 NEW SECTION. **Sec. 36.** RESTRICTION ON TRANSFER. No licensee may  
9 pledge, negotiate, sell, or assign a small consumer installment loan,  
10 except to another licensee or to a bank, savings bank, trust company,  
11 savings and loan or building and loan association, or credit union  
12 organized under the laws of Washington or the laws of the United  
13 States.

14 NEW SECTION. **Sec. 37.** PROHIBITED ACTS. (1) It is a violation of  
15 this subchapter for a licensee, its officers, directors, employees,  
16 or independent contractors, or any other person subject to this  
17 subchapter to:

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

20 (b) Directly or indirectly employ any scheme, device, or artifice  
21 to defraud or mislead any borrower, to defraud or mislead any lender,  
22 or to defraud or mislead any person;

23 (c) Directly or indirectly engage in any unfair or deceptive  
24 practice toward any person;

25 (d) Directly or indirectly obtain property by fraud or  
26 misrepresentation;

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

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

35 (g) Make any false statement or knowingly and willfully make any  
36 omission of material fact in connection with any reports filed with  
37 the department of financial institutions by a licensee or in



1 connection with any investigation conducted by the department of  
2 financial institutions;

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

8 (i) Make small consumer installment loans from any unlicensed  
9 location;

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

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

14 (2) In addition to any other penalties, any transaction in  
15 violation of subsection (1) of this section is uncollectible and  
16 unenforceable.

17 NEW SECTION. **Sec. 38.** INTERNET LENDING. (1) A licensee may  
18 advertise and accept applications for small consumer installment  
19 loans by any lawful medium including, but not limited to, the  
20 internet.

21 (2) Licensees are prohibited from advertising or making small  
22 consumer installment loans via the internet without first having  
23 obtained a license.

24 NEW SECTION. **Sec. 39.** INVESTIGATION AND EXAMINATION FEES AND  
25 ANNUAL ASSESSMENT FEE REQUIRED—AMOUNTS DETERMINED BY RULE—FAILURE TO  
26 PAY—NOTICE REQUIREMENTS OF LICENSEE. (1) Each applicant and licensee  
27 shall pay to the director an investigation and examination fee as  
28 established in rule and an annual assessment fee for the coming year  
29 in an amount determined by rule as necessary to cover the operation  
30 of the program. The annual assessment fee is due upon the annual  
31 assessment fee due date as established in rule. Nonpayment of the  
32 annual assessment fee may result in expiration of the license as  
33 provided in subsection (2) of this section. In establishing the fees,  
34 the director shall consider at least the volume of business, level of  
35 risk, and potential harm to the public related to each activity. The  
36 fees collected shall be deposited to the credit of the financial  
37 services regulation fund in accordance with RCW 43.320.110.

1 (2) If a licensee does not pay its annual assessment fee by the  
2 annual assessment fee due date as specified in rule, the director or  
3 the director's designee shall send the licensee a notice of  
4 expiration and assess the licensee a late fee not to exceed fifteen  
5 percent of the annual assessment fee as established in rule by the  
6 director. The licensee's payment of both the annual assessment fee  
7 and the late fee must arrive in the department of financial  
8 institutions' offices by 5:00 p.m. Pacific time on the tenth day  
9 after the annual assessment fee due date, unless the department of  
10 financial institutions is not open for business on that date, in  
11 which case the licensee's payment of both the annual assessment fee  
12 and the late fee must arrive in the department of financial  
13 institutions' offices by 5:00 p.m. Pacific time on the next occurring  
14 day that the department of financial institutions is open for  
15 business. If the payment of both the annual assessment fee and the  
16 late fee does not arrive prior to such time and date, then the  
17 expiration of the licensee's license is effective at 5:00 p.m.  
18 Pacific time on the thirtieth day after the assessment fee due date.  
19 The director or the director's designee may reinstate the license if,  
20 within fifteen days after the effective date of expiration, the  
21 licensee pays the annual assessment fee and the late fee.

22 (3) If a licensee intends to do business at a new location, to  
23 close an existing place of business, or to relocate an existing place  
24 of business, the licensee shall provide written notification of that  
25 intention to the director no less than thirty days before the  
26 proposed establishing, closing, or moving of a place of business.

27 NEW SECTION. **Sec. 40.** LICENSEE—RECORDKEEPING. Each licensee  
28 shall keep and maintain the business books, accounts, and records the  
29 director may require to fulfill the purposes of this subchapter.  
30 Every licensee shall preserve the books, accounts, and records as  
31 required in rule by the director for at least two years from the  
32 completion of the transaction. Records may be maintained on an  
33 electronic, magnetic, optical, or other storage media. However, the  
34 licensee must maintain the necessary technology to permit access to  
35 the records by the department of financial institutions for the  
36 period required under this subchapter.

1           NEW SECTION.   **Sec. 41.**   EXAMINATION OR INVESTIGATION—DIRECTOR'S  
2 AUTHORITY—COSTS. The director or the director's designee may at any  
3 time examine and investigate the business and examine the books,  
4 accounts, records, and files, or other information, wherever located,  
5 of any licensee or person who the director has reason to believe is  
6 engaging in the business governed by this subchapter. For these  
7 purposes, the director or the director's designee may require the  
8 attendance of and examine under oath all persons whose testimony may  
9 be required about the business or the subject matter of the  
10 investigation. The director or the director's designee may require  
11 the production of original books, accounts, records, files, or other  
12 information, or may make copies of such original books, accounts,  
13 records, files, or other information. The director or the director's  
14 designee may issue a subpoena or subpoena duces tecum requiring  
15 attendance and testimony, or the production of the books, accounts,  
16 records, files, or other information. The director shall collect from  
17 the licensee the actual cost of the examination and investigation.

18           NEW SECTION.   **Sec. 42.**   SUBPOENA AUTHORITY—APPLICATION—CONTENTS  
19 —NOTICE—FEES. (1) The director or authorized assistants may apply  
20 for and obtain a superior court order approving and authorizing a  
21 subpoena in advance of its issuance. The application may be made in  
22 the county where the subpoenaed person resides or is found, or the  
23 county where the subpoenaed documents, records, or evidence are  
24 located, or in Thurston county. The application must:

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

26           (b) Adequately specify the documents, records, evidence, or  
27 testimony; and

28           (c) Include a declaration made under oath that an investigation  
29 is being conducted for a lawfully authorized purpose related to an  
30 investigation within the director's authority and that the subpoenaed  
31 documents, records, evidence, or testimony are reasonably related to  
32 an investigation within the director's authority.

33           (2) When an application under this section is made to the  
34 satisfaction of the court, the court must issue an order approving  
35 the subpoena. An order under this subsection constitutes authority of  
36 law for the director to subpoena the documents, records, evidence, or  
37 testimony.

1 (3) The director or authorized assistants may seek approval and a  
2 court may issue an order under this section without prior notice to  
3 any person, including the person to whom the subpoena is directed and  
4 the person who is the subject of an investigation. An application for  
5 court approval is subject to the fee and process set forth in RCW  
6 36.18.012(3).

7 NEW SECTION. **Sec. 43.** REPORT REQUIREMENTS—DISCLOSURE OF  
8 INFORMATION—RULES. (1) Each licensee shall submit to the director, in  
9 a form approved by the director, a report containing financial  
10 statements covering the calendar year or, if the licensee has an  
11 established fiscal year, then for that fiscal year, within one  
12 hundred five days after the close of each calendar or fiscal year.  
13 The licensee shall also file additional relevant information as the  
14 director may require. Any information provided by a licensee in an  
15 annual report is exempt from disclosure under chapter 42.56 RCW,  
16 unless aggregated with information supplied by other licensees in a  
17 manner that the licensee's individual information is not  
18 identifiable. Any information provided by the licensee that allows  
19 identification of the licensee may only be used by the director for  
20 purposes reasonably related to the regulation of licensees to ensure  
21 compliance with this subchapter.

22 (2) The director shall adopt rules specifying the form and  
23 content of annual reports and may require additional reporting as is  
24 necessary for the director to ensure compliance with this subchapter.

25 (3) A licensee whose license has been suspended or revoked shall  
26 submit to the director, at the licensee's expense, within one hundred  
27 five days after the effective date of the suspension or revocation, a  
28 closing audit report containing audited financial statements as of  
29 the effective date for the twelve months ending with the effective  
30 date.

31 (4) The director is authorized to enter into agreements or  
32 sharing arrangements regarding licensee reports, examination, or  
33 investigation information with other governmental agencies, the  
34 conference of state bank supervisors, the American association of  
35 residential mortgage regulators, the national association of consumer  
36 credit administrators, or other associations representing  
37 governmental agencies as established by rule, regulation, or order of  
38 the director.

1        NEW SECTION.    **Sec. 44.**    DIRECTOR—BROAD ADMINISTRATIVE DISCRETION  
2 —RULE MAKING—ACTIONS IN SUPERIOR COURT. The director has the power,  
3 and broad administrative discretion, to administer, liberally  
4 construe, and interpret this subchapter to facilitate the delivery of  
5 financial services to the citizens of this state by licensees subject  
6 to this subchapter, and to effectuate the legislature's goal to  
7 protect borrowers. The director shall adopt all rules necessary to  
8 administer this subchapter, to establish and set fees authorized by  
9 this subchapter, and to ensure complete and full disclosure by  
10 licensees of lending transactions governed by this subchapter.

11        NEW SECTION.    **Sec. 45.**    VIOLATIONS OR UNSOUND FINANCIAL PRACTICES  
12 —STATEMENT OF CHARGES—HEARING—SANCTIONS—DIRECTOR'S AUTHORITY. (1)  
13 The director may issue and serve upon a licensee or applicant, or any  
14 director, officer, sole proprietor, partner, or controlling person of  
15 a licensee or applicant, a statement of charges if, in the opinion of  
16 the director, any licensee or applicant, or any director, officer,  
17 sole proprietor, partner, or controlling person of a licensee or  
18 applicant:

19        (a) Is engaging or has engaged in an unsafe or unsound financial  
20 practice in conducting a business governed by this subchapter;

21        (b) Is violating or has violated this subchapter, including  
22 violations of:

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

25        (ii) Any condition imposed in writing by the director in  
26 connection with the granting of any application or other request by  
27 the licensee; or

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

29        (c) Obtains a license by means of fraud, misrepresentation, or  
30 concealment;

31        (d) Provides false statements or omits material information on an  
32 application;

33        (e) Knowingly or negligently omits material information during or  
34 in response to an examination or in connection with an investigation  
35 by the director;

36        (f) Fails to pay a fee or assessment required by the director or  
37 any multistate licensing system prescribed by the director, or fails  
38 to maintain the required bond;

1 (g) Commits a crime against the laws of any jurisdiction  
2 involving moral turpitude, financial misconduct, or dishonest  
3 dealings. For the purposes of this section, a certified copy of the  
4 final holding of any court, tribunal, agency, or administrative body  
5 of competent jurisdiction is conclusive evidence in any hearing under  
6 this subchapter;

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

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

13 (j) Fails to disclose to the director any material information  
14 within his or her knowledge or fails to produce any document, book,  
15 or record in his or her possession for inspection by the director  
16 upon lawful demand;

17 (k) Commits any act of fraudulent or dishonest dealing. For the  
18 purposes of this section, a certified copy of the final holding of  
19 any court, tribunal, agency, or administrative body of competent  
20 jurisdiction is conclusive evidence in any hearing under this  
21 subchapter;

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

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

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

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

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

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

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

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

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

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

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

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

21 NEW SECTION. **Sec. 46.** VIOLATIONS OR UNSOUND PRACTICES—TEMPORARY  
22 CEASE AND DESIST ORDER—DIRECTOR'S AUTHORITY. Whenever the director  
23 determines that the acts specified in section 45 of this act or their  
24 continuation is likely to cause insolvency or substantial injury to  
25 the public, the director may also issue a temporary cease and desist  
26 order requiring the licensee to cease and desist from the violation  
27 or practice. The order becomes effective upon service upon the  
28 licensee and remains effective unless set aside, limited, or  
29 suspended by a court under section 47 of this act pending the  
30 completion of the administrative proceedings under the notice and  
31 until the time the director dismisses the charges specified in the  
32 notice or until the effective date of a superior court injunction  
33 under section 47 of this act.

34 NEW SECTION. **Sec. 47.** TEMPORARY CEASE AND DESIST ORDER—  
35 LICENSEE'S APPLICATION FOR INJUNCTION. Within ten days after a  
36 licensee has been served with a temporary cease and desist order, the  
37 licensee may apply to the superior court in the county of its

1 principal place of business for an injunction setting aside,  
2 limiting, or suspending the order pending the completion of the  
3 administrative proceedings pursuant to the notice served under  
4 section 46 of this act. The superior court has jurisdiction to issue  
5 the injunction.

6 NEW SECTION. **Sec. 48.** VIOLATION OF TEMPORARY CEASE AND DESIST  
7 ORDER—DIRECTOR'S APPLICATION FOR INJUNCTION. In the case of a  
8 violation or threatened violation of a temporary cease and desist  
9 order issued under section 46 of this act, the director may apply to  
10 the superior court of the county of the principal place of business  
11 of the licensee for an injunction.

12 NEW SECTION. **Sec. 49.** APPOINTMENT OF RECEIVER. The director may  
13 petition the superior court for the appointment of a receiver to  
14 liquidate the affairs of the licensee.

15 NEW SECTION. **Sec. 50.** VIOLATION—CONSUMER PROTECTION ACT—  
16 REMEDIES. The legislature finds and declares that any violation of  
17 this subchapter substantially affects the public interest and is an  
18 unfair and deceptive act or practice and an unfair method of  
19 competition in the conduct of trade or commerce as set forth in RCW  
20 19.86.020. Remedies available under chapter 19.86 RCW do not affect  
21 any other remedy the injured party may have.

22 NEW SECTION. **Sec. 51.** ADJUSTMENT OF DOLLAR AMOUNTS. The dollar  
23 amounts established in sections 26(2) and 33(1) of this act must,  
24 without discretion, be adjusted for inflation by the director on July  
25 1, 2017, and on each July 1st thereafter, based upon upward changes  
26 in the consumer price index during that time period, and then rounded  
27 up to the nearest five dollars. "Consumer price index" means, for any  
28 calendar year, that year's annual average consumer price index, for  
29 Washington state, for wage earners and clerical workers, all items,  
30 compiled by the bureau of labor and statistics, United States  
31 department of labor. If the bureau of labor and statistics develops  
32 more than one consumer price index for areas within the state, the  
33 index covering the greatest number of people, covering areas  
34 exclusively within the boundaries of the state, and including all  
35 items shall be used for the adjustments for inflation in this  
36 section. The director must calculate the new dollar threshold and



1 transmit it to the office of the code reviser for publication in the  
2 Washington State Register at least one month before the new dollar  
3 threshold is to take effect.

4 NEW SECTION. **Sec. 52.** REPORT TO LEGISLATURE. The director must  
5 collect and submit the following information to the legislature by  
6 December 1, 2017, for data collected during 2016:

- 7 (1) The number of branches and total locations;
- 8 (2) The number of loans made during 2016;
- 9 (3) Loan volume;
- 10 (4) Average loan amount;
- 11 (5) Total fees charged, in total and by category of fee or other  
12 charge;
- 13 (6) Average payment per month, in total and by category of fee or  
14 other charge;
- 15 (7) Average income of borrower;
- 16 (8) The number of military borrowers;
- 17 (9) Borrower frequency;
- 18 (10) The number of unique borrowers;
- 19 (11) Average length of loan repayment;
- 20 (12) The number of borrowers taking out the maximum loan amount;
- 21 (13) The number of borrowers who went into default;
- 22 (14) Average length of time a borrower has a loan before a  
23 borrower goes into default;
- 24 (15) Any legislative recommendations by the director; and
- 25 (16) Any other information that the director believes is relevant  
26 or useful.

27 NEW SECTION. **Sec. 53.** SMALL CONSUMER INSTALLMENT LOANS—  
28 FINANCIAL LITERACY FUND. For each small consumer installment loan  
29 that is made, a licensee must remit two dollars to the department of  
30 financial institutions, one dollar to be used by the department for  
31 the purpose of financial literacy and education programs authorized  
32 under RCW 43.320.150 and one dollar to be deposited in the asset  
33 building assistance account established in section 58 of this act.  
34 The director shall adopt rules to implement this section.

35 NEW SECTION. **Sec. 54.** DIRECTOR AUTHORIZED TO CHARGE FEES.  
36 Effective January 1, 2016, the director shall establish, set, and

1 adjust by rule the amount of all fees and charges authorized by this  
2 subchapter.

3 NEW SECTION. **Sec. 55.** SHORT TITLE. This subchapter may be known  
4 and cited as the small consumer installment loan act.

5 NEW SECTION. **Sec. 56.** A new section is added to chapter 43.63A  
6 RCW to read as follows:

7 (1) There is established in the department of commerce a grant  
8 program to enhance funding for asset building coalitions. Grant funds  
9 shall be used to fund asset building activities in communities across  
10 Washington.

11 (2) The department of commerce shall establish by rule criteria  
12 for eligibility and grant application requirements.

13 NEW SECTION. **Sec. 57.** A new section is added to chapter 43.63A  
14 RCW to read as follows:

15 (1) Subject to funds appropriated by the legislature for this  
16 purpose, including funds in the asset building assistance account,  
17 the department of commerce shall make awards under the grant program  
18 established in section 56 of this act.

19 (2) Awards shall be made competitively based on the purposes of  
20 section 56 of this act and criteria established in rule by the  
21 department of commerce.

22 (3) Activities funded under this section may be considered for  
23 funding in future years, but shall be considered under the same terms  
24 and criteria as new activities. Funding of a program or activity  
25 under this chapter shall not constitute an obligation by the state of  
26 Washington to provide ongoing funding.

27 (4) The department of commerce may receive such gifts, grants,  
28 and endowments from public or private sources as may be made from  
29 time to time, in trust or otherwise, for the use and benefit of the  
30 purposes of the grant program established under section 56 of this  
31 act and expend the same or any income from these sources according to  
32 the terms of the gifts, grants, or endowments.

33 (5) The department of commerce may expend up to five percent of  
34 the funds appropriated for the grant program for administrative costs  
35 and grant supervision.

1        NEW SECTION.    **Sec. 58.**    A new section is added to chapter 43.63A  
2    RCW to read as follows:

3        The asset building assistance account is created in the state  
4    treasury. Expenditures from the account may be used to fund the grant  
5    program to enhance asset building activities under section 56 of this  
6    act. Moneys in the account may be spent only after appropriation.

7        NEW SECTION.    **Sec. 59.**    Sections 1 through 16 of this act take  
8    effect July 1, 2016, or on and after the effective date of the final  
9    rules adopted by the director implementing this act, whichever is  
10   later provided the subchapter "small consumer installment loans"  
11   becomes law as it is enacted by the legislature.

12       NEW SECTION.    **Sec. 60.**    (1) Sections 20 through 58 of this act  
13   take effect July 1, 2016.

14       (2) The director of financial institutions or the director's  
15   designee shall take the actions necessary to ensure sections 20  
16   through 55 of this act are implemented on July 1, 2016.

17       (3) The director of commerce or the director's designee shall  
18   take the actions necessary to ensure sections 56 through 58 of this  
19   act are implemented on July 1, 2016.

20       NEW SECTION.    **Sec. 61.**    Sections 20 through 51, 53 through 55,  
21   and 59 of this act are each added to chapter 31.45 RCW and codified  
22   with the subchapter heading of "small consumer installment loans."

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