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**SUBSTITUTE SENATE BILL 5328**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senate Business, Financial Services & Trade (originally sponsored by Senators Lovick, Dozier, and Nobles)

AN ACT Relating to the licensing and regulation of businesses providing earned wage access services; amending RCW 31.04.015 and 31.04.025; adding a new chapter to Title 31 RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  This act may be known and cited as the Washington state employer-integrated wage access services act.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Consumer" means any individual who is a resident of or is physically located in this state.

(2) "Consumer-directed wage access services" means any sum of money advanced directly to a consumer of earned but unpaid income that is based on the consumer's representations and the provider's reasonable determination of the consumer's earned but unpaid income.

(3) "Department" means the department of financial institutions as established under chapter 43.320 RCW.

(4) "Director" means the director of the department of financial institutions.

(5) "Earned but unpaid income" means salary, wages, compensation, or other income that an employer has represented, and that a provider has reasonably determined, has been earned or has accrued to the benefit of the consumer in exchange for the consumer's provision of services to the employer or on behalf of the employer, including on an hourly, project-based, piecework, or other basis and including where the consumer is acting as an independent contractor of the employer, but has not, at the time of the payment of proceeds, been paid to the consumer by the employer.

(6) "Earned wage access services" means a financial service that provides earned but unpaid income to a consumer.

(7) "Employer" means:

(a) A person who employs a consumer; or

(b) Any other person who is contractually obligated to pay a consumer earned but unpaid income in exchange for a consumer's provision of services to the employer or on behalf of the employer, including on an hourly, project-based, piecework, or other basis and including where the consumer is acting as an independent contractor with respect to the employer. "Employer" does not mean a customer of an employer or any other person whose obligation to make a payment of salary, wages, compensation, or other income to a consumer is not based on the provision of services by that consumer for or on behalf of such person.

(8) "Employer-integrated wage access services" means any sum of money advanced to a consumer based on earned but unpaid income that is determined from employment, income, or attendance data obtained from an employer of the consumer.

(9) "License" means a license issued under the authority of this chapter.

(10) "Licensee" means any person, whether located within or outside of this state, who is required to have a license under this chapter.

(11) "Nationwide mortgage licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors for licensing and registration.

(12) "Officer" means an official appointed by an employer-integrated wage access services company for the purpose of making business decisions or corporate decisions for the employer-integrated wage access services company.

(13) "Outstanding proceeds" means a payment of proceeds to a consumer by a provider that has not yet been repaid to that provider.

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

(15) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a 10 percent or greater interest in a partnership, company, association, corporation, or a limited liability company, and is the owner of a sole proprietorship.

(16) "Proceeds" means a payment to a consumer by a provider that is based on earned but unpaid income.

(17)(a) "Provider" means a person who is in the business of providing or offering to provide employer-integrated wage access services to consumers or holds himself or herself out as being able to provide or offer to provide employer-integrated wage access services.

(b) "Provider" does not include any of the following:

(i) A service provider, such as a payroll service provider, whose role may include verifying the available earnings, but who is not contractually obligated to fund proceeds delivered as part of an earned wage access service; or

(ii) An employer that offers a portion of salary, wages, or compensation directly to its employees or independent contractors before the normally scheduled pay date.

NEW SECTION. **Sec.**  (1) All offers and provisions of employer-integrated wage access services to a consumer by a provider, or persons subject to this chapter, are subject to the authority and restrictions of this chapter.

(2) Consumer-directed wage access services are subject to chapter 31.04 RCW.

(3) This chapter does not apply to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions.

NEW SECTION. **Sec.**  (1) Beginning July 1, 2026, no person may advertise, solicit, provide, or offer to provide employer-integrated wage access services in this state without first obtaining and maintaining a license in accordance with this chapter, except those exempt under section 5 of this act.

(2) If a transaction violates subsection (1) of this section, any:

(a) Fees, subscription fees, tips, gratuities, donations, and voluntary contributions charged or received in connection with the employer-integrated wage access services must be refunded to the consumer; and

(b) Outstanding proceeds are null, void, uncollectable, and unenforceable.

NEW SECTION. **Sec.**  (1) A person subject to this chapter shall apply for a license required under this chapter by submitting an application to the nationwide mortgage licensing system and registry or in the form prescribed by the director. The application must contain at least the following information:

(a) The name and the business addresses of the applicant;

(b) If the applicant is a partnership, limited liability company, or association, the name of every member;

(c) If the applicant is a corporation, the name, residence address, and telephone number of each officer and director;

(d) The street address, county, and municipality from which business is to be conducted or a statement that the business is to be conducted entirely online; and

(e) Such other information as the director may require by rule.

(2)(a) As part of or in connection with an application for any license under this section, or periodically upon license renewal, each officer, director, and principal applicant must furnish identifying information, including:

(i) Fingerprints for submission to the Washington state patrol, the federal bureau of investigation, or any governmental agency or entity authorized to receive this information for a state and national criminal history background check;

(ii) Personal history;

(iii) Experience;

(iv) Business record;

(v) Purposes; and

(vi) Other pertinent facts, as the director may reasonably require.

(b) As part of or in connection with an application for a license under this chapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department may only disseminate nonconviction data obtained under this section to criminal justice agencies.

(3) At the time of filing an application for a license under this chapter, each applicant shall pay to the director or through the nationwide mortgage licensing system and registry an investigation fee and the license fee in an amount determined by rule by the director to be sufficient to cover the director's costs in administering this chapter.

(4) Each applicant must file and maintain a surety bond in accordance with section 6 of this act.

(5) The director may waive one or more requirements of this section or permit an applicant to submit other information instead of the required information.

NEW SECTION. **Sec.**  (1) Each licensee shall maintain a surety bond in an amount based on the previous year's total dollar volume of proceeds. The minimum surety bond must be at least $50,000. The director may adopt rules to implement this section.

(2) The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

(3) The bond must be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation is effective 30 days after the notice is received by the director or the director's designee. Whether or not the bond is renewed, continued, replaced, or modified, including increases or decreases in the penal sum, it is considered one continuous obligation, and the surety upon the bond is not liable in aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event may the penal sum, or any portion thereof, at two or more points in time, be added together in determining the surety's liability.

(4) The director may increase the amount of a bond required based on the nature and volume of business activities, the financial health of the company, and other criteria specified by the director in rule.

NEW SECTION. **Sec.**  (1) The director shall issue and deliver a license to the applicant to offer and provide employer-integrated wage access services in accordance with this chapter if, after investigation, the director finds that:

(a) The applicant has paid all required fees;

(b) The applicant has submitted a complete application in compliance with section 5 of this act;

(c) Neither the applicant nor its officers or principals have had a license in this state or another state, revoked or suspended within the last five years of the date of filing of the application;

(d) Neither the applicant nor any of its officers or principals have been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony or a violation of the banking laws of this state or of the United States within seven years of the filing of an application;

(e) The applicant has demonstrated it can operate in a safe and sound manner; and

(f) The financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter.

(2) If the director does not find the conditions of subsection (1) of this section have been met, the director shall not issue the license. The director shall notify the applicant of the denial and return to the applicant the bond posted and the sum paid by the applicant as a license fee, retaining the investigation fee to cover the costs of investigating the application.

(3) The director may, for good cause, condition the issuance of a license.

(4) The director may waive one or more requirements of this section or permit an applicant to submit other information in lieu of the required information.

NEW SECTION. **Sec.**  A license under this chapter is not transferable or assignable.

NEW SECTION. **Sec.**  A licensee shall, for each license held, on or before the first day of each March, pay to the director an annual assessment as determined by rule by the director. The licensee is responsible for payment of the annual assessment for the previous calendar year if the licensee had a license for any time during the preceding calendar year, regardless of whether the licensee surrendered the license during the calendar year or whether the license was suspended or revoked. At the same time, the licensee shall file with the director the required bond or otherwise demonstrate compliance with section 6 of this act.

NEW SECTION. **Sec.**  (1) The director shall enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter.

(2) The director may deny applications for licenses for:

(a) Failure of the applicant to demonstrate within its application for a license that it meets the requirements for licensing in sections 5 and 7 of this act;

(b) Violation of an order issued by the director under this chapter or another chapter administered by the director including, but not limited to, cease and desist orders and temporary cease and desist orders;

(c) Revocation or suspension of a license by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license; or

(d) Filing an incomplete application when that incomplete application has been filed with the department for 60 or more days, if the director has given notice to the licensee that the application is incomplete, informed the applicant why the application is incomplete, and allowed at least 20 days for the applicant to complete the application. The director may give notice through the nationwide mortgage licensing system and registry.

(3) The director may condition, suspend, or revoke a license issued under this chapter if the director finds that:

(a) The licensee has failed to pay any fee due to the state of Washington, has failed to maintain in effect the bond or permitted substitute required under this chapter, or has failed to comply with any specific order or demand of the director lawfully made and directed to the licensee in accordance with this chapter;

(b) The licensee violated any provision of this chapter or any rule adopted under this chapter;

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, would have allowed the director to deny the application for the original license;

(d) The licensee failed to comply with any directive, order, or subpoena issued by the director under this chapter; or

(e) The licensee has operated in an unsafe or unsound manner.

(4) The director may impose fines of up to $100 per day, per violation, upon the licensee or other person subject to this chapter for:

(a) Any violation of this chapter; or

(b) Failure to comply with any directive, order, or subpoena issued by the director under this chapter.

(5) The director may issue an order directing the licensee or other person subject to this chapter to:

(a) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter;

(b) Take such affirmative action as is necessary to comply with this chapter;

(c) Make a refund or restitution to a consumer who is damaged as a result of a violation of this chapter; or

(d) Refund all fees, subscription fees, tips, gratuities, donations, and voluntary contributions received through any violation of this chapter.

(6) The director may issue an order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer, principal, or any person subject to this chapter for:

(a) False statements or omission of material information from an application for a license that, if known, would have allowed the director to deny the original application for a license;

(b) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony;

(c) Suspension or revocation of a license in this state or another state;

(d) Failure to comply with any order or subpoena issued under this chapter; or

(e) Failure to obtain a license for activity that requires a license.

(7) Except to the extent prohibited by another statute, the director may engage in informal settlement of complaints or enforcement actions including, but not limited to, payment to the department for purposes of financial literacy and education programs authorized under RCW 43.320.150. If any person subject to this chapter makes a payment to the department under this section, the person may not advertise such payment.

(8) Whenever the director determines that the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue a temporary cease and desist order. The order may direct the licensee to discontinue any violation of this chapter, to take such affirmative action as is necessary to comply with this chapter, and may include a summary suspension of the licensee's license and may order the licensee to immediately cease the conduct of business under this chapter. The order applies at the time specified in the order. Every temporary cease and desist order must include a provision that a hearing will be held upon request to determine whether the order will become permanent. Such hearing must be held within 14 days of receipt of a request for a hearing unless otherwise specified in chapter 34.05 RCW.

(9) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability, if any, for acts committed before the surrender, including any administrative action initiated by the director to suspend or revoke a license, impose fines, compel the payment of restitution to borrowers or other persons, or exercise any other authority under this chapter. Surrender of a license applies upon approval by the director.

(10) The revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and a consumer.

(11) Every license issued under this chapter remains in force and effect until it has been surrendered, revoked, expired, or suspended in accordance with this chapter. However, the director may reinstate suspended or expired licenses or issue new licenses to a licensee whose license has been revoked if the director finds that the licensee meets all the requirements of this chapter.

(12) A license issued under this chapter expires upon the licensee's failure to comply with the annual assessment requirements in section 9 of this act. The department must provide notice of the expiration to the address of record provided by the licensee. On the 15th day after the department provides notice, if the assessment remains unpaid, the license expires. The licensee must receive notice prior to expiration and have the opportunity to stop the expiration as set forth in rule.

NEW SECTION. **Sec.**  (1) A licensee may not charge to, or receive from, a consumer more than $5 per employer-integrated earned wage advance transaction, and no more than $10 total per calendar month.

(2) The following moneys charged by or received from the employer-integrated wage access services provider count towards the limits in subsection (1) of this section:

(a) Transfer fees;

(b) Expedited transfer fees;

(c) Subscription fees; and

(d) Tips, gratuities, donations, voluntary contributions, and the like.

(3) A licensee may continue to provide advances during the remainder of the calendar month to the consumer but may not charge additional moneys to, or receive additional moneys from, that consumer.

NEW SECTION. **Sec.**  It is a violation of this chapter for a licensee, its officers, board members, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any person;

(2) Directly or indirectly engage in any unfair or deceptive act or practice toward any person;

(3) Make, in any manner, any false or deceptive statement or representation with regard to the employer-integrated wage access services offered and provided by the licensee;

(4) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any investigation conducted by the department; or

(5) Violate any applicable state or federal law relating to the activities governed by this chapter.

NEW SECTION. **Sec.**  The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec.**  (1) No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the terms and conditions of employer-integrated wage access services that is false, misleading, or deceptive.

(2) A licensee shall submit the data required by section 19 of this act into the third-party database in a format prescribed by the director.

NEW SECTION. **Sec.**  (1) The director or the director's designee may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

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

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

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

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

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

NEW SECTION. **Sec.**  (1) For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the director may at any time, either personally or by designees, investigate or examine the business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in the business of every licensee and of every person subject to this chapter, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. The director or designated representative:

(a) Must have free access to the employees, offices, and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such persons during normal business hours;

(b) May require the attendance of and examine under oath all persons whose testimony may be required about the business or the subject matter of any investigation, examination, or hearing and may require such person to produce books, accounts, papers, records, files, and any other information the director or the director's designee deems relevant to the inquiry;

(c) May require by directive, subpoena, or any other lawful means the production of original books, accounts, papers, records, files, and other information; may require that such original books, accounts, papers, records, files, and other information be copied; or may make copies of such original books, accounts, papers, records, files, or other information; and

(d) May issue a subpoena or subpoena duces tecum requiring attendance by any person identified in this section or compelling production of any books, accounts, papers, records, files, or other documents or information identified in this section.

(2) The director must make such periodic examinations of the affairs, business, office, and records of each licensee as determined by rule.

(3) Every licensee examined or investigated by the director or the director's designee must pay to the director the cost of the examination or investigation of each licensed place of business as determined by rule by the director.

(4) In order to carry out the purposes of this section, the director may:

(a) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(b) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;

(c) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee;

(d) Accept and rely on examination or investigation reports made by other government officials, within or without this state;

(e) Accept audit reports made by an independent certified public accountant for the licensee in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the director; or

(f) Assess the licensee the cost of the services in (a) of this subsection.

NEW SECTION. **Sec.**  (1) The licensee shall keep and use in the business such books, accounts, records, papers, documents, files, and other information as will enable the director to determine whether the licensee is complying with this chapter and with the rules adopted by the director under this chapter. The director shall have free access to such books, accounts, records, papers, documents, files, and other information wherever located. Every licensee shall preserve the books, accounts, records, papers, documents, files, and other information relevant to an employer-integrated earned wage advance transaction for at least six years. No licensee or person subject to examination or investigation under this chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, accounts, records, papers, documents, files, or other information.

(2) Each licensee shall, on or before the first day of March of each year, file a report with the director giving relevant information as prescribed by the director concerning the employer-integrated wage access services business and operations of each licensee during the preceding calendar year.

(3) The report required in subsection (2) of this section must be made under oath and must be in the form prescribed by the director, who may make and publish annually an analysis and recapitulation of the reports. Every licensee that fails to file the report required by this chapter within the time required under this chapter is subject to a penalty of $50 per day for each day's delay. The attorney general may bring a civil action in the name of the state for recovery of any such penalty.

NEW SECTION. **Sec.**  Each licensee shall submit call reports in the form and containing the information as prescribed by the director.

NEW SECTION. **Sec.**  (1) The director has the power, and broad administrative discretion, to administer and interpret this chapter to facilitate the delivery of financial services to the citizens of this state by persons subject to this chapter. The director shall adopt all rules necessary to administer this chapter and to ensure complete and full disclosure by licensees of employer-integrated earned wage advance transactions governed by this chapter.

(2) If it appears to the director that a licensee is conducting business in an injurious manner or is violating any provision of this chapter, the director may order or direct the discontinuance of any such injurious or illegal practice.

(3) For purposes of this section, "conducting business in an injurious manner" means conducting business in a manner that violates any provision of this chapter or that creates the reasonable likelihood of a violation of any provision of this chapter.

(4) The director or the director's designee, with or without prior administrative action, may bring an action in superior court to enjoin the acts or practices that constitute violations of this chapter and to enforce compliance with this chapter or any rule or order made under this chapter. Upon proper showing, injunctive relief or a temporary restraining order shall be granted. The director shall not be required to post a bond in any court proceedings.

(5) The director shall implement a common database with real-time access through an internet or application programming interface connection for use by the department and any licensee entering into an employer-integrated wage access services transaction in accordance with this section; and either:

(a) Operate the database; or

(b) Contract with a third-party provider to operate the database.

(6) If the director contracts with a third-party provider for the operation of the database, all of the following apply:

(a) The director shall ensure that the third-party provider selected as the database provider operates the database pursuant to the provisions of this section;

(b) The third-party provider shall use the data collected under this chapter only as prescribed in this chapter and the contract with the department and for no other purpose.

(7) The database must be accessible to licensees to:

(a) Submit each earned wage access services transaction into the database;

(b) Verify whether entering into an earned wage access services transaction with a particular consumer would be in violation of this chapter; and

(c) Assist in submitting data under this chapter for annual reporting requirements as outlined in this chapter.

(8) Before entering into an earned wage access services transaction, a licensee shall submit the following data into the database in a format prescribed by the director that includes:

(a) The consumer's name;

(b) The consumer's social security number or employment authorization alien number;

(c) The consumer's address;

(d) The amount of the transaction;

(e) The date of the transaction;

(f) The date that the transaction closed; and

(g) Any additional information required by the director.

(9) The director shall impose a fee per transaction for data required to be submitted for an earned wage access services transaction. The fee in this subsection may not be charged for a no-cost earned wage access services transaction.

(10) A licensee may rely on information contained in the database as accurate and may not be subject to any administrative penalty or civil liability due to reliance on inaccurate information contained in the database.

(11) The director shall use the database to administer and enforce this chapter.

(12) If the director contracts with a third party to operate the database, the director shall require the database provider to file a report containing the following information by July 31st of each year:

(a) The total number and dollar amount of earned wage access services transactions entered into in the previous calendar year ending December 31st;

(b) The total dollar amount of the following collected for earned wage access services transactions as of December 31st of the previous year:

(i) Fees; and

(ii) Tips, donations, and other amounts paid voluntarily;

(c) As of December 31st of the previous year, the following per consumer:

(i) The average earned wage access services transaction amount;

(ii) The average number of transactions; and

(iii) The average aggregate earned wage access services transaction amount entered into;

(d) The average number of days a consumer was engaged in an earned wage access services transaction for the previous year;

(e) An estimate of the average total amount of the following paid per consumer for earned wage access services transactions for the previous year:

(i) Fees; and

(ii) Tips, donations, and other amounts paid voluntarily;

(f) The total number of unique consumers that entered into an earned wage access services transaction for the previous year; and

(g) Any other information required by the director.

(13) The director may adopt rules to administer this section and ensure that the database is used by licensees in accordance with this section.

(14) A provider licensed under this chapter offering earned wage access services transactions may use the information found in the database to assist with filing the report outlined in this section with the department.

NEW SECTION. **Sec.**  (1) The director shall establish fees by rule sufficient to cover the costs of administering this chapter. These fees may include:

(a) An annual assessment specified in rule by the director paid by each licensee on or before the annual assessment due date;

(b) A late fee or late payment of the annual assessment as specified in rule by the director;

(c) An hourly fee to cover the costs of any examination or investigation of the books and records of a licensee or other person subject to this chapter;

(d) A nonrefundable application fee to cover the costs of processing licensing applications made to the director under this chapter;

(e) An initial fee to cover the period from the date of licensure to the end of the calendar year in which the license is initially granted; and

(f) A transaction fee or set of transaction fees to cover the administrative costs associated with processing administrative changes as specified in rule by the director.

(2) The director shall ensure that when an examination or investigation, or any part of the examination or investigation, of any licensee, applicant, or person subject to licensing under this chapter, requires travel and services outside this state by the director or designee, the licensee, applicant, or person subject to licensing under this chapter that is the subject of the examination or investigation shall pay the actual travel expenses incurred by the director or designee conducting the examination or investigation.

(3) All money, fees, and penalties collected under this chapter shall be deposited into the financial services regulation account.

(4) The director or designee may waive all or a portion of the fees and assessments under this chapter.

NEW SECTION. **Sec.**  If the licensee is an individual, the department shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. **Sec.**  (1) A person who violates, or knowingly aids or abets in the violation of any provision of this chapter, for which no penalty has been prescribed, and a person who fails to perform any act that is the person's duty to perform under this chapter and for which no penalty has been prescribed for failure to do so, is guilty of a gross misdemeanor.

(2) No provision imposing civil penalties or criminal liability under this chapter or rule adopted under this chapter applies to an act taken or omission made in good faith in conformity with a written notice, interpretation, or examination report of the director or the director's designee.

NEW SECTION. **Sec.**  The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies under this chapter, and any review or appeal of such action, shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec.**  (1) The director or the director's designee may, at their discretion, take such action as provided for in this chapter to enforce this chapter. If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action, then the person is deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

(2) The director may recover the state's costs and expenses for prosecuting violations of this chapter including staff time spent preparing for and attending administrative hearings and reasonable attorneys' fees unless, after a hearing, the director determines no violation occurred.

**Sec.**  RCW 31.04.015 and 2018 c 62 s 9 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

(1) "Add-on method" means the method of precomputing interest payable on a loan whereby the interest to be earned is added to the principal balance and the total plus any charges allowed under this chapter is stated as the loan amount, without further provision for the payment of interest except for failure to pay according to loan terms. The director may adopt by rule a more detailed explanation of the meaning and use of this method.

(2) "Affiliate" means any person who, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

(3) "Applicant" means a person applying for a license under this chapter.

(4) "Borrower" means any person who consults with or retains a licensee or person subject to this chapter in an effort to obtain, or who seeks information about obtaining a loan, regardless of whether that person actually obtains such a loan. "Borrower" includes a person who consults with or retains a licensee or person subject to this chapter in an effort to obtain, or who seeks information about obtaining a residential mortgage loan modification, regardless of whether that person actually obtains a residential mortgage loan modification.

(5) "Department" means the state department of financial institutions.

(6) "Depository institution" has the same meaning as in section 3 of the federal deposit insurance act on July 26, 2009, and includes credit unions.

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

(8) "Educational institution" means any entity that is a degree-granting institution as defined in RCW 28B.85.010, a private vocational school as defined in RCW 28C.10.020, or school as defined in RCW 18.16.020.

(9) "Federal banking agencies" means the board of governors of the federal reserve system, comptroller of the currency, director of the office of thrift supervision, national credit union administration, and federal deposit insurance corporation.

(10) "Individual servicing a mortgage loan" means a person on behalf of a lender or servicer licensed by this state, who collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due, on existing obligations due and owing to the licensed lender or servicer for a residential mortgage loan when the borrower is in default, or in reasonably foreseeable likelihood of default, working with the borrower and the licensed lender or servicer, collects data and makes decisions necessary to modify either temporarily or permanently certain terms of those obligations, or otherwise finalizing collection through the foreclosure process.

(11) "Insurance" means life insurance, disability insurance, property insurance, involuntary unemployment insurance, and such other insurance as may be authorized by the insurance commissioner.

(12) "License" means a single license issued under the authority of this chapter.

(13) "Licensee" means a person to whom one or more licenses have been issued. "Licensee" also means any person, whether located within or outside of this state, who fails to obtain a license required by this chapter.

(14) "Loan" means a sum of money lent at interest or for a fee or other charge and includes both open‑end and closed‑end loan transactions. "Loan" also includes consumer-directed wage access services, as defined in section 2 of this act.

(15) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under this chapter.

(16) "Making a loan" means advancing, offering to advance, or making a commitment to advance funds to a borrower for a loan.

(17) "Mortgage broker" means the same as defined in RCW 19.146.010, except that for purposes of this chapter, a licensee or person subject to this chapter cannot receive compensation as both a consumer loan licensee making the loan and as a consumer loan licensee acting as the mortgage broker in the same loan transaction.

(18)(a) "Mortgage loan originator" means an individual who for compensation or gain (i) takes a residential mortgage loan application, or (ii) offers or negotiates terms of a residential mortgage loan. "Mortgage loan originator" also includes individuals who hold themselves out to the public as able to perform any of these activities. "Mortgage loan originator" does not include any individual who performs purely administrative or clerical tasks; and does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code. For the purposes of this definition, administrative or clerical tasks means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing of a residential mortgage loan.

(b) "Mortgage loan originator" also includes an individual who for direct or indirect compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.

(c) "Mortgage loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. For the purposes of chapter 120, Laws of 2009, the term "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

(i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction;

(iv) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) Offering to engage in any activity, or act in any capacity, described in (c)(i) through (iv) of this subsection.

(d) This subsection does not apply to employees of a housing counseling agency approved by the United States department of housing and urban development unless the employees of a housing counseling agency are required under federal law to be individually licensed as mortgage loan originators.

(19) "Nationwide mortgage licensing system" means a licensing system developed and maintained by the conference of state bank supervisors for licensing and registration.

(20) "Officer" means an official appointed by the company for the purpose of making business decisions or corporate decisions.

(21) "Person" includes individuals, partnerships, associations, limited liability companies, limited liability partnerships, trusts, corporations, and all other legal entities.

(22) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a ten percent or greater interest in a partnership; company; association or corporation; or a limited liability company, and the owner of a sole proprietorship.

(23) "Registered mortgage loan originator" means any individual who meets the definition of mortgage loan originator and is an employee of a depository institution; a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or an institution regulated by the farm credit administration and is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system.

(24) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other consensual security interest on a dwelling, as defined in the truth in lending act, or residential real estate upon which is constructed or intended to be constructed a dwelling.

(25) "Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include but are not limited to forbearances; repayment plans; changes in interest rates, loan terms, or loan types; capitalizations of arrearages; or principal reductions.

(26) "Residential mortgage loan modification services" includes negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage loan modification for compensation or gain. "Residential mortgage loan modification services" also includes the collection of data for submission to an entity performing mortgage loan modification services.

(27) "S.A.F.E. act" means the secure and fair enforcement for mortgage licensing act of 2008, Title V of the housing and economic recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008.

(28) "Senior officer" means an officer of a licensee at the vice president level or above.

(29) "Service or servicing a loan" means on behalf of the lender or investor of a residential mortgage loan: (a) Collecting or receiving payments on existing obligations due and owing to the lender or investor, including payments of principal, interest, escrow amounts, and other amounts due; (b) collecting fees due to the servicer; (c) working with the borrower and the licensed lender or servicer to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently; (d) otherwise finalizing collection through the foreclosure process; or (e) servicing a reverse mortgage loan.

(30) "Service or servicing a reverse mortgage loan" means, pursuant to an agreement with the owner of a reverse mortgage loan: Calculating, collecting, or receiving payments of interest or other amounts due; administering advances to the borrower; and providing account statements to the borrower or lender.

(31) "Simple interest method" means the method of computing interest payable on a loan by applying the annual percentage interest rate or its periodic equivalent to the unpaid balances of the principal of the loan outstanding for the time outstanding.

(a) On a nonresidential loan each payment is applied first to any unpaid penalties, fees, or charges, then to accumulated interest, and the remainder of the payment applied to the unpaid balance of the principal until paid in full. In using such method, interest must not be payable in advance nor compounded. The prohibition on compounding interest does not apply to reverse mortgage loans made in accordance with the Washington state reverse mortgage act. The director may adopt by rule a more detailed explanation of the meaning and use of this method.

(b) On a residential mortgage loan payments are applied as determined in the security instrument.

(32) "Student education loan" means any loan solely for personal use to finance postsecondary education and costs of attendance at an educational institution. A student education loan includes a loan made to refinance a student education loan. A student education loan does not include a payment plan or accounts receivable at a higher education institution as defined in RCW 28B.07.020(4) only during the time of a student's enrollment in the higher education institution, not to include a refinanced payment plan or accounts receivable, an extension of credit under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

(33) "Student education loan borrower" means: (a) Any resident of this state who has received or agreed to pay a student education loan; or (b) any person who shares responsibility with such resident for repaying the student education loan.

(34) "Student education loan servicer" means any person, wherever located, responsible for the servicing of any student education loan to any student education loan borrower.

(35) "Student education loan servicing" or "service a student education loan" means: (a) Receiving any scheduled periodic payments from a student education loan borrower pursuant to the terms of a student education loan; (b) applying the payments of principal and interest and such other payments with respect to the amounts received from a student education loan borrower, as may be required pursuant to the terms of a student education loan; (c) working with the student education loan borrower to collect data, or collecting data, to make decisions to modify the loan; or (d) performing other administrative services with respect to a student education loan including collection activities. "Student education loan servicing" does not include third-party student education loan modification services.

(36) "Third-party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.

(37) "Third-party service provider" means any person other than the licensee or a mortgage broker who provides goods or services to the licensee or borrower in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, real estate brokers or salespersons, title insurance companies and agents, appraisers, structural and pest inspectors, or escrow companies.

(38) "Third-party student education loan modification services" means for compensation or other consideration by or on behalf of the borrower working with the student education loan borrower or his or her representative to collect data or prepare or submit documents, or collecting data and preparing or submitting documents, to modify, refinance, or consolidate the loan, or change repayment plans.

(39) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system.

**Sec.**  RCW 31.04.025 and 2024 c 249 s 2 are each amended to read as follows:

(1) Each loan made to a resident of or a person physically located in this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter.

(2) A person may not engage in any device, subterfuge, or pretense to evade the requirements of this chapter including, but not limited to: Making loans disguised as personal property sale and leaseback transactions; disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services; or making, offering, assisting, or arranging a debtor to obtain a loan with a greater rate of interest, consideration, or charge than permitted by this chapter through any method, including mail, telephone, internet, or any electronic means regardless of whether the person has a physical location in the state.

(3) If a loan exceeds the rate permitted under this chapter, a person is a lender making a loan subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent, service provider, or in another capacity for another person that is exempt from this chapter, if, among other things:

(a) The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest in the loan; or

(b) The totality of the circumstances indicate that the person is the lender, and the transaction is structured to evade the requirements of this chapter.

(4) This chapter does not apply to the following:

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

(b) Any person making loans under chapter 19.60 RCW (pawnbroking);

(c) Any person conducting transactions under chapter 63.14 RCW (retail installment sales of goods and services), unless credit is extended to purchase merchandise certificates, coupons, open or closed loop stored value, or other similar items issued and redeemable by a retail seller other than the retail seller extending the credit;

(d) Any person making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary dwelling;

(f) Any person selling property owned by that person who provides financing for the sale when the property does not contain a dwelling and when the property serves as security for the financing. This exemption is available for five or fewer transactions in a calendar year. This exemption is not available to individuals subject to the federal S.A.F.E. act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings;

(g) Any person making loans made to government or government agencies or instrumentalities or making loans to organizations as defined in the federal truth in lending act;

(h) Any person making loans under chapter 43.185A RCW (housing trust fund);

(i) Any person making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;

(j) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents;

(k) Any person making loans which are not residential mortgage loans under a credit card plan;

(l) Individuals employed by a licensed residential mortgage loan servicing company engaging in activities related to servicing, unless licensing is required by federal law or regulation; ((~~and~~))

(m) Any person licensed under chapter 18.44 RCW that ((~~process[es]~~)) processes payments on seller-financed loans secured by liens on real or personal property; ((~~and~~))

(n) Any person that extends money or credit to another person on a nonrecourse basis in exchange for a contingent right to receive an amount of the potential proceeds of any award, judgment, settlement, verdict, or other resolution from a pending legal action. This exemption does not apply to any person that requires repayment in the event the person does not prevail in their civil proceeding; and

(o) Any person making employer-integrated wage access services pursuant to chapter 31.-- RCW (the new chapter created in section 27 of this act).

(5) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers.

(6) The burden of proving the application for an exemption or exception from a definition, or a preemption of a provision of this chapter, is upon the person claiming the exemption, exception, or preemption.

(7) The director may adopt rules interpreting this section.

NEW SECTION. **Sec.**  Sections 1 through 24 of this act constitute a new chapter in Title 31 RCW.

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