
HOUSE BILL 2294

State of Washington 60th Legislature 2007 Regular Session

By Representatives Santos, Williams and Ericks

Read first time 02/19/2007. Referred to Committee on Insurance,
Financial Services & Consumer Protection.

1 AN ACT Relating to small loan training and investigations; amending
2 RCW 31.45.110; reenacting and amending RCW 43.79A.040; and adding new
3 sections to chapter 31.45 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 31.45 RCW
6 to read as follows:

7 A surcharge of twenty-five cents is placed on every small loan made
8 under this chapter. The surcharge must be paid by the licensee to the
9 department of financial institutions. Each licensee must provide the
10 funds raised by the surcharge at the same time as the annual report
11 required under RCW 31.45.090. The department of financial institutions
12 must deposit the funds into the small loan compliance account in
13 section 2 of this act.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 31.45 RCW
15 to read as follows:

16 The small loan compliance account is created in the custody of the
17 state treasurer. All receipts from the surcharge imposed in section 1
18 of this act must be deposited into the account. Expenditures from the

1 account may be used only for the creation and oversight of a compliance
2 training program, as developed by the director and adopted by rule, and
3 the investigation and examination of licensees under this chapter.
4 Only the director of the department of financial institutions or the
5 director's designee may authorize expenditures from the account. The
6 account is subject to allotment procedures under chapter 43.88 RCW, but
7 an appropriation is not required for expenditures.

8 **Sec. 3.** RCW 31.45.110 and 2003 c 86 s 17 are each amended to read
9 as follows:

10 (1) The director may issue and serve upon a licensee or applicant
11 a statement of charges if, in the opinion of the director, any licensee
12 or applicant:

13 (a) Is engaging or has engaged in an unsafe or unsound financial
14 practice in conducting the business of a check seller governed by this
15 chapter;

16 (b) Is violating or has violated this chapter, including rules,
17 orders, or subpoenas, any rule adopted under chapter 86, Laws of 2003,
18 any order issued under chapter 86, Laws of 2003, any subpoena issued
19 under chapter 86, Laws of 2003, or any condition imposed in writing by
20 the director or the director's designee in connection with the granting
21 of any application or other request by the licensee or any written
22 agreement made with the director;

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

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

28 (e) Provides false statements or omissions of material information
29 on the application that, if known, would have allowed the director to
30 deny the application for the original license;

31 (f) Fails to pay a fee required by the director or maintain the
32 required bond;

33 (g) Commits a crime against the laws of the state of Washington or
34 any other state or government involving moral turpitude, financial
35 misconduct, or dishonest dealings;

36 (h) Knowingly commits or is a party to any material fraud,

1 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
2 or device whereby any other person relying upon the word,
3 representation, or conduct acts to his or her injury or damage;

4 (i) Converts any money or its equivalent to his or her own use or
5 to the use of his or her principal or of any other person;

6 (j) Fails, upon demand by the director or the director's designee,
7 to disclose any information within his or her knowledge to, or to
8 produce any document, book, or record in his or her possession for
9 inspection of, the director or the director's designee;

10 (k) Commits any act of fraudulent or dishonest dealing, and a
11 certified copy of the final holding of any court, tribunal, agency, or
12 administrative body of competent jurisdiction regarding that act is
13 conclusive evidence in any hearing under this chapter; ((~~or~~))

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

17 (m) Fails to pay the surcharge required under section 1 of this
18 act.

19 (2) The statement of charges shall be issued under chapter 34.05
20 RCW. The director or the director's designee may impose the following
21 sanctions against any licensee or applicant, or any director, officer,
22 sole proprietor, partner, controlling person, or employee of a licensee
23 or applicant:

24 (a) Deny, revoke, suspend, or condition the license;

25 (b) Order the licensee to cease and desist from practices in
26 violation of this chapter or practices that constitute unsafe and
27 unsound financial practices in the sale of checks;

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

30 (d) Order restitution to borrowers or other parties damaged by the
31 licensee's violation of this chapter or take other affirmative action
32 as necessary to comply with this chapter; and

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

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

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

5 **Sec. 4.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are
6 each reenacted and amended to read as follows:

7 (1) Money in the treasurer's trust fund may be deposited, invested,
8 and reinvested by the state treasurer in accordance with RCW 43.84.080
9 in the same manner and to the same extent as if the money were in the
10 state treasury.

11 (2) All income received from investment of the treasurer's trust
12 fund shall be set aside in an account in the treasury trust fund to be
13 known as the investment income account.

14 (3) The investment income account may be utilized for the payment
15 of purchased banking services on behalf of treasurer's trust funds
16 including, but not limited to, depository, safekeeping, and
17 disbursement functions for the state treasurer or affected state
18 agencies. The investment income account is subject in all respects to
19 chapter 43.88 RCW, but no appropriation is required for payments to
20 financial institutions. Payments shall occur prior to distribution of
21 earnings set forth in subsection (4) of this section.

22 (4)(a) Monthly, the state treasurer shall distribute the earnings
23 credited to the investment income account to the state general fund
24 except under (b) and (c) of this subsection.

25 (b) The following accounts and funds shall receive their
26 proportionate share of earnings based upon each account's or fund's
27 average daily balance for the period: The Washington promise
28 scholarship account, the college savings program account, the
29 Washington advanced college tuition payment program account, the
30 agricultural local fund, the American Indian scholarship endowment
31 fund, the foster care scholarship endowment fund, the foster care
32 endowed scholarship trust fund, the students with dependents grant
33 account, the basic health plan self-insurance reserve account, the
34 contract harvesting revolving account, the Washington state combined
35 fund drive account, the commemorative works account, the Washington
36 international exchange scholarship endowment fund, the developmental
37 disabilities endowment trust fund, the energy account, the fair fund,

1 the fruit and vegetable inspection account, the future teachers
2 conditional scholarship account, the game farm alternative account, the
3 grain inspection revolving fund, the juvenile accountability incentive
4 account, the law enforcement officers' and fire fighters' plan 2
5 expense fund, the local tourism promotion account, the produce railcar
6 pool account, the regional transportation investment district account,
7 the rural rehabilitation account, the stadium and exhibition center
8 account, the youth athletic facility account, the self-insurance
9 revolving fund, the sulfur dioxide abatement account, the children's
10 trust fund, the Washington horse racing commission Washington bred
11 owners' bonus fund account, the Washington horse racing commission
12 class C purse fund account, the individual development account program
13 account, the Washington horse racing commission operating account
14 (earnings from the Washington horse racing commission operating account
15 must be credited to the Washington horse racing commission class C
16 purse fund account), the life sciences discovery fund, the small loan
17 compliance account, and the reading achievement account. However, the
18 earnings to be distributed shall first be reduced by the allocation to
19 the state treasurer's service fund pursuant to RCW 43.08.190.

20 (c) The following accounts and funds shall receive eighty percent
21 of their proportionate share of earnings based upon each account's or
22 fund's average daily balance for the period: The advanced right of way
23 revolving fund, the advanced environmental mitigation revolving
24 account, the city and county advance right-of-way revolving fund, the
25 federal narcotics asset forfeitures account, the high occupancy vehicle
26 account, the local rail service assistance account, and the
27 miscellaneous transportation programs account.

28 (5) In conformance with Article II, section 37 of the state
29 Constitution, no trust accounts or funds shall be allocated earnings
30 without the specific affirmative directive of this section.

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