

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of General Administration
(agency name)

Administrative Order No. 73

(1) I, Thomas H. Oldfield, director of the Division of Banking, Department of General Administration

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

Chapter 50-20 WAC, Industrial Loan Companies, amending WAC 50-20-040 Contents of statement to borrower, and amending and adding new sections to WAC 50-20-050 Restrictions as to charges.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on. These rules shall take effect: [ ] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [ ] at a later date, such date being.

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, Thomas H. Oldfield, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

Regulations necessary for implementation of amendments to Industrial Loan Company Act, RCW Ch. 31.04, enacted by 1988 Legislature, effective June 9, 1988.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[ ] (a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.

[X] (b) This rule is promulgated pursuant to RCW RCW 31.04.150(2) which directs that the supervisor of banking (Division of Banking, Dept. of General Administration) (agency)

has authority to implement the provisions of Chapter 31.04 RCW (name of act or RCW citation)

[ ] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED June 10 19 88

STATE OF WASHINGTON FILED

JUN 10 1988

CODE REVISER'S OFFICE WSR 88-13-051

By Thomas H. Oldfield, Supervisor Division of Banking Title

AMENDATORY SECTION (Amending Order 5, filed 12/4/69)

WAC 50-20-040 CONTENTS OF STATEMENT TO BORROWER. (1) The company shall deliver to the borrower at the time any loan is made, a statement which shall disclose in clear and distinct terms the following information:

- (a) The name and address of the industrial loan company.
  - (b) The name and address of the borrower.
  - (c) The number and date of the loan.
  - (d) The total amount of the loan.
  - (e) List of (~~statutory deductions from the face amount of the note~~) charges, including:
    - (i) Interest (~~discount~~) rate and amount. This shall be disclosed both as (A) the Annual Percentage Rate (APR) as defined in Regulation Z, 12 CFR 226, and (B) the simple interest rate, which is the single nominal annual percentage rate which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments agreed to by the borrower and calculations were made according to the actuarial method. For purposes of this calculation only, the original principal amount of a discount interest loan shall be deemed to be the amount of the total note less the interest deducted in advance.
    - (ii) Investigation fee.
    - (iii) Filing and releasing fee.
    - (iv) Title insurance premium.
    - (v) Appraisal fee.
  - (f) Date of maturity of the loan.
  - (g) Rate of interest after original maturity date.
  - (h) Description of the security, if any, including adequate description of the investment certificate.
  - (i) Agreement to permit payment in full before maturity. Refund of unearned interest shall be made in accordance with WAC 50-20-050(5).
  - (j) Amount and date of installment investment certificate.
  - (k) The terms of payment of the investment certificate, showing due dates and amount of installments.
  - (l) Penalty for payments which are delinquent one week or more.
  - (m) Service fees, if any.
  - (n) Any other requirements imposed by Regulation Z. (Titles I and V of Consumer Credit Protection Act, P.L. 90-321, 82 Stat. 146 1/5 U.S.C. 1601-1665.)
- (2) Sufficient information must be maintained in the companies' files to show compliance with state and federal law.

AMENDATORY SECTION (Amending Order 63, filed 9/13/85)

WAC 50-20-050 RESTRICTIONS AS TO CHARGES. (1) No company shall charge the borrower for notarial fees.

(2) No industrial loan company shall require the purchasing of property insurance from the company or any employee, affiliate or associate of the company or from any agent, broker, or insurance company designated by the company as a condition precedent to the making of a loan nor shall any company decline existing insurance which meets or exceeds the standards set forth in this section.

A company may provide insurance on the life and disability of one borrower and on the life of the spouse of the borrower if both are obligors, provided that such insurance coverage shall not exceed the approximate unpaid balance of the total amount repayable under contract of indebtedness scheduled to be outstanding. The premium or cost for all such insurance when written pursuant to the Washington insurance code and regulations issued thereunder, shall not be deemed

interest, charges or consideration in connection with the loan transaction and any gain or advantage to the lender arising out of the premium or cost of the insurance or from its sale shall not be a violation of any provision of chapter 31.04 RCW. The amount of the premium or cost of such insurance may be included in the original loan amount and may be paid from the proceeds of the loan.

If the loan contract is prepaid in full by cash, a new loan, renewal, refinancing, or otherwise, the credit life and/or accident and health insurance coverage shall be cancelled and a portion of the charge made for such insurance shall be rebated as provided by the Washington insurance code and regulations issued thereunder.

(3) No company shall ~~((make-any))~~ charge to or collect from the customer any funds for the cost of filing, recording ~~((or))~~, releasing, or reconveyance of mortgages, deeds of trust, security agreements, or other ~~((instruments))~~ documents, or for transferring title certificates to ~~((automobiles-unless-such-charges-are-or-are--in--fact-to-be-paid-out-by-the-company-to-the-proper-officials-for-such-filing; recording,--transferring--or--releasing--thereof))~~ vehicles, or for any other fees paid or to be paid to public officials, unless such charges are paid or are to be paid within ten days by the company to public officials or other third parties for such filing, recording, transferring, releasing, or reconveyance thereof. Fees for releasing or reconveying security for the obligation owed to the company may be charged and collected at the time of final payment of the loan.

(4) In the event a company makes a new loan where any part of the proceeds is used to pay the amount due it on an existing loan within four months from date of ~~((the))~~ origination or of the most recent advance upon an existing loan, no charge for investigation fee shall be permitted, unless the investigation fee on the existing loan is refunded.

(5) No industrial loan company may charge and collect an annual fee in excess of eighteen dollars payable each year in advance for the privilege of opening and maintaining an open-end loan account.

(6) No industrial loan company may charge ~~((and))~~ or collect an appraisal fee incurred or to be incurred in appraising security offered by the borrower in excess of the actual costs paid or to be paid to an independent third party professional appraiser. ~~((No))~~ Such charge may be made or collected from the borrower for costs of an appraisal at the time of application for the loan or at any time thereafter except as prohibited herein. If the appraisal fee is not collected at the time of application, the customer shall be advised of the amount of that fee at the time of application. If the loan application is rejected by the company, or if the appraisal is inadequate to meet reasonable appraisal requirements for comparable loans from other lending institutions, the company must refund to the borrower any appraisal fee already collected.

(7) Any note which is prepaid in full by cash, a new loan, refinancing, or otherwise before the final due date, the unearned portion of the interest shall be refunded using the sum of the digits method commonly known as the "Rule of 78's."

PROVIDED, HOWEVER, That in the case of any loan originally scheduled to be repaid in ~~((sixty-one))~~ thirty-seven months or more which is secured by an investment certificate, the refund of the unearned portion of the interest shall be computed as follows: Interest shall be considered earned at the single nominal annual percentage rate which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments due on the certificate and calculations were made according to the actuarial method. Interest earned so calculated up to the scheduled due date nearest the date of prepayment shall be subtracted from the original amount of interest included in the note and the balance of such interest shall be refunded.

For purposes of this calculation only, the original principal amount of the loan shall be deemed to be the amount of the total note less the interest deducted in advance. Actuarial method means the



method of allocating payments made between principal and interest whereby a payment is applied first to the interest accumulated to date and the remainder then applied to the unpaid principal amount. In computing an actuarial refund, the lender may round the single annual percentage rate used to the nearest quarter of one percent.

In computing any required refund, any prepayment made on or before the fifteenth day following the scheduled payment date on the investment certificate shall be deemed to have been made on the payment date preceding such prepayment. In the case of prepayment prior to the first installment date, the company may retain an amount not to exceed 1/30 of the first month's interest charge for each date between the origination date of the loan and the actual date of prepayment.

(8) The maximum amount which may be charged as an investigation fee is two percent of the loan proceeds advanced to or for the direct benefit of the borrower. For a closed-end loan, this means two percent of the "amount financed" disclosed to the borrower pursuant to the federal Truth-in-Lending Act. For an open-end loan, this means two percent of the line of credit established for the borrower under the open-end loan account, not including any "prepaid finance charge". In an open-end loan, the investigation fee shall be collected as funds are actually advanced from time to time to the borrower, but in no event shall the amount so collected in connection with an advance exceed two percent of the amount advanced or, in the aggregate, exceed two percent of the maximum line of credit established for the borrower, less any "prepaid finance charge".

(9) A company may agree with the borrower for the payment by the borrower of the fees charged by a title company in connection with title insurance required by the company in connection with a loan. The borrower has the right to select the person or company by or through whom such title insurance will be offered, subject to the company's reasonable conditions, such as the type of coverage or endorsements, or financial soundness and proper licensing of the company to do business in the state of Washington. The company may select the person or company by or through whom such title insurance will be offered if the borrower does not do so within a reasonable time before the loan transaction is consummated.