
ENGROSSED SUBSTITUTE SENATE BILL 5312

State of Washington

63rd Legislature

2013 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs, Harper, Eide, Benton, Hatfield, Schoesler, Roach, Keiser, and Tom)

READ FIRST TIME 02/11/13.

1 AN ACT Relating to small consumer installment loans; adding a new
2 chapter to Title 31 RCW; creating a new section; and prescribing
3 penalties.

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

5 NEW SECTION. **Sec. 1.** DEFINITION. The definitions in this section
6 apply throughout this chapter unless the context clearly requires
7 otherwise.

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

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

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

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

17 (5) "Gross monthly income" means a borrower's or potential
18 borrower's gross monthly income as demonstrated by documentation of
19 income, including, but not limited to, a pay stub, documentation

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

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

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

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

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

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

20 (11) "Scheduled payment" means any single payment disclosed in a
21 payment schedule on a federal truth in lending act disclosure.
22 "Scheduled payment" does not mean an actual payment on a date different
23 than a payment on the loan payment schedule, or the payment in full of
24 a loan before the final payment date on the loan payment schedule.

25 (12) "Small consumer installment loan" means a loan made to a
26 natural person in a single advance with terms as provided for in this
27 chapter.

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

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

33 (2) This chapter does not apply to the following:

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

1 (b) Loans made under chapters 19.60, 31.04, and 31.45 RCW.

2 NEW SECTION. **Sec. 3.** LICENSE REQUIRED. No person may engage in
3 advertising or making small consumer installment loans without first
4 obtaining a license from the director in accordance with this chapter.
5 A license is required for each location where a licensee engages in the
6 business of making small consumer installment loans.

7 NEW SECTION. **Sec. 4.** LICENSE--APPLICATION--FEE--BOND--INFORMATION
8 FROM APPLICANTS. (1) Each application for a license must be in writing
9 in a form prescribed by the director and must contain the following
10 information:

11 (a) The legal name, residence, and business address of the
12 applicant and, if the applicant is a partnership, association, limited
13 liability company, limited liability partnership, or corporation, of
14 every member, officer, principal, or director thereof;

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

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

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

23 (2) As part of or in connection with an application for any license
24 under this section, or periodically upon license renewal, each officer,
25 director, and owner applicant shall furnish information concerning his
26 or her identity, including fingerprints for submission to the
27 Washington state patrol or the federal bureau of investigation for a
28 state and national criminal history background check, personal history,
29 experience, business record, purposes, and other pertinent facts, as
30 the director may reasonably require. As part of or in connection with
31 an application for a license under this chapter, or periodically upon
32 license renewal, the director is authorized to receive criminal history
33 record information that includes nonconviction data as defined in RCW
34 10.97.030. The director may only disseminate nonconviction data
35 obtained under this section to criminal justice agencies. This section

1 does not apply to financial institutions regulated under chapters 31.12
2 and 31.13 RCW and Titles 30, 32, and 33 RCW.

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

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

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

28 NEW SECTION. **Sec. 5.** APPLICATION FOR LICENSE--FINANCIAL
29 RESPONSIBILITY--DIRECTOR'S INVESTIGATION. (1) The director shall
30 conduct an investigation of every applicant to determine the financial
31 responsibility, experience, character, and general fitness of the
32 applicant. The director shall issue the applicant a license to engage
33 in the business of making small consumer installment loans, if the
34 director determines that:

35 (a) The applicant has satisfied the licensing requirements of this
36 chapter;

1 (b) The applicant is financially responsible and appears to be able
2 to conduct the business of making small consumer installment loans in
3 an honest, fair, and efficient manner with the confidence and trust of
4 the community and in accordance with this chapter; and

5 (c) The applicant has the required bond.

6 (2) The director may refuse to issue a license if he or she finds
7 that the applicant, or any person who is a director, officer, partner,
8 agent, sole proprietor, owner, or controlling person of the applicant,
9 has been convicted of a felony in any jurisdiction within seven years
10 of filing the present application or is associating or consorting with
11 any person who has been convicted of a felony in any jurisdiction
12 within seven years of filing the present application.

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

14 (a) Whose license to conduct business under this chapter, or any
15 similar statute in any other jurisdiction, has been suspended or
16 revoked within five years of the filing of the present application;

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

20 (c) Who has advertised or made internet loans in violation of this
21 chapter.

22 (4) A license issued in accordance with this chapter remains in
23 force and effect until surrendered, suspended, or revoked, or until the
24 license expires as a result of nonpayment of the annual assessment fee
25 as defined in this chapter.

26 NEW SECTION. **Sec. 6.** MULTISTATE LICENSING SYSTEM--DIRECTOR'S
27 DISCRETION. Applicants may be required to make application through a
28 multistate licensing system as prescribed by the director. Existing
29 licensees may be required to transition onto a multistate licensing
30 system as prescribed by the director.

31 NEW SECTION. **Sec. 7.** TERMS OF LOANS. A small consumer
32 installment loan must include the following terms:

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

36 (2) A maximum loaned amount of one thousand five hundred dollars;

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

5 (4) A minimum loan term of six months;

6 (5) A maximum loan term of eighteen months;

7 (6) The loan amortizes;

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

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

12 NEW SECTION. **Sec. 8.** LIMITATIONS ON INTEREST AND CHARGES.

13 Notwithstanding any other provision of law, a licensee:

14 (1) May charge, contract for, and receive interest of no more than
15 thirty-six percent per annum on the outstanding unpaid principal
16 balance of the loaned amount, exclusive of fees, penalties, or charges
17 authorized by this chapter;

18 (2) May charge a loan origination fee not to exceed fifteen percent
19 of the loaned amount, which charge is fully earned at the time the loan
20 is made and is not subject to refund, except for the full refund of all
21 charges after rescission as provided in section 12 of this act;

22 (3) May charge a monthly maintenance fee not to exceed seven
23 dollars and fifty cents per one hundred dollars of the loaned amount
24 for each month the loan has an outstanding balance on the first day of
25 a month, which charge is fully earned on the first day of a month in
26 which the loan has an outstanding balance and is not subject to refund;

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

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

32 (a) Charge and collect a penalty of not more than ten percent of
33 the delinquent payment or payments; or

34 (b) Declare the entire loan due and payable and proceed to collect
35 the loan in accordance with this chapter;

36 (6) May collect from the borrower reasonable attorneys' fees,

1 actual expenses, and costs incurred in connection with the collection
2 of any amounts due to a licensee with respect to a small consumer
3 installment loan;

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

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

9 (9) Is prohibited from charging any other interest, fees,
10 penalties, or charges, except those provided in subsections (1) through
11 (3), (5), and (6) of this section.

12 NEW SECTION. **Sec. 9.** LOAN AGREEMENT--REQUIRED CONTENTS. A
13 licensee making a small consumer installment loan must document the
14 transaction by use of a record authenticated by the licensee and the
15 borrower. This record must set forth the terms and conditions of the
16 loan, including, but not limited to:

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

18 (2) The transaction date;

19 (3) The loaned amount;

20 (4) A statement of the total amount of finance charges charged,
21 expressed both as a dollar amount and an annual percentage rate,
22 calculated in accordance with the truth in lending act;

23 (5) The installment payment schedule;

24 (6) The right to rescind the loan on or before the close of
25 business on the next day of business at the location where the loan was
26 originated;

27 (7) A notice to the borrower that delinquency on one scheduled
28 payment may result in a penalty of not more than ten percent of the
29 delinquent payment or payments and/or acceleration of the loan;

30 (8) A description of the manner and methods by which loan payments
31 may be made, which include cash, check, automatic clearing house
32 transactions, debit authorization, or additional method of loan payment
33 authorized by the director after rule making; and

34 (9) A notice to the borrower in at least ten-point type that
35 states:

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

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

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

9 NEW SECTION. **Sec. 10.** NOTICE OF FEES AND CHARGES--RECEIPT. (1)
10 A schedule of the fees, penalties, and charges for taking out a small
11 consumer installment loan must be conspicuously and continuously posted
12 in every location licensed under this chapter.

13 (2) The licensee shall provide to its customer a receipt for each
14 transaction. The receipt must include the name of the licensee, the
15 type and amount of the transaction, and the fees and charges charged
16 for the transaction.

17 NEW SECTION. **Sec. 11.** DISBURSEMENT OF PROCEEDS. A licensee may
18 disburse the proceeds of a small consumer installment loan in the form
19 of a check drawn on the licensee's bank account, in cash, by money
20 order, by prepaid card, by electronic funds transfer, or by other
21 method authorized by the director after rule making.

22 NEW SECTION. **Sec. 12.** RESCISSION. A borrower may rescind a small
23 consumer installment loan, on or before the close of business on the
24 next day of business at the location where the loan was originated, by
25 returning the principal in cash, the original check disbursed by the
26 licensee, or the other disbursement of loan proceeds from the licensee
27 to fund the loan. The licensee may not charge the borrower for
28 rescinding the loan and must refund any loan fees and interest
29 received. The licensee shall conspicuously disclose to the borrower
30 the right of rescission in writing in the loan agreement.

31 NEW SECTION. **Sec. 13.** DELINQUENT SMALL CONSUMER INSTALLMENT
32 LOAN--RESTRICTIONS ON COLLECTION BY LICENSEE OR THIRD PARTY. (1) A
33 licensee shall comply with all applicable state and federal laws when
34 collecting a delinquent small consumer installment loan. A licensee

1 may take civil action to collect principal, interest, fees, penalties,
2 charges, and costs allowed under this chapter. A licensee may not
3 threaten criminal prosecution as a method of collecting a delinquent
4 small consumer installment loan or threaten to take any legal action
5 against the borrower which the licensee may not legally take.

6 (2) Unless invited by the borrower, a licensee may not visit a
7 borrower's residence or place of employment for the purpose of
8 collecting a delinquent small consumer installment loan. A licensee
9 may not impersonate a law enforcement official, or make any statements
10 which might be construed as indicating an official connection with any
11 federal, state, county, or city law enforcement agency, or any other
12 governmental agency, while engaged in collecting a small consumer
13 installment loan.

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

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

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

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

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

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

1 (5) If a dishonored check is assigned to any third party for
2 collection, this section applies to the third party for the collection
3 of the dishonored check.

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

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

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

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

16 (7) For the purposes of this section:

17 (a) A communication occurs at the time it is initiated by a
18 licensee regardless of the time it is received or accessed by the
19 borrower; and

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

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

25 NEW SECTION. **Sec. 14.** LOAN FREQUENCY LIMITATIONS. (1) No
26 licensee may extend to or have open with a borrower more than one small
27 consumer installment loan at any time unless:

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

32 (b) The unpaid principal balance of any and all small consumer
33 installment loans to a borrower does not exceed one thousand five
34 hundred dollars.

35 (2) The director has broad rule-making authority to adopt and
36 implement a database system to carry out subsection (1) of this

1 section. This includes, but is not limited to, taking the steps
2 necessary to contract a database vendor, and set licensee fees to
3 operate and administer the database system.

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

6 NEW SECTION. **Sec. 15.** RESTRICTION ON TRANSFER. No licensee may
7 pledge, negotiate, sell, or assign a small consumer installment loan,
8 except to another licensee or to a bank, savings bank, trust company,
9 savings and loan or building and loan association, or credit union
10 organized under the laws of Washington or the laws of the United
11 States.

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

16 (a) Fail to make disclosures to loan applicants as required by any
17 applicable federal law;

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

21 (c) Directly or indirectly engage in any unfair or deceptive
22 practice toward any person;

23 (d) Directly or indirectly obtain property by fraud or
24 misrepresentation;

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

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

32 (g) Negligently make any false statement or knowingly and willfully
33 make any omission of material fact in connection with any reports filed
34 with the department of financial institutions by a licensee or in
35 connection with any investigation conducted by the department of
36 financial institutions;

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

5 (i) Make small consumer installment loans from any unlicensed
6 location;

7 (j) Fail to comply with all applicable state and federal statutes
8 relating to the activities governed by this chapter; or

9 (k) Fail to pay any other fee, assessment, or moneys due the
10 department of financial institutions.

11 (2) In addition to any other penalties, any transaction in
12 violation of subsection (1) of this section is uncollectible and
13 unenforceable.

14 NEW SECTION. **Sec. 17.** INTERNET LENDING. (1) A licensee may
15 advertise and accept applications for small consumer installment loans
16 by any lawful medium, including the internet.

17 (2) Nonlicensees are prohibited from advertising or making small
18 consumer installment loans via the internet.

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

33 (2) If a licensee does not pay its annual assessment fee by the
34 annual assessment fee due date as specified in rule, the director or
35 the director's designee shall send the licensee a notice of expiration
36 and assess the licensee a late fee not to exceed fifteen percent of the

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

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

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

32 NEW SECTION. **Sec. 20.** EXAMINATION OR INVESTIGATION--DIRECTOR'S
33 AUTHORITY--COSTS. The director or the director's designee may at any
34 time examine and investigate the business and examine the books,
35 accounts, records, and files, or other information, wherever located,
36 of any licensee or person who the director has reason to believe is

1 engaging in the business governed by this chapter. For these purposes,
2 the director or the director's designee may require the attendance of
3 and examine under oath all persons whose testimony may be required
4 about the business or the subject matter of the investigation. The
5 director or the director's designee may require the production of
6 original books, accounts, records, files, or other information, or may
7 make copies of such original books, accounts, records, files, or other
8 information. The director or the director's designee may issue a
9 subpoena or subpoena duces tecum requiring attendance and testimony, or
10 the production of the books, accounts, records, files, or other
11 information. The director shall collect from the licensee the actual
12 cost of the examination and investigation.

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

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

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

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

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

33 (3) The director or authorized assistants may seek approval and a
34 court may issue an order under this section without prior notice to any
35 person, including the person to whom the subpoena is directed and the
36 person who is the subject of an investigation. An application for

1 court approval is subject to the fee and process set forth in RCW
2 36.18.012(3).

3 NEW SECTION. **Sec. 22.** REPORT REQUIREMENTS--DISCLOSURE OF
4 INFORMATION--RULES. (1) Each licensee shall submit to the director, in
5 a form approved by the director, a report containing financial
6 statements covering the calendar year or, if the licensee has an
7 established fiscal year, then for that fiscal year, within one hundred
8 five days after the close of each calendar or fiscal year. The
9 licensee shall also file additional relevant information as the
10 director may require. Any information provided by a licensee in an
11 annual report is exempt from disclosure under chapter 42.56 RCW, unless
12 aggregated with information supplied by other licensees in a manner
13 that the licensee's individual information is not identifiable. Any
14 information provided by the licensee that allows identification of the
15 licensee may only be used by the director for purposes reasonably
16 related to the regulation of licensees to ensure compliance with this
17 chapter.

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

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

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

33 NEW SECTION. **Sec. 23.** DIRECTOR--BROAD ADMINISTRATIVE DISCRETION--
34 RULE MAKING--ACTIONS IN SUPERIOR COURT. The director has the power,
35 and broad administrative discretion, to administer, liberally construe,
36 and interpret this chapter to facilitate the delivery of financial

1 services to the citizens of this state by licensees subject to this
2 chapter, and to effectuate the legislature's goal to protect borrowers.
3 The director shall adopt all rules necessary to administer this
4 chapter, to establish and set fees authorized by this chapter, and to
5 ensure complete and full disclosure by licensees of lending
6 transactions governed by this chapter.

7 NEW SECTION. **Sec. 24.** VIOLATIONS OR UNSOUND FINANCIAL PRACTICES--
8 STATEMENT OF CHARGES--HEARING--SANCTIONS--DIRECTOR'S AUTHORITY. (1)

9 The director may issue and serve upon a licensee or applicant, or any
10 director, officer, sole proprietor, partner, or controlling person of
11 a licensee or applicant, a statement of charges if, in the opinion of
12 the director, any licensee or applicant, or any director, officer, sole
13 proprietor, partner, or controlling person of a licensee or applicant:

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

16 (b) Is violating or has violated this chapter, including violations
17 of:

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

20 (ii) Any condition imposed in writing by the director in connection
21 with the granting of any application or other request by the licensee;
22 or

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

24 (c) Obtains a license by means of fraud, misrepresentation, or
25 concealment;

26 (d) Provides false statements or omits material information on an
27 application;

28 (e) Knowingly or negligently omits material information during or
29 in response to an examination or in connection with an investigation by
30 the director;

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

34 (g) Commits a crime against the laws of any jurisdiction involving
35 moral turpitude, financial misconduct, or dishonest dealings. For the
36 purposes of this section, a certified copy of the final holding of any

1 court, tribunal, agency, or administrative body of competent
2 jurisdiction is conclusive evidence in any hearing under this chapter;

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

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

9 (j) Fails to disclose to the director any material information
10 within his or her knowledge or fails to produce any document, book, or
11 record in his or her possession for inspection by the director upon
12 lawful demand;

13 (k) Commits any act of fraudulent or dishonest dealing. For the
14 purposes of this section, a certified copy of the final holding of any
15 court, tribunal, agency, or administrative body of competent
16 jurisdiction is conclusive evidence in any hearing under this chapter;

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

20 (m) Violates any applicable state or federal law relating to the
21 activities governed by this chapter.

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

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

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

33 (b) Order the licensee or person to cease and desist from practices
34 that violate this chapter;

35 (c) Impose a fine not to exceed one hundred dollars per day per
36 violation of this chapter;

37 (d) Order restitution or refunds to borrowers or other affected

1 parties for violations of this chapter or take other affirmative action
2 as necessary to comply with this chapter; and

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

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

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

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

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

31 NEW SECTION. **Sec. 26.** TEMPORARY CEASE AND DESIST ORDER--
32 LICENSEE'S APPLICATION FOR INJUNCTION. Within ten days after a
33 licensee has been served with a temporary cease and desist order, the
34 licensee may apply to the superior court in the county of its principal
35 place of business for an injunction setting aside, limiting, or

1 suspending the order pending the completion of the administrative
2 proceedings pursuant to the notice served under section 25 of this act.
3 The superior court has jurisdiction to issue the injunction.

4 NEW SECTION. **Sec. 27.** VIOLATION OF TEMPORARY CEASE AND DESIST
5 ORDER--DIRECTOR'S APPLICATION FOR INJUNCTION. In the case of a
6 violation or threatened violation of a temporary cease and desist order
7 issued under section 25 of this act, the director may apply to the
8 superior court of the county of the principal place of business of the
9 licensee for an injunction.

10 NEW SECTION. **Sec. 28.** APPOINTMENT OF RECEIVER. The director may
11 petition the superior court for the appointment of a receiver to
12 liquidate the affairs of the licensee.

13 NEW SECTION. **Sec. 29.** VIOLATION--CONSUMER PROTECTION ACT--
14 REMEDIES. The legislature finds and declares that any violation of
15 this chapter substantially affects the public interest and is an unfair
16 and deceptive act or practice and an unfair method of competition in
17 the conduct of trade or commerce as set forth in RCW 19.86.020.
18 Remedies available under chapter 19.86 RCW do not affect any other
19 remedy the injured party may have.

20 NEW SECTION. **Sec. 30.** ADJUSTMENT OF DOLLAR AMOUNTS. The dollar
21 amounts established in section 7(2) and 14(1)(b) of this act must,
22 without discretion, be adjusted for inflation by the director on July
23 1, 2014, and on each July 1st thereafter, based upon changes in the
24 consumer price index during that time period, and then rounded up to
25 the nearest five dollars. "Consumer price index" means, for any
26 calendar year, that year's annual average consumer price index, for
27 Washington state, for wage earners and clerical workers, all items,
28 compiled by the bureau of labor and statistics, United States
29 department of labor. If the bureau of labor and statistics develops
30 more than one consumer price index for areas within the state, the
31 index covering the greatest number of people, covering areas
32 exclusively within the boundaries of the state, and including all items
33 shall be used for the adjustments for inflation in this section. The
34 director must calculate the new dollar threshold and transmit it to the

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

4 NEW SECTION. **Sec. 31.** REPORT TO LEGISLATURE. The director must
5 collect and submit the following information to the legislature by
6 December 1, 2015, for data collected during 2014:

- 7 (1) The number of branches and total locations;
- 8 (2) The number of loans made during 2014;
- 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 borrowers who are in the military;
- 17 (9) Borrower frequency;
- 18 (10) The number of unique customers;
- 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 borrower
23 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. 32.** SHORT TITLE. This act may be known and
28 cited as the small consumer installment loan act.

29 NEW SECTION. **Sec. 33.** If any portion of this act is vetoed by the
30 governor, this entire act is null and void.

31 NEW SECTION. **Sec. 34.** Sections 1 through 32 of this act
32 constitute a new chapter in Title 31 RCW.

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