
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; and

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.

34 No licensee may condition an extension of credit under a small
35 consumer installment loan on the borrower's repayment by preauthorized
36 electronic fund transfers. Payment options including, but not limited

1 to, automatic clearing house transactions and other electronic fund
2 transfers may be offered to borrowers as a choice with the method or
3 methods of payment chosen by the borrower.

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

8 (2) The licensee shall provide to its customer a receipt for each
9 transaction. The receipt must include the name of the licensee, the
10 type and amount of the transaction, and the fees and charges charged
11 for the transaction.

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

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

26 NEW SECTION. **Sec. 13.** DELINQUENT SMALL CONSUMER INSTALLMENT
27 LOAN--RESTRICTIONS ON COLLECTION BY LICENSEE OR THIRD PARTY. (1) A
28 licensee shall comply with all applicable state and federal laws when
29 collecting a delinquent small consumer installment loan. A licensee
30 may take civil action to collect principal, interest, fees, penalties,
31 charges, and costs allowed under this chapter. A licensee may not
32 threaten criminal prosecution as a method of collecting a delinquent
33 small consumer installment loan or threaten to take any legal action
34 against the borrower which the licensee may not legally take.

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

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

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

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

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

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

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

33 (5) If a dishonored check is assigned to any third party for
34 collection, this section applies to the third party for the collection
35 of the dishonored check.

36 (6) For the purposes of this section, "communication" includes any
37 contact with a borrower, initiated by the licensee, in person, by

1 telephone, or in writing (including e-mails, text messages, and other
2 electronic writing) regarding the collection of a delinquent small
3 consumer installment loan, but does not include any of the following:

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

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

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

11 (7) For the purposes of this section:

12 (a) A communication occurs at the time it is initiated by a
13 licensee regardless of the time it is received or accessed by the
14 borrower; and

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

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

20 NEW SECTION. **Sec. 14.** LOAN FREQUENCY LIMITATIONS. (1) No

21 licensee may extend to or have open with a borrower more than one small
22 consumer installment loan at any time unless:

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

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

30 (2) The director has broad rule-making authority to adopt and
31 implement a database system to carry out subsection (1) of this
32 section. This includes, but is not limited to, taking the steps
33 necessary to contract a database vendor, and set licensee fees to
34 operate and administer the database system.

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

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

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

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

13 (b) Directly or indirectly employ any scheme, device, or artifice
14 to defraud or mislead any borrower, to defraud or mislead any lender,
15 or to defraud or mislead any person;

16 (c) Directly or indirectly engage in any unfair or deceptive
17 practice toward any person;

18 (d) Directly or indirectly obtain property by fraud or
19 misrepresentation;

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

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

27 (g) Negligently make any false statement or knowingly and willfully
28 make any omission of material fact in connection with any reports filed
29 with the department of financial institutions by a licensee or in
30 connection with any investigation conducted by the department of
31 financial institutions;

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

36 (i) Make small consumer installment loans from any unlicensed
37 location;

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

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

5 (2) In addition to any other penalties, any transaction in
6 violation of subsection (1) of this section is uncollectible and
7 unenforceable.

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

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

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

27 (2) If a licensee does not pay its annual assessment fee by the
28 annual assessment fee due date as specified in rule, the director or
29 the director's designee shall send the licensee a notice of expiration
30 and assess the licensee a late fee not to exceed fifteen percent of the
31 annual assessment fee as established in rule by the director. The
32 licensee's payment of both the annual assessment fee and the late fee
33 must arrive in the department of financial institutions' offices by
34 5:00 p.m. on the tenth day after the annual assessment fee due date,
35 unless the department of financial institutions is not open for
36 business on that date, in which case the licensee's payment of both the

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

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

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

26 NEW SECTION. **Sec. 20.** EXAMINATION OR INVESTIGATION--DIRECTOR'S
27 AUTHORITY--COSTS. The director or the director's designee may at any
28 time examine and investigate the business and examine the books,
29 accounts, records, and files, or other information, wherever located,
30 of any licensee or person who the director has reason to believe is
31 engaging in the business governed by this chapter. For these purposes,
32 the director or the director's designee may require the attendance of
33 and examine under oath all persons whose testimony may be required
34 about the business or the subject matter of the investigation. The
35 director or the director's designee may require the production of
36 original books, accounts, records, files, or other information, or may

1 make copies of such original books, accounts, records, files, or other
2 information. The director or the director's designee may issue a
3 subpoena or subpoena duces tecum requiring attendance and testimony, or
4 the production of the books, accounts, records, files, or other
5 information. The director shall collect from the licensee the actual
6 cost of the examination and investigation.

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

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

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

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

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

27 (3) The director or authorized assistants may seek approval and a
28 court may issue an order under this section without prior notice to any
29 person, including the person to whom the subpoena is directed and the
30 person who is the subject of an investigation. An application for
31 court approval is subject to the fee and process set forth in RCW
32 36.18.012(3).

33 NEW SECTION. **Sec. 22.** REPORT REQUIREMENTS--DISCLOSURE OF
34 INFORMATION--RULES. (1) Each licensee shall submit to the director, in
35 a form approved by the director, a report containing financial
36 statements covering the calendar year or, if the licensee has an

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

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

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

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

27 NEW SECTION. **Sec. 23.** DIRECTOR--BROAD ADMINISTRATIVE DISCRETION--
28 RULE MAKING--ACTIONS IN SUPERIOR COURT. The director has the power,
29 and broad administrative discretion, to administer, liberally construe,
30 and interpret this chapter to facilitate the delivery of financial
31 services to the citizens of this state by licensees subject to this
32 chapter, and to effectuate the legislature's goal to protect borrowers.
33 The director shall adopt all rules necessary to administer this
34 chapter, to establish and set fees authorized by this chapter, and to
35 ensure complete and full disclosure by licensees of lending
36 transactions governed by this chapter.

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

3 The director may issue and serve upon a licensee or applicant, or any
4 director, officer, sole proprietor, partner, or controlling person of
5 a licensee or applicant, a statement of charges if, in the opinion of
6 the director, any licensee or applicant, or any director, officer, sole
7 proprietor, partner, or controlling person of a licensee or applicant:

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

10 (b) Is violating or has violated this chapter, including violations
11 of:

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

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

16 or

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

18 (c) Obtains a license by means of fraud, misrepresentation, or
19 concealment;

20 (d) Provides false statements or omits material information on an
21 application;

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

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

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

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

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

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

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

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

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

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

19 (3) The statement of charges must 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 directors,
22 officers, sole proprietors, partners, controlling persons, or employees
23 of a licensee or applicant:

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

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

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

29 (d) Order restitution or refunds to borrowers or other affected
30 parties for violations of this chapter or take other affirmative action
31 as necessary to comply with this chapter; and

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

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

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

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

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

23 NEW SECTION. **Sec. 26.** TEMPORARY CEASE AND DESIST ORDER--
24 LICENSEE'S APPLICATION FOR INJUNCTION. Within ten days after a
25 licensee has been served with a temporary cease and desist order, the
26 licensee may apply to the superior court in the county of its principal
27 place of business for an injunction setting aside, limiting, or
28 suspending the order pending the completion of the administrative
29 proceedings pursuant to the notice served under section 25 of this act.
30 The superior court has jurisdiction to issue the injunction.

31 NEW SECTION. **Sec. 27.** VIOLATION OF TEMPORARY CEASE AND DESIST
32 ORDER--DIRECTOR'S APPLICATION FOR INJUNCTION. In the case of a
33 violation or threatened violation of a temporary cease and desist order
34 issued under section 25 of this act, the director may apply to the

1 superior court of the county of the principal place of business of the
2 licensee for an injunction.

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

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

13 NEW SECTION. **Sec. 30.** ADJUSTMENT OF DOLLAR AMOUNTS. The dollar
14 amounts established in section 7(2) and 14(1)(b) of this act must,
15 without discretion, be adjusted for inflation by the director on July
16 1, 2014, and on each July 1st thereafter, based upon changes in the
17 consumer price index during that time period, and then rounded up to
18 the nearest five dollars. "Consumer price index" means, for any
19 calendar year, that year's annual average consumer price index, for
20 Washington state, for wage earners and clerical workers, all items,
21 compiled by the bureau of labor and statistics, United States
22 department of labor. If the bureau of labor and statistics develops
23 more than one consumer price index for areas within the state, the
24 index covering the greatest number of people, covering areas
25 exclusively within the boundaries of the state, and including all items
26 shall be used for the adjustments for inflation in this section. The
27 director must calculate the new dollar threshold and transmit it to the
28 office of the code reviser for publication in the Washington State
29 Register at least one month before the new dollar threshold is to take
30 effect.

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

34 (1) The number of branches and total locations;

- 1 (2) The number of loans made during 2014;
- 2 (3) Loan volume;
- 3 (4) Average loan amount;
- 4 (5) Total fees charged, in total and by category of fee or other
- 5 charge;
- 6 (6) Average payment per month, in total and by category of fee or
- 7 other charge;
- 8 (7) Average income of borrower;
- 9 (8) The number of borrowers who are in the military;
- 10 (9) Borrower frequency;
- 11 (10) The number of unique customers;
- 12 (11) Average length of loan repayment;
- 13 (12) The number of borrowers taking out the maximum loan amount;
- 14 (13) The number of borrowers who went into default;
- 15 (14) Average length of time a borrower has a loan before a borrower
- 16 goes into default;
- 17 (15) Any legislative recommendations by the director; and
- 18 (16) Any other information that the director believes is relevant
- 19 or useful.

20 NEW SECTION. **Sec. 32.** SHORT TITLE. This act may be known and
21 cited as the small consumer installment loan act.

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

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

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