
SENATE BILL 5312

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By Senators Hobbs, Harper, Eide, Benton, Hatfield, Chase, Frockt, Schoesler, Roach, Keiser, Mullet, and Tom

Read first time 01/25/13. Referred to Committee on Financial Institutions, Housing & Insurance.

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

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

4 NEW SECTION. **Sec. 1.** Intent. The legislature finds and declares
5 that some payday loans have interest rates of nearly four hundred
6 percent, and that nonlicensed internet lenders charge even more and are
7 preying on Washington consumers. Therefore, as an alternative to these
8 high interest rate loans, and especially predatory nonlicensed internet
9 loans, it is the intent of the legislature to authorize licensed longer
10 term loans with a maximum authorized interest rate of thirty-six
11 percent per year. The legislature finds that this act shall be
12 liberally construed to effectuate the legislature's intent to protect
13 borrowers.

14 NEW SECTION. **Sec. 2.** Definition. The definitions in this section
15 apply throughout this chapter unless the context clearly requires
16 otherwise.

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

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

3 (3) "Controlling person" means a person owning or controlling ten
4 percent or more of the total outstanding shares of the applicant or
5 licensee, if the applicant or licensee is a corporation, and a member
6 who owns ten percent or more of a limited liability company or limited
7 liability partnership.

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

9 (5) "Gross monthly income" means a borrower's or potential
10 borrower's gross monthly income as demonstrated by documentation of
11 income, including, but not limited to, a pay stub, documentation
12 reflecting receipt of public benefits, tax returns, bank statements, or
13 other documentation showing the source of income. A lender shall
14 require a borrower or potential borrower to provide a pay stub or other
15 evidence of income at least once each twelve-month period. This
16 evidence must not be over forty-five days old when presented.

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

19 (7) "Licensee" means a single small consumer installment lender
20 licensed by the director to engage in business in accordance with this
21 chapter. "Licensee" also means a small consumer installment lender,
22 whether located within or outside of this state, who fails to obtain a
23 license required by this chapter.

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

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

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

31 (11) "Scheduled payment" means any single payment disclosed in a
32 payment schedule on a federal truth in lending act disclosure.
33 "Scheduled payment" does not mean an actual payment on a date different
34 than a payment on the loan payment schedule, or the payment in full of
35 a loan before the final payment date on the loan payment schedule.

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

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

3 NEW SECTION. **Sec. 3.** Applicability. (1) Any small consumer
4 installment loan made to a resident of this state is subject to the
5 authority and restrictions of this chapter.

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

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

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

12 NEW SECTION. **Sec. 4.** License required. No person may engage in
13 advertising or making small consumer installment loans without first
14 obtaining a license from the director in accordance with this chapter.
15 A license is required for each location where a licensee engages in the
16 business of making small consumer installment loans.

17 NEW SECTION. **Sec. 5.** License--Application--Fee--Bond--Information
18 from applicants. (1) Each application for a license must be in writing
19 in a form prescribed by the director and must contain the following
20 information:

21 (a) The legal name, residence, and business address of the
22 applicant and, if the applicant is a partnership, association, limited
23 liability company, limited liability partnership, or corporation, of
24 every member, officer, principal, or director thereof;

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

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

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

33 (2) As part of or in connection with an application for any license
34 under this section, or periodically upon license renewal, each officer,
35 director, and owner applicant shall furnish information concerning his

1 or her identity, including fingerprints for submission to the
2 Washington state patrol or the federal bureau of investigation for a
3 state and national criminal history background check, personal history,
4 experience, business record, purposes, and other pertinent facts, as
5 the director may reasonably require. As part of or in connection with
6 an application for a license under this chapter, or periodically upon
7 license renewal, the director is authorized to receive criminal history
8 record information that includes nonconviction data as defined in RCW
9 10.97.030. The director may only disseminate nonconviction data
10 obtained under this section to criminal justice agencies. This section
11 does not apply to financial institutions regulated under chapters 31.12
12 and 31.13 RCW and Titles 30, 32, and 33 RCW.

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

19 (4) The application must be filed together with an investigation
20 and supervision fee established by rule by the director. The fees
21 collected must be deposited to the credit of the financial services
22 regulation fund in accordance with RCW 43.320.110.

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

1 NEW SECTION. **Sec. 6.** Application for license--Financial
2 responsibility--Director's investigation. (1) The director shall
3 conduct an investigation of every applicant to determine the financial
4 responsibility, experience, character, and general fitness of the
5 applicant. The director shall issue the applicant a license to engage
6 in the business of making small consumer installment loans, if the
7 director determines that:

8 (a) The applicant has satisfied the licensing requirements of this
9 chapter;

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

14 (c) The applicant has the required bond.

15 (2) The director may refuse to issue a license if he or she finds
16 that the applicant, or any person who is a director, officer, partner,
17 agent, sole proprietor, owner, or controlling person of the applicant,
18 has been convicted of a felony in any jurisdiction within seven years
19 of filing the present application or is associating or consorting with
20 any person who has been convicted of a felony in any jurisdiction
21 within seven years of filing the present application.

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

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

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

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

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

35 NEW SECTION. **Sec. 7.** Multistate licensing system--Director's
36 discretion. Applicants may be required to make application through a

1 multistate licensing system as prescribed by the director. Existing
2 licensees may be required to transition onto a multistate licensing
3 system as prescribed by the director.

4 NEW SECTION. **Sec. 8.** Terms of loans. A small consumer
5 installment loan must include the following terms:

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

9 (2) A maximum loaned amount of two thousand dollars;

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

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

15 (5) The loan amortizes;

16 (6) The borrower's repayment obligations are not secured by a lien
17 on any real property; and

18 (7) The loan is made primarily for personal, family, or household
19 purposes.

20 NEW SECTION. **Sec. 9.** Limitations on interest and charges.
21 Notwithstanding any other provision of law, a licensee:

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

26 (2) May charge a loan origination fee not to exceed fifteen percent
27 of the loaned amount, which charge is fully earned at the time the loan
28 is made and is not subject to refund;

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

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

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

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

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

7 (6) May collect from the borrower reasonable attorneys' fees,
8 actual expenses, and costs incurred in connection with the collection
9 of any amounts due to a licensee with respect to a small consumer
10 installment loan; and

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

14 NEW SECTION. **Sec. 10.** Loan agreement--Required contents. A
15 licensee making a small consumer installment loan must document the
16 transaction by use of a record authenticated by the licensee and the
17 borrower. This record must set forth the terms and conditions of the
18 loan, including, but not limited to:

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

20 (2) The transaction date;

21 (3) The loaned amount;

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

25 (5) The installment payment schedule;

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

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

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

36 No licensee may condition an extension of credit under a small
37 consumer installment loan on the borrower's repayment by preauthorized

1 electronic fund transfers. Payment options including, but not limited
2 to, automatic clearing house transactions and other electronic fund
3 transfers may be offered to borrowers as a choice with the method or
4 methods of payment chosen by the borrower.

5 NEW SECTION. **Sec. 11.** Notice of fees and charges--Receipt. (1)
6 A schedule of the fees, penalties, and charges for taking out a small
7 consumer installment loan must be conspicuously and continuously posted
8 in every location licensed under this chapter.

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

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

18 NEW SECTION. **Sec. 13.** Rescission. A borrower may rescind a small
19 consumer installment loan, on or before the close of business on the
20 next day of business at the location where the loan was originated, by
21 returning the principal in cash, the original check disbursed by the
22 licensee, or the other disbursement of loan proceeds from the licensee
23 to fund the loan. The licensee may not charge the borrower for
24 rescinding the loan and must refund any loan fees and interest
25 received. The licensee shall conspicuously disclose to the borrower
26 the right of rescission in writing in the loan agreement.

27 NEW SECTION. **Sec. 14.** Delinquent small consumer installment
28 loan--Restrictions on collection by licensee or third party. (1) A
29 licensee shall comply with all applicable state and federal laws when
30 collecting a delinquent small consumer installment loan. A licensee
31 may take civil action to collect principal, interest, fees, penalties,
32 charges, and costs allowed under this chapter. A licensee may not
33 threaten criminal prosecution as a method of collecting a delinquent

1 small consumer installment loan or threaten to take any legal action
2 against the borrower which the licensee may not legally take.

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

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

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

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

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

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

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

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

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

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

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

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

13 (7) For the purposes of this section:

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

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

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

22 NEW SECTION. **Sec. 15.** Loan frequency limitations. No licensee
23 may extend to or have open with a borrower more than one small consumer
24 installment loan with that licensee at any time, unless the total of
25 all scheduled payments to be made in any month under all of the small
26 consumer installment loans made by a licensee to a borrower does not
27 exceed twenty percent of the borrower's gross monthly income.

28 NEW SECTION. **Sec. 16.** Restriction on transfer. No licensee may
29 pledge, negotiate, sell, or assign a small consumer installment loan,
30 except to another licensee or to a bank, savings bank, trust company,
31 savings and loan or building and loan association, or credit union
32 organized under the laws of Washington or the laws of the United
33 States.

34 NEW SECTION. **Sec. 17.** Prohibited acts. (1) It is a violation of

1 this chapter for a licensee, its officers, directors, employees, or
2 independent contractors, or any other person subject to this chapter
3 to:

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

6 (b) Directly or indirectly employ any scheme, device, or artifice
7 to defraud or mislead any borrower, to defraud or mislead any lender,
8 or to defraud or mislead any person;

9 (c) Directly or indirectly engage in any unfair or deceptive
10 practice toward any person;

11 (d) Directly or indirectly obtain property by fraud or
12 misrepresentation;

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

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

20 (g) Negligently make any false statement or knowingly and willfully
21 make any omission of material fact in connection with any reports filed
22 with the department of financial institutions by a licensee or in
23 connection with any investigation conducted by the department of
24 financial institutions;

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

29 (i) Make small consumer installment loans from any unlicensed
30 location;

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

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

35 (2) In addition to any other penalties, any transaction in
36 violation of subsection (1) of this section is uncollectible and
37 unenforceable.

1 NEW SECTION. **Sec. 18.** Internet lending. (1) A licensee may
2 advertise and accept applications for small consumer installment loans
3 by any lawful medium, including the internet.

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

6 NEW SECTION. **Sec. 19.** Investigation or examination fee and annual
7 assessment fee required--Amounts determined by rule--Failure to pay--
8 Notice requirements of licensee. (1) Each applicant and licensee shall
9 pay to the director an investigation or examination fee as established
10 in rule and an annual assessment fee for the coming year in an amount
11 determined by rule as necessary to cover the operation of the program.
12 The annual assessment fee is due upon the annual assessment fee due
13 date as established in rule. Nonpayment of the annual assessment fee
14 may result in expiration of the license as provided in subsection (2)
15 of this section. In establishing the fees, the director shall consider
16 at least the volume of business, level of risk, and potential harm to
17 the public related to each activity. The fees collected shall be
18 deposited to the credit of the financial services regulation fund in
19 accordance with RCW 43.320.110.

20 (2) If a licensee does not pay its annual assessment fee by the
21 annual assessment fee due date as specified in rule, the director or
22 the director's designee shall send the licensee a notice of expiration
23 and assess the licensee a late fee not to exceed twenty-five percent of
24 the annual assessment fee as established in rule by the director. The
25 licensee's payment of both the annual assessment fee and the late fee
26 must arrive in the department of financial institutions' offices by
27 5:00 p.m. on the tenth day after the annual assessment fee due date,
28 unless the department of financial institutions is not open for
29 business on that date, in which case the licensee's payment of both the
30 annual assessment fee and the late fee must arrive in the department of
31 financial institutions' offices by 5:00 p.m. on the next occurring day
32 that the department of financial institutions is open for business. If
33 the payment of both the annual assessment fee and the late fee does not
34 arrive prior to such time and date, then the expiration of the
35 licensee's license is effective at 5:00 p.m. on the thirtieth day
36 after the assessment fee due date. The director or the director's

1 designee may reinstate the license if, within twenty days after the
2 effective date of expiration, the licensee pays the annual assessment
3 fee and the late fee.

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

9 NEW SECTION. **Sec. 20.** Licensee--Record keeping. Each licensee
10 shall keep and maintain the business books, accounts, and records the
11 director may require to fulfill the purposes of this chapter. Every
12 licensee shall preserve the books, accounts, and records as required in
13 rule by the director for at least two years from the completion of the
14 transaction. Records may be maintained on an electronic, magnetic,
15 optical, or other storage media. However, the licensee must maintain
16 the necessary technology to permit access to the records by the
17 department of financial institutions for the period required under this
18 chapter.

19 NEW SECTION. **Sec. 21.** Examination or investigation--Director's
20 authority--Costs. The director or the director's designee may at any
21 time examine and investigate the business and examine the books,
22 accounts, records, and files, or other information, wherever located,
23 of any licensee or person who the director has reason to believe is
24 engaging in the business governed by this chapter. For these purposes,
25 the director or the director's designee may require the attendance of
26 and examine under oath all persons whose testimony may be required
27 about the business or the subject matter of the investigation. The
28 director or the director's designee may require the production of
29 original books, accounts, records, files, or other information, or may
30 make copies of such original books, accounts, records, files, or other
31 information. The director or the director's designee may issue a
32 subpoena or subpoena duces tecum requiring attendance and testimony, or
33 the production of the books, accounts, records, files, or other
34 information. The director shall collect from the licensee the actual
35 cost of the examination or investigation.

1 NEW SECTION. **Sec. 22.** Subpoena authority--Application--Contents--
2 Notice--Fees. (1) The director or authorized assistants may apply for
3 and obtain a superior court order approving and authorizing a subpoena
4 in advance of its issuance. The application may be made in the county
5 where the subpoenaed person resides or is found, or the county where
6 the subpoenaed documents, records, or evidence are located, or in
7 Thurston county. The application must:

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

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

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

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

21 (3) The director or authorized assistants may seek approval and a
22 court may issue an order under this section without prior notice to any
23 person, including the person to whom the subpoena is directed and the
24 person who is the subject of an investigation. An application for
25 court approval is subject to the fee and process set forth in RCW
26 36.18.012(3).

27 NEW SECTION. **Sec. 23.** Report requirements--Disclosure of
28 information--Rules. (1) Each licensee shall submit to the director, in
29 a form approved by the director, a report containing financial
30 statements covering the calendar year or, if the licensee has an
31 established fiscal year, then for that fiscal year, within one hundred
32 five days after the close of each calendar or fiscal year. The
33 licensee shall also file additional relevant information as the
34 director may require. Any information provided by a licensee in an
35 annual report is exempt from disclosure under chapter 42.56 RCW, unless
36 aggregated with information supplied by other licensees in a manner
37 that the licensee's individual information is not identifiable. Any

1 information provided by the licensee that allows identification of the
2 licensee may only be used by the director for purposes reasonably
3 related to the regulation of licensees to ensure compliance with this
4 chapter.

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

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

13 (4) The director is authorized to enter into agreements or sharing
14 arrangements regarding licensee reports, examination, or investigation
15 information with other governmental agencies, the conference of state
16 bank supervisors, the American association of residential mortgage
17 regulators, the national association of consumer credit administrators,
18 or other associations representing governmental agencies as established
19 by rule, regulation, or order of the director.

20 NEW SECTION. **Sec. 24.** Director--Broad administrative discretion--
21 Rule making--Actions in superior court. The director has the power,
22 and broad administrative discretion, to administer and interpret this
23 chapter to facilitate the delivery of financial services to the
24 citizens of this state by licensees subject to this chapter, and to
25 effectuate the legislative intent to protect borrowers. The director
26 shall adopt all rules necessary to administer this chapter and to
27 ensure complete and full disclosure by licensees of lending
28 transactions governed by this chapter.

29 NEW SECTION. **Sec. 25.** Violations or unsound financial practices--
30 Statement of charges--Hearing--Sanctions--Director's authority. (1)
31 The director may issue and serve upon a licensee or applicant, or any
32 director, officer, sole proprietor, partner, or controlling person of
33 a licensee or applicant, a statement of charges if, in the opinion of
34 the director, any licensee or applicant, or any director, officer, sole
35 proprietor, partner, or controlling person of a licensee or applicant:

1 (a) Is engaging or has engaged in an unsafe or unsound financial
2 practice in conducting a business governed by this chapter; or
3 (b) Is violating or has violated this chapter, including violations
4 of:
5 (i) Any rules, orders, or subpoenas issued by the director under
6 any act;
7 (ii) Any condition imposed in writing by the director in connection
8 with the granting of any application or other request by the licensee;
9 or
10 (iii) Any written agreement made with the director.
11 (2) The director has reasonable cause to believe that the licensee
12 or applicant is about to do the acts prohibited in subsection (1) of
13 this section if, in the opinion of the director, the licensee or
14 applicant:
15 (a) Obtains a license by means of fraud, misrepresentation, or
16 concealment;
17 (b) Provides false statements or omits material information on an
18 application;
19 (c) Knowingly or negligently omits material information during or
20 in response to an examination or in connection with an investigation by
21 the director;
22 (d) Fails to pay a fee or assessment required by the director or
23 any multistate licensing system prescribed by the director, or fails to
24 maintain the required bond;
25 (e) Commits a crime against the laws of any jurisdiction involving
26 moral turpitude, financial misconduct, or dishonest dealings. For the
27 purposes of this section, a certified copy of the final holding of any
28 court, tribunal, agency, or administrative body of competent
29 jurisdiction is conclusive evidence in any hearing under this chapter;
30 (f) Knowingly commits or is a party to any material fraud,
31 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
32 or device whereby any other person relying upon the word,
33 representation, or conduct acts to his or her injury or damage;
34 (g) Wrongly converts any money or its equivalent of any other
35 person to his or her own use or to the use of his or her principal;
36 (h) Fails to disclose to the director any material information
37 within his or her knowledge or fails to produce any document, book, or

1 record in his or her possession for inspection by the director upon
2 lawful demand;

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

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

10 (k) Violates any applicable state or federal law relating to the
11 activities governed by this chapter.

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

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

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

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

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

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

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

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

35 (6) Except to the extent prohibited by another statute, the
36 director may engage in informal settlement of complaints or enforcement
37 actions including, but not limited to, payment to the department of

1 financial institutions for purposes of financial literacy and education
2 programs authorized under RCW 43.320.150.

3 NEW SECTION. **Sec. 26.** Violations or unsound practices--Temporary
4 cease and desist order--Director's authority. Whenever the director
5 determines that the acts specified in section 25 of this act or their
6 continuation is likely to cause insolvency or substantial injury to the
7 public, the director may also issue a temporary cease and desist order
8 requiring the licensee to cease and desist from the violation or
9 practice. The order becomes effective upon service upon the licensee
10 and remains effective unless set aside, limited, or suspended by a
11 court under section 27 of this act pending the completion of the
12 administrative proceedings under the notice and until the time the
13 director dismisses the charges specified in the notice or until the
14 effective date of the cease and desist order issued against the
15 licensee under section 27 of this act.

16 NEW SECTION. **Sec. 27.** Temporary cease and desist order--
17 Licensee's application for injunction. Within ten days after a
18 licensee has been served with a temporary cease and desist order, the
19 licensee may apply to the superior court in the county of its principal
20 place of business for an injunction setting aside, limiting, or
21 suspending the order pending the completion of the administrative
22 proceedings pursuant to the notice served under section 26 of this act.
23 The superior court has jurisdiction to issue the injunction.

24 NEW SECTION. **Sec. 28.** Violation of temporary cease and desist
25 order--Director's application for injunction. In the case of a
26 violation or threatened violation of a temporary cease and desist order
27 issued under section 26 of this act, the director may apply to the
28 superior court of the county of the principal place of business of the
29 licensee for an injunction.

30 NEW SECTION. **Sec. 29.** Director's possession of property and
31 business--Appointment of receiver. The director may petition the
32 superior court for the appointment of a receiver to liquidate the
33 affairs of the licensee. The licensee has the same rights under this

1 section to hearings and judicial review as are granted under chapter
2 31.04 RCW.

3 NEW SECTION. **Sec. 30.** Violation--Consumer protection act--
4 Remedies. The legislature finds and declares that any violation of
5 this chapter substantially affects the public interest and is an unfair
6 and deceptive act or practice and an unfair method of competition in
7 the conduct of trade or commerce as set forth in RCW 19.86.020.
8 Remedies available under chapter 19.86 RCW do not affect any other
9 remedy the injured party may have.

10 NEW SECTION. **Sec. 31.** Adjustment of dollar amounts. On July 1,
11 2014, and on each July 1st thereafter, the director shall adjust by
12 rule making the specified dollar amounts in this chapter immediately
13 before July 1st:

14 (1) To reflect the change in the consumer price index for all urban
15 consumers, for the Seattle-Tacoma-Bremerton area, published by the
16 United States department of labor, for the most recent one-year period
17 ending immediately before July 1st (or if the index is no longer
18 published, another source as the director shall specify); and

19 (2) To round to the nearest five dollars the dollar amount that
20 represents the change.

21 NEW SECTION. **Sec. 32.** Short title. This act may be known and
22 cited as the small consumer installment loan act.

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

25 NEW SECTION. **Sec. 34.** Sections 1 through 33 of this act
26 constitute a new chapter in Title 31 RCW.

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