

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DIVISION OF BANKING, DEPARTMENT OF GENERAL ADMINISTRATION
(agency name)

Administrative Order No. 63

(1) I, L. O. MALMBERG, Acting Supervisor, director of the DIVISION OF BANKING

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

industrial loan companies amending sections WAC 50-20-010 concerning maintenance of certain books and records using electronic display equipment, WAC 50-20-050 concerning restrictions on charges for open end loans and appraisals and creating a new section WAC 50-20-090 concerning notice requirements for increases in interest rates on open end loans.

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

This action is taken pursuant to Notice No. 85-19-044 and WSR 85-16-056 filed with the code reviser on 9/13/85 & 7/31/85 These rules shall take effect:

- [x] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
[] at a later date, such date being

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

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

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

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

- [] (a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.
[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

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

(agency)

as authorized in RCW 31.04.150

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

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

APPROVED AND ADOPTED September 13 19 85

STATE OF WASHINGTON FILED

SEP 13 1985

By L.O. MALMBERG, Acting Supervisor
Division of Banking
Title

CODE REVISER'S OFFICE

[Form CR-7: Rev. 7/23/82]

WSR: 85-19-053

AMENDATORY SECTION (Amending Order 40, filed 3/23/79)

WAC 50-20-010 BOOKS AND RECORDS. (1) The company shall maintain a borrower's individual account card file, income and expense accounts, and have a general ledger readily available, and such other books and records including a monthly trial balance as will enable the supervisor to determine whether such company is complying with the provisions of this act and with the rules and regulations of the supervisor with the result that these books and accounts will fairly reflect the condition of the company independent of other business conducted in the office.

Such books, accounts, and records may be maintained in each industrial loan company office by means of electronic display equipment if such equipment is made available to the supervisor of banking or his representatives for purposes of examination in the industrial loan company office. Such books, accounts, and records shall be made available to the supervisor of banking or his representatives in printed form within ten days after a request for such records.

(2) For a period of not less than two years after the making of the final entry upon its books with respect to any such transaction the company shall preserve the records of original and final entry upon all loans made and upon all transactions pertinent to the sale and issuance of investment certificates.

(3) If the company operates branches, there shall be kept in each branch office such books, accounts and records as will enable the supervisor to determine whether such company is complying with the provisions of this act and with the rules and regulations of the supervisor.

(4) The original application for a loan and all original papers relating thereto, including the note, any instrument held as collateral security, security agreement, salary assignment, etc., shall be available for inspection by the supervisor, or any duly authorized representative. All real estate mortgage loans shall be supported by an appraisal from a qualified appraiser, disclosing all pertinent information, including a detailed schedule of all prior liens.

(5) No ((licensee)) corporation shall take any instruments in which blanks are not filled in completely before the proceeds of the loan are delivered.

(6) Fees collected in advance to be subsequently disbursed by the company for recording and releasing collateral instruments or for other similar purposes shall be credited to a suspense account supported by a detailed record of the borrower's name and the respective amount of such fees.

AMENDATORY SECTION (Amending Order 59, filed 2/23/84)

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

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

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

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

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

(3) No company shall make any charge for the filing, recording or releasing of mortgages or other instruments or for transferring title certificates to automobiles unless such charges are or are in fact to be paid out by the company to the proper officials for such filing, recording, transferring or releasing thereof.

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

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

(6) No industrial loan company may charge and collect an appraisal fee incurred in appraising security offered by the borrower in excess of the actual costs paid to an independent third party professional appraiser. No charge may be made or collected for costs of an appraisal if the loan application is rejected by the company, or if the appraisal is inadequate to meet reasonable appraisal requirements for comparable loans from other lending institutions.

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

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

For purposes of this calculation only, the original principal amount of the loan shall be deemed to be the amount of the total note less the interest deducted in advance. Actuarial method means the method of allocating payments made between principal and interest whereby a payment is applied first to the interest accumulated to date and the remainder then applied to the unpaid principal amount. In computing an actuarial refund, the lender may round the single annual percentage rate used to the nearest quarter of one percent.

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

NEW SECTION

WAC 50-20-090 OPEN-END LOANS--INCREASE IN INTEREST--NOTICE TO BORROWER. An industrial loan company is not required to give thirty days written notice of an increase in the interest rate charged on an open-end loan pursuant to RCW 31.04.--- (5) (section 3(5), chapter 74, Laws of 1985), if the following conditions are met:

- (1) The interest rate charged on the open-end loan is based upon an index approved by the supervisor; and
- (2) The borrower has agreed in writing prior to the increase to base the interest rate on the index.