



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: General Administration, Division of Banking

- Permanent Rule
 Emergency Rule

(1) Date of adoption: October 8, 1991

(2) Purpose: To implement a new act passed by the 1991 legislature.

(3) Citation of existing rules affected by this order:

Repealed: WAC 50-20-001, 010, 020, 030, 040, 050, 055, 060, 070, 080 and 090.
Amended:
Suspended:

(4) Authority for adoption:

Statute: Chapter 208, 1991 Washington Law, Sec. 17.
Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 91-18-079 on September 4, 1991 (date).

Describe any changes other than editing from proposed to adopted version:

Addition of Sections 50-20-190 Schedule of Fees and 50-20-200 Transitional Rule.

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

Emergency Rules

- 31 days after filing
 Other (specify) 1/1/92 *
 Immediately
 Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 30 1991

TIME: 2:12 PM
WSR: 91-22-035

NAME (TYPE OR PRINT)

John L. Bley

SIGNATURE

John L. Bley

TITLE

Supervisor of Banking

DATE

10/15/91

Chapter 50-20 WAC

((INDUSTRIAL-LOAN-COMPANIES))
WASHINGTON CONSUMER LOAN ACTNEW SECTION

WAC 50-20-100 BOOKS AND RECORDS. (1) The books, accounts, records, and files required to be maintained by RCW 31.04.145 may be maintained by means of electronic display equipment if such equipment is made available to the supervisor of banking or his representatives for purposes of examination at the licensee's place of business.

(2) All real estate loans above ten thousand dollars shall be supported by either an appraisal prepared by a qualified independent professional third party appraiser or by the most recent property tax assessment prepared by the county assessor.

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

(4) Whenever a loan or forbearance is made by mail by a licensee outside Washington state to a person then residing in this state, the licensee shall license such out-of-state office pursuant to RCW 31.04.055 and 31.04.075.

(5) A licensee may service loans made pursuant to chapter 208, Laws of 1991, at locations outside the state of Washington provided that the licensee shall consent to the supervisor's examination of such loans at that out-of-state location. All costs which are reasonable and necessary for the examination of the location shall be paid by the licensee.

NEW SECTION

WAC 50-20-110 THE NOTE. (1) Specimen forms of the written instrument or note evidencing any loan under this act shall be filed with the supervisor of banking.

(2) The written instrument or note shall state the following:

(a) The number and date of the loan except for mail loans and live checks, to which a number shall be affixed after the documents have been returned to the licensed location.

(b) Total amount to be repaid or amount of credit line.

(c) The manner in which it is to be repaid.

(d) Adequate description of any security. Under no circumstance shall a licensee intentionally take a security interest in collateral prohibited under federal law.

(e) For closed-end loans, the maturity date.

(f) The rate of interest and the method of calculating interest to be collected after original maturity date.

NEW SECTION

WAC 50-20-120 CONTENTS OF STATEMENT TO BORROWER. (1) The licensee shall deliver to the borrower at the time any loan, whether open-end or closed-end, is made, a statement in the format required by Federal Reserve Board Regulation Z which shall disclose in clear and distinct terms the following information:

- (a) The name and address of the licensee.
- (b) The name and address of the borrower.
- (c) The number and date of the loan except for mail loans and live checks.
- (d) The total amount of the loan.
- (e) List of charges, including:
 - (i) Interest rate and amount. This shall be disclosed both as (A) the annual percentage rate (APR) as defined in Regulation Z, 12 (C.F.R. 226), and (B) the simple interest rate, which is the single nominal annual interest rate (stated as a percentage), which if applied to the unpaid amounts of principal outstanding from time to time would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments agreed to by the borrower and calculations were made according to the actuarial method.
 - (ii) Loan origination fee.
 - (iii) Filing and releasing fee.
 - (iv) Title insurance premium.
 - (v) Appraisal fee.
 - (f) For closed-end loans, date of maturity of the loan.
 - (g) Rate of interest after original maturity date.
 - (h) Description of the security, if any.
 - (i) Agreement to permit payment in full before maturity.
 - (j) Penalty and charge, if any, of ten cents or less on each dollar of any installment payment delinquent ten days or more.
 - (k) Charge for checks returned by bank unpaid.
 - (l) Service fees, if any.
 - (m) Any other requirements imposed by Regulation Z (Titles I and V of Consumer Credit Protection Act, P.L. 90-321, 82 Stat. 146 1/5 U.S.C. 1601-1665.)
- (2) Sufficient information must be maintained in the licensee's files to show compliance with state and federal law.

NEW SECTION

WAC 50-20-130 RESTRICTIONS AS TO CHARGES. (1) No licensee shall charge or collect from the borrower any funds for the cost of filing, recording, releasing, or reconveyance of mortgages, deeds of trust, security agreements, or other documents, or for transferring title certificates to vehicles, or for any other fees paid or to be paid to public officials, unless such charges are paid or are to be paid within one hundred eighty days by the licensee to public officials or other third parties for such filing, recording, transferring, releasing, or reconveyance thereof. Fees for releasing or reconveying security for the obligation owed to the licensee may be charged and collected at the time of final payment of the loan.

(2) No licensee may charge and collect an annual fee in excess of thirty-five dollars payable each year in advance for the privilege of opening and maintaining an open-end loan account.

(3) No licensee may charge or collect a fee in excess of twenty-five dollars for a check returned unpaid by the bank drawn upon. Only one fee may be collected with respect to a particular check in the event it has been redeposited and returned a second time.

(4) No licensee may charge or collect an appraisal fee incurred or to be incurred in appraising security offered by the borrower in excess of the actual costs paid or to be paid to an independent third party professional appraiser. Such charge may be made or collected from the borrower for costs of an appraisal at the time of application for the loan or at any time thereafter except as prohibited herein. If the appraisal fee is not collected at the time of the application, the licensee's good faith estimate of that fee shall be given to the borrower at the time of the application.

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

(6) A licensee may include the premiums for noncredit insurance in the principal amount of the loan, provided that purchase of the insurance is not required to obtain a loan and that this fact is disclosed to the borrower in writing.

(7) In the event a licensee 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 origination or of the most recent advance upon an existing loan, an origination fee shall be permitted only to the extent that new money is advanced or the existing credit line increased, unless the origination fee on the existing loan is refunded.

(8) A licensee may not collect a prepayment penalty except as preempted by federal law.

(9) A licensee may not collect fees related to foreclosure or repossession except for reasonable costs incurred relating to post-judgment collections or as preempted under federal law.

NEW SECTION

WAC 50-20-140 ADVERTISING. A copy of all direct mail advertising shall be sent by the company to the supervisor of banking.

NEW SECTION

WAC 50-20-150 OTHER BUSINESS IN SAME OFFICE. (1) No licensee will be permitted to conduct its business within an office, room or place of business in which other business is solicited or engaged in, or in association or in conjunction therewith, if the supervisor of banking shall find, after five days written notice, and after a hearing, that the other business has concealed or facilitated evasion of the Consumer Loan Act. If the supervisor so finds, he shall order such licensee in writing to desist from such conduct.

(2) No licensee shall transact such business or make any loan provided for or by this act under any other name or at any other place of business than that named on the license. This is not intended to prohibit loans by mail or the closing of real estate-secured loans in an escrow company, a title insurance company, or an attorney's office.

(3) A licensee may engage in the sale of incidental products on the premises of the licensed location upon receiving approval from the supervisor of banking. The cost of such products may, at the consumer's option, be payable from the proceeds of the consumer loan and included in the amount financed provided that (a) the sale of the product is not a factor in the approval of credit and this fact is clearly disclosed in writing to the consumer and (b) in order to obtain the product the consumer gives specific affirmative written indication of his or her desire to purchase the product after receiving disclosure of the cost.

(4) No licensee shall change its place of business to another location unless and until authority for such change shall have been granted by the supervisor of banking.

NEW SECTION

WAC 50-20-160 OPEN-END LOANS--INCREASE IN INTEREST--NOTICE TO BORROWER. A licensee 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 31.04.115(6), if the following conditions are met:

(1) The interest rate charged on the open-end loan is based upon a commonly published index or 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.

NEW SECTION

WAC 50-20-170 FILE FOR OFFICIAL CORRESPONDENCE AND REPORTS. Each licensee shall maintain a permanent file for all official communications from the office of the supervisor of banking and for copies of correspondence and reports addressed to the supervisor of banking.

NEW SECTION

WAC 50-20-180 KNOWLEDGE OF THE LAW AND REGULATIONS. Each licensee shall be responsible for assuring that any person making loans on behalf of the licensee under the Consumer Loan Act shall have a sufficient understanding of the statutes and regulations applicable to its business so as to insure compliance with the Consumer Loan Act.

NEW SECTION

WAC 50-20-190 SCHEDULE OF FEES. The rate of charges for review of applications and attendant investigations other than regular examinations covered in WAC 50-44-030(1) shall be at the rate prescribed in WAC 50-12-045(2).

NEW SECTION

WAC 50-20-200 TRANSITIONAL RULE. (1) Any industrial loan company holding a certificate of authority under RCW 31.04.070 on December 31, 1991, shall receive, effective January 1, 1992, a license to do business as a consumer loan licensee under the Consumer Loan Act, RCW 31.04.045(3). The supervisor shall issue a license for each location at which the industrial loan company is authorized to conduct its business under the Industrial Loan Company Act, chapter 31.04 RCW.

This transitional rule shall apply to all industrial loan companies maintaining their corporate form in lieu of the surety bond requirements described in RCW 31.04.045(3). Industrial loan companies changing their name effective January 1, 1992, are required to give the supervisor notice of such change by December 20, 1991. Nothing in this transitional rule shall prohibit a licensee after January 1, 1992, from applying to the supervisor's office for approval to operate under the surety bond requirements of RCW 31.04.045(3).

(2) An industrial loan company may submit an application, on a form prescribed by the supervisor, to convert to bond form, as authorized under RCW 31.04.045(3), prior to January 1, 1992. If approved, such approval shall become effective on January 1, 1992, and the respective licenses shall be issued under the name of the licensee as described in the application. If an application is approved under this section, no licenses shall be granted under subsection (1) of this section.

(3) By January 10, 1992, all industrial loan companies holding certificates of authority pursuant to RCW 31.04.070 shall surrender such certificates of authority to the supervisor's office.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 50-20-001	FOREWORD.
WAC 50-20-010	BOOKS AND RECORDS.
WAC 50-20-020	THE NOTE.
WAC 50-20-030	INVESTMENT CERTIFICATES.
WAC 50-20-040	CONTENTS OF STATEMENT TO BORROWER.
WAC 50-20-050	RESTRICTIONS AS TO CHARGES.
WAC 50-20-055	SIMPLE INTEREST DEFINED.
WAC 50-20-060	ADVERTISING.
WAC 50-20-070	OTHER BUSINESS IN SAME OFFICE.
WAC 50-20-080	BRANCHING.
WAC 50-20-090	OPEN-END LOANS--INCREASE IN INTEREST--NOTICE TO BORROWER.