
SUBSTITUTE SENATE BILL 5686

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Kline and Rasmussen)

READ FIRST TIME 02/24/05.

1 AN ACT Relating to check cashers and sellers; and amending RCW
2 31.45.010 and 31.45.079.

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

4 **Sec. 1.** RCW 31.45.010 and 2003 c 86 s 1 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Applicant" means a person that files an application for a
9 license under this chapter, including the applicant's sole proprietor,
10 owners, directors, officers, partners, members, and controlling
11 persons.

12 (2) "Borrower" means a natural person who receives a small loan.

13 (3) "Broker" means a person engaged in brokering as defined in
14 subsection (4) of this section.

15 (4) "Brokering" means receiving compensation or gain of any kind,
16 directly or indirectly, in connection with (a) assisting a consumer in
17 applying for or obtaining a small loan from a licensee or financial
18 institution, (b) referring a consumer to a licensee or financial
19 institution for the purpose of obtaining a small loan, or (c)

1 advertising or soliciting for or on behalf of a licensee or financial
2 institution, or otherwise holding oneself out to the public as being
3 engaged in (a), (b), or (c) of this subsection.

4 (5) "Business day" means any day that the licensee is open for
5 business in at least one physical location.

6 ~~((4))~~ (6) "Check" means the same as defined in RCW 62A.3-104(f)
7 and, for purposes of conducting the business of making small loans,
8 includes other electronic forms of payment, including stored value
9 cards, internet transfers, and automated clearing house transactions.

10 ~~((5))~~ (7) "Check casher" means an individual, partnership,
11 unincorporated association, or corporation that, for compensation,
12 engages, in whole or in part, in the business of cashing checks,
13 drafts, money orders, or other commercial paper serving the same
14 purpose.

15 ~~((6))~~ (8) "Check seller" means an individual, partnership,
16 unincorporated association, or corporation that, for compensation,
17 engages, in whole or in part, in the business of or selling checks,
18 drafts, money orders, or other commercial paper serving the same
19 purpose.

20 ~~((7))~~ (9) "Collateral" means the same as defined in chapter
21 62A.9A RCW.

22 ~~((8))~~ (10) "Controlling person" means a person owning or
23 controlling ten percent or more of the total outstanding shares of the
24 applicant or licensee, if the applicant or licensee is a corporation,
25 and a member who owns ten percent or more of a limited liability
26 company or limited liability partnership.

27 ~~((9))~~ (11) "Default" means the borrower's failure to repay the
28 small loan in compliance with the terms contained in the small loan
29 agreement or note or failure to make payments in compliance with a loan
30 payment plan.

31 ~~((10))~~ (12) "Director" means the director of financial
32 institutions.

33 ~~((11))~~ (13) "Financial institution" means a commercial bank,
34 savings bank, savings and loan association, or credit union.

35 ~~((12))~~ (14) "Licensee" means a check casher or seller licensed by
36 the director to engage in business in accordance with this chapter.
37 For purposes of the enforcement powers of this chapter, including the

1 power to issue cease and desist orders under RCW 31.45.110, "licensee"
2 also means a check casher or seller who fails to obtain the license
3 required by this chapter.

4 ~~((+13+))~~ (15) "Origination date" means the date upon which the
5 borrower and the licensee initiate a small loan transaction.

6 ~~((+14+))~~ (16) "Outstanding principal balance" of a small loan means
7 any of the principal amount that has not been paid by the borrower.

8 ~~((+15+))~~ (17) "Paid" means that moment in time when the licensee
9 deposits the borrower's check or accepts cash for the full amount owing
10 on a valid small loan.

11 ~~((+16+))~~ (18) "Person" means an individual, partnership,
12 association, limited liability company, limited liability partnership,
13 trust, corporation, and any other legal entity.

14 ~~((+17+))~~ (19) "Principal" means the loan proceeds advanced for the
15 benefit of the borrower in a small loan, excluding any fee or interest
16 charge.

17 ~~((+18+))~~ (20) "Rescission" means annulling the loan contract and,
18 with respect to the small loan contract, returning the borrower and the
19 licensee to their financial condition prior to the origination date of
20 the loan.

21 ~~((+19+))~~ (21) "Servicer" means a person who engages in the
22 servicing of a small loan for a licensee or financial institution.

23 (22) "Servicing" means to service a small loan, or a refinance of
24 a small loan, for a licensee or financial institution, including
25 collection activities, processing payments, and arranging with the
26 consumer for payment of the loan.

27 (23) "Small loan" means a loan of up to the maximum amount and for
28 a period of time up to the maximum term specified in RCW 31.45.073.

29 ~~((+20+))~~ (24) "Successive loans" means a series of loans made by
30 the same licensee to the same borrower in such a manner that no more
31 than three business days separate the termination date of any one loan
32 and the origination date of any other loan in the series.

33 ~~((+21+))~~ (25) "Termination date" means the date upon which payment
34 for the small loan transaction is due or paid to the licensee,
35 whichever occurs first.

36 ~~((+22+))~~ (26) "Total of payments" means the principal amount of the
37 small loan plus all fees or interest charged on the loan.

1 (~~(23)~~) (27) "Trade secret" means the same as defined in RCW
2 19.108.010.

3 **Sec. 2.** RCW 31.45.079 and 2003 c 86 s 10 are each amended to read
4 as follows:

5 A person, other than a financial institution, may not engage in the
6 business of brokering, servicing, or making small loans as an agent,
7 broker, or servicer for a licensee or (~~exempt entity~~) financial
8 institution without first obtaining a small loan endorsement to a check
9 cashier or check seller license under this chapter. A person, other
10 than a financial institution, that is an agent, broker, or servicer of
11 a licensee (~~or exempt entity~~) engaged in the business of making small
12 loans is subject to this chapter. A person, other than a financial
13 institution, that is an agent, broker, or servicer of a financial
14 institution engaged in the business of making small loans is also
15 subject to this chapter. To the extent that federal law preempts the
16 applicability of any part of this chapter, all other parts of this
17 chapter remain in effect.

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