
SUBSTITUTE HOUSE BILL 2231

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Appleton, Haler, McCoy, Eddy, Seaquist, Moeller, Takko, Williams, Campbell, Hudgins, Pedersen, Rodne, Hunt, Rolfes, Dickerson, B. Sullivan, Cody, Kirby, Conway, Ormsby and Santos)

READ FIRST TIME 2/28/07.

1 AN ACT Relating to funding consumers' financial awareness; amending
2 RCW 31.45.050 and 31.45.110; reenacting and amending RCW 43.79A.040;
3 and adding new sections to chapter 31.45 RCW.

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

5 **Sec. 1.** RCW 31.45.050 and 2003 c 86 s 5 are each amended to read
6 as follows:

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

1 (2) If a licensee does not pay its annual assessment fee by the
2 annual assessment fee due date as specified in rule, the director or
3 the director's designee shall send the licensee a notice of suspension
4 and assess the licensee a late fee not to exceed twenty-five percent of
5 the annual assessment fee as established in rule by the director. The
6 licensee's payment of both the annual assessment fee and the late fee
7 must arrive in the department's offices by 5:00 p.m. on the tenth day
8 after the annual assessment fee due date, unless the department is not
9 open for business on that date, in which case the licensee's payment of
10 both the annual assessment fee and the late fee must arrive in the
11 department's offices by 5:00 p.m. on the next occurring day that the
12 department is open for business. If the payment of both the annual
13 assessment fee and the late fee does not arrive prior to such time and
14 date, then the expiration of the licensee's license is effective at
15 5:00 p.m. on the thirtieth day after the assessment fee due date. The
16 director or the director's designee may reinstate the license if,
17 within twenty days after the effective date of expiration, the
18 licensee:

- 19 (a) Pays both the annual assessment fee and the late fee; and
20 (b) Attests under penalty of perjury that it did not engage in
21 conduct requiring a license under this chapter during the period its
22 license was expired, as confirmed by an investigation by the director
23 or the director's designee.

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

29 (4) In addition to all other fees authorized by law, each licensee
30 shall pay to the director a fee equal to ten cents per small loan made
31 by the licensee during the previous calendar year. This fee is due
32 upon the annual assessment fee due date as established in rule. Each
33 licensee shall begin collecting the fee on all loans made on or after
34 July 1, 2007.

35 NEW SECTION. Sec. 2. A new section is added to chapter 31.45 RCW
36 to read as follows:

37 The small loan financial literacy account is created in the custody

1 of the state treasurer. All receipts from the fee imposed by RCW
2 31.45.050(4) must be deposited into this account. Expenditures from
3 the account must be made in the following manner: (1) Not more than
4 ten percent of all funds deposited during the year for administering
5 the account; (2) not more than twenty percent of all funds in the
6 account for investigation of licensees regulated under this chapter;
7 and (3) not less than seventy percent of all funds in the account for
8 training consumers in the appropriate use of small loans by the
9 department of financial institutions or by grants to accredited
10 consumer credit counseling agencies. The training program shall be
11 jointly developed by the department of financial institutions and
12 industry-designated representatives of licensees. Only the director or
13 the director's designee may authorize expenditures from the account.
14 The account is subject to allotment procedures under chapter 43.88 RCW,
15 but an appropriation is not required for expenditures.

16 **Sec. 3.** RCW 31.45.110 and 2003 c 86 s 17 are each amended to read
17 as follows:

18 (1) The director may issue and serve upon a licensee or applicant
19 a statement of charges if, in the opinion of the director, any licensee
20 or applicant:

21 (a) Is engaging or has engaged in an unsafe or unsound financial
22 practice in conducting the business of a check seller governed by this
23 chapter;

24 (b) Is violating or has violated this chapter, including rules,
25 orders, or subpoenas, any rule adopted under chapter 86, Laws of 2003,
26 any order issued under chapter 86, Laws of 2003, any subpoena issued
27 under chapter 86, Laws of 2003, or any condition imposed in writing by
28 the director or the director's designee in connection with the granting
29 of any application or other request by the licensee or any written
30 agreement made with the director;

31 (c) Is about to do the acts prohibited in (a) or (b) of this
32 subsection when the opinion that the threat exists is based upon
33 reasonable cause;

34 (d) Obtains a license by means of fraud, misrepresentation,
35 concealment, or through mistake or inadvertence of the director;

36 (e) Provides false statements or omissions of material information

1 on the application that, if known, would have allowed the director to
2 deny the application for the original license;

3 (f) Fails to pay a fee required by the director or maintain the
4 required bond;

5 (g) Commits a crime against the laws of the state of Washington or
6 any other state or government involving moral turpitude, financial
7 misconduct, or dishonest dealings;

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

12 (i) Converts any money or its equivalent to his or her own use or
13 to the use of his or her principal or of any other person;

14 (j) Fails, upon demand by the director or the director's designee,
15 to disclose any information within his or her knowledge to, or to
16 produce any document, book, or record in his or her possession for
17 inspection of, the director or the director's designee;

18 (k) Commits any act of fraudulent or dishonest dealing, and a
19 certified copy of the final holding of any court, tribunal, agency, or
20 administrative body of competent jurisdiction regarding that act is
21 conclusive evidence in any hearing under this chapter; (~~(o)~~)

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

25 (m) Fails to pay the fee required under RCW 31.45.050(4).

26 (2) The statement of charges shall be issued under chapter 34.05
27 RCW. The director or the director's designee may impose the following
28 sanctions against any licensee or applicant, or any director, officer,
29 sole proprietor, partner, controlling person, or employee of a licensee
30 or applicant:

31 (a) Deny, revoke, suspend, or condition the license;

32 (b) Order the licensee to cease and desist from practices in
33 violation of this chapter or practices that constitute unsafe and
34 unsound financial practices in the sale of checks;

35 (c) Impose a fine not to exceed one hundred dollars per day for
36 each day's violation of this chapter;

37 (d) Order restitution to borrowers or other parties damaged by the

1 licensee's violation of this chapter or take other affirmative action
2 as necessary to comply with this chapter; and

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

6 (3) The proceedings to impose the sanctions described in subsection
7 (2) of this section, including any hearing or appeal of the statement
8 of charges, are governed by chapter 34.05 RCW.

9 Unless the licensee personally appears at the hearing or is
10 represented by a duly authorized representative, the licensee is deemed
11 to have consented to the statement of charges and the sanctions imposed
12 in the statement of charges.

13 **Sec. 4.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are
14 each reenacted and amended to read as follows:

15 (1) Money in the treasurer's trust fund may be deposited, invested,
16 and reinvested by the state treasurer in accordance with RCW 43.84.080
17 in the same manner and to the same extent as if the money were in the
18 state treasury.

19 (2) All income received from investment of the treasurer's trust
20 fund shall be set aside in an account in the treasury trust fund to be
21 known as the investment income account.

22 (3) The investment income account may be utilized for the payment
23 of purchased banking services on behalf of treasurer's trust funds
24 including, but not limited to, depository, safekeeping, and
25 disbursement functions for the state treasurer or affected state
26 agencies. The investment income account is subject in all respects to
27 chapter 43.88 RCW, but no appropriation is required for payments to
28 financial institutions. Payments shall occur prior to distribution of
29 earnings set forth in subsection (4) of this section.

30 (4)(a) Monthly, the state treasurer shall distribute the earnings
31 credited to the investment income account to the state general fund
32 except under (b) and (c) of this subsection.

33 (b) The following accounts and funds shall receive their
34 proportionate share of earnings based upon each account's or fund's
35 average daily balance for the period: The Washington promise
36 scholarship account, the college savings program account, the
37 Washington advanced college tuition payment program account, the

1 agricultural local fund, the American Indian scholarship endowment
2 fund, the foster care scholarship endowment fund, the foster care
3 endowed scholarship trust fund, the students with dependents grant
4 account, the basic health plan self-insurance reserve account, the
5 contract harvesting revolving account, the Washington state combined
6 fund drive account, the commemorative works account, the Washington
7 international exchange scholarship endowment fund, the developmental
8 disabilities endowment trust fund, the energy account, the fair fund,
9 the fruit and vegetable inspection account, the future teachers
10 conditional scholarship account, the game farm alternative account, the
11 grain inspection revolving fund, the juvenile accountability incentive
12 account, the law enforcement officers' and fire fighters' plan 2
13 expense fund, the local tourism promotion account, the produce railcar
14 pool account, the regional transportation investment district account,
15 the rural rehabilitation account, the stadium and exhibition center
16 account, the youth athletic facility account, the self-insurance
17 revolving fund, the sulfur dioxide abatement account, the children's
18 trust fund, the Washington horse racing commission Washington bred
19 owners' bonus fund account, the Washington horse racing commission
20 class C purse fund account, the individual development account program
21 account, the Washington horse racing commission operating account
22 (earnings from the Washington horse racing commission operating account
23 must be credited to the Washington horse racing commission class C
24 purse fund account), the life sciences discovery fund, the small loan
25 financial literacy account, and the reading achievement account.
26 However, the earnings to be distributed shall first be reduced by the
27 allocation to the state treasurer's service fund pursuant to RCW
28 43.08.190.

29 (c) The following accounts and funds shall receive eighty percent
30 of their proportionate share of earnings based upon each account's or
31 fund's average daily balance for the period: The advanced right of way
32 revolving fund, the advanced environmental mitigation revolving
33 account, the city and county advance right-of-way revolving fund, the
34 federal narcotics asset forfeitures account, the high occupancy vehicle
35 account, the local rail service assistance account, and the
36 miscellaneous transportation programs account.

37 (5) In conformance with Article II, section 37 of the state

1 Constitution, no trust accounts or funds shall be allocated earnings
2 without the specific affirmative directive of this section.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 31.45 RCW
4 to read as follows:

5 After the director or the director's designee examines or
6 investigates a licensee that makes small loans, the director or the
7 director's designee must provide the licensee with an explanatory
8 statement of the work done in the examination and the costs associated
9 with the examination or investigation.

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