
SUBSTITUTE SENATE BILL 6025

State of Washington

68th Legislature

2024 Regular Session

By Senate Business, Financial Services, Gaming & Trade (originally sponsored by Senators Stanford, Dhingra, Frame, Hasegawa, Kuderer, Nguyen, Saldaña, Trudeau, Valdez, and C. Wilson)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to protecting consumers from predatory loans;
2 amending RCW 31.04.025, 31.04.027, and 31.04.035; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 predatory loan prevention act.

7 **Sec. 2.** RCW 31.04.025 and 2023 c 275 s 15 are each amended to
8 read as follows:

9 (1) Each loan made to a resident of or a person physically
10 located in this state by a licensee, or persons subject to this
11 chapter, is subject to the authority and restrictions of this
12 chapter.

13 (2) A person may not engage in any device, subterfuge, or
14 pretense to evade the requirements of this chapter including, but not
15 limited to: Making loans disguised as personal property sale and
16 leaseback transactions; disguising loan proceeds as a cash rebate for
17 the pretextual installment sale of goods or services; or making,
18 offering, assisting, or arranging a debtor to obtain a loan with a
19 greater rate of interest, consideration, or charge than permitted by
20 this chapter through any method, including mail, telephone, internet,

1 or any electronic means regardless of whether the person has a
2 physical location in the state.

3 (3) If a loan exceeds the rate permitted under this chapter, a
4 person is a lender making a loan subject to the requirements of this
5 chapter notwithstanding the fact that the person purports to act as
6 an agent, service provider, or in another capacity for another person
7 that is exempt from this chapter, if, among other things:

8 (a) The person holds, acquires, or maintains, directly or
9 indirectly, the predominant economic interest in the loan; or

10 (b) The totality of the circumstances indicate that the person is
11 the lender, and the transaction is structured to evade the
12 requirements of this chapter.

13 (4) This chapter does not apply to the following:

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

18 (b) ~~((Entities))~~ Any person making loans under chapter 19.60 RCW
19 (pawnbroking);

20 (c) ~~((Entities))~~ Any person conducting transactions under chapter
21 63.14 RCW (retail installment sales of goods and services), unless
22 credit is extended to purchase merchandise certificates, coupons,
23 open or closed loop stored value, or other similar items issued and
24 redeemable by a retail seller other than the retail seller extending
25 the credit;

26 (d) ~~((Entities))~~ Any person making loans under chapter 31.45 RCW
27 (check cashers and sellers);

28 (e) Any person making a loan primarily for business, commercial,
29 or agricultural purposes unless the loan is secured by a lien on the
30 borrower's primary dwelling;

31 (f) Any person selling property owned by that person who provides
32 financing for the sale when the property does not contain a dwelling
33 and when the property serves as security for the financing. This
34 exemption is available for five or fewer transactions in a calendar
35 year. This exemption is not available to individuals subject to the
36 federal S.A.F.E. act or any person in the business of constructing or
37 acting as a contractor for the construction of residential dwellings;

38 (g) Any person making loans made to government or government
39 agencies or instrumentalities or making loans to organizations as
40 defined in the federal truth in lending act;

1 (h) (~~Entities~~) Any person making loans under chapter 43.185A
2 RCW (housing trust fund);

3 (i) (~~Entities~~) Any person making loans under programs of the
4 United States department of agriculture, department of housing and
5 urban development, or other federal government program that provides
6 funding or access to funding for single-family housing developments
7 or grants to low-income individuals for the purchase or repair of
8 single-family housing;

9 (j) Nonprofit housing organizations making loans, or loans made,
10 under housing programs that are funded in whole or in part by federal
11 or state programs if the primary purpose of the programs is to assist
12 low-income borrowers with purchasing or repairing housing or the
13 development of housing for low-income Washington state residents;

14 (k) (~~Entities~~) Any person making loans which are not
15 residential mortgage loans under a credit card plan;

16 (l) Individuals employed by a licensed residential mortgage loan
17 servicing company engaging in activities related to servicing, unless
18 licensing is required by federal law or regulation; and

19 (m) (~~Entities~~) Any person licensed under chapter 18.44 RCW that
20 process payments on seller-financed loans secured by liens on real or
21 personal property; and

22 (n) Any person that extends money or credit to another person on
23 a nonrecourse basis in exchange for a contingent right to receive an
24 amount of the potential proceeds of any award, judgment, settlement,
25 verdict, or other resolution from a pending legal action. This
26 exemption does not apply to any person that requires repayment in the
27 event the person does not prevail in their civil proceeding.

28 (~~(3)~~) (5) The director may, at his or her discretion, waive
29 applicability of the consumer loan company licensing provisions of
30 this chapter to other persons, not including individuals subject to
31 the S.A.F.E. act, making or servicing loans when the director
32 determines it necessary to facilitate commerce and protect consumers.

33 (~~(4)~~) (6) The burden of proving the application for an
34 exemption or exception from a definition, or a preemption of a
35 provision of this chapter, is upon the person claiming the exemption,
36 exception, or preemption.

37 (~~(5)~~) (7) The director may adopt rules interpreting this
38 section.

1 **Sec. 3.** RCW 31.04.027 and 2021 c 15 s 1 are each amended to read
2 as follows:

3 (1) It is a violation of this chapter for a licensee, its
4 officers, directors, employees, or independent contractors, or any
5 other person subject to this chapter to:

6 (a) 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 (b) Directly or indirectly engage in any unfair or deceptive
10 practice toward any person;

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

13 (d) Solicit or enter into a contract with a borrower that
14 provides in substance that the consumer loan company may earn a fee
15 or commission through the consumer loan company's best efforts to
16 obtain a loan even though no loan is actually obtained for the
17 borrower;

18 (e) Solicit, advertise, or enter into a contract for specific
19 interest rates, points, or other financing terms unless the terms are
20 actually available at the time of soliciting, advertising, or
21 contracting;

22 (f) Fail to make disclosures to loan applicants as required by
23 RCW 31.04.102 and any other applicable state or federal law;

24 (g) Make, in any manner, any false or deceptive statement or
25 representation with regard to the rates, points, or other financing
26 terms or conditions for a residential mortgage loan or engage in bait
27 and switch advertising;

28 (h) Negligently make any false statement or knowingly and
29 willfully make any omission of material fact in connection with any
30 reports filed with the department by a licensee or in connection with
31 any investigation conducted by the department;

32 (i) Make any payment, directly or indirectly, to any appraiser of
33 a property, for the purposes of influencing the independent judgment
34 of the appraiser with respect to the value of the property;

35 (j) Accept from any borrower at or near the time a loan is made
36 and in advance of any default an execution of, or induce any borrower
37 to execute, any instrument of conveyance, not including a mortgage or
38 deed of trust, to the lender of any ownership interest in the
39 borrower's primary dwelling that is the security for the borrower's
40 loan;

1 (k) Obtain at the time of closing a release of future damages for
2 usury or other damages or penalties provided by law or a waiver of
3 the provisions of this chapter;

4 (l) Advertise any rate of interest without conspicuously
5 disclosing the annual percentage rate implied by that rate of
6 interest;

7 (m) Violate any applicable state or federal law relating to the
8 activities governed by this chapter; ((~~o~~))

9 (n) Make or originate loans from any unlicensed location. It is
10 not a violation for a licensed mortgage loan originator to originate
11 loans from an unlicensed location if that location is the licensed
12 mortgage loan originator's residence and the licensed mortgage loan
13 originator and licensed sponsoring company comply with RCW 31.04.075;
14 or

15 (o) Engage in any device, subterfuge, or pretense to evade the
16 requirements of this chapter including, but not limited to, making,
17 offering, or assisting a borrower to obtain a loan with a greater
18 rate of interest, consideration, or charge than is permitted by this
19 chapter.

20 (2) It is a violation of this chapter for a student education
21 loan servicer to:

22 (a) Conduct licensable activity from any unlicensed location;

23 (b) Misrepresent or omit any material information in connection
24 with the servicing of a student education loan including, but not
25 limited to, misrepresenting the amount, nature, conditions, or terms
26 of any fee or payment due or claimed to be due on a student education
27 loan, the terms and conditions of the loan agreement, the
28 availability of loan discharge or forgiveness options, the
29 availability and terms of and process for enrolling in income-driven
30 repayment, or the borrower's obligations under the loan;

31 (c) Provide inaccurate information to a credit bureau, thereby
32 harming a student education loan borrower's creditworthiness,
33 including failing to report both the favorable and unfavorable
34 payment history of the student education loan;

35 (d) Fail to report to a consumer credit bureau at least annually
36 if the student education loan servicer regularly reports information
37 to a credit bureau;

38 (e) Refuse to communicate with an authorized representative of
39 the student education loan borrower who provides a written
40 authorization signed by the student education loan borrower. However,

1 the student education loan servicer may adopt procedures reasonably
2 related to verifying that the representative is in fact authorized to
3 act on behalf of the student education loan borrower;

4 (f) Refuse to communicate with the student education loan
5 borrower or an authorized representative of the student education
6 loan borrower;

7 (g) Apply payments made by a borrower to the outstanding balance
8 of a student education loan, or allocate a payment across a group of
9 student education loans, in a manner that does not conform with the
10 borrower's stated intent. However, this subsection (2)(g) does not
11 require application of a student education loan in a manner contrary
12 to the express terms of the promissory note;

13 (h) Fail to respond within (~~(fifteen)~~) 15 calendar days to
14 communications from the student loan advocate, or within such
15 shorter, reasonable time as the student loan advocate may request in
16 his or her communication; or

17 (i) Fail to provide a response within (~~(fifteen)~~) 15 calendar
18 days to a consumer complaint submitted to the servicer by the student
19 loan advocate. If necessary, a licensee may request additional time
20 up to a maximum of (~~(forty-five)~~) 45 calendar days, provided that
21 such request is accompanied by an explanation why such additional
22 time is reasonable and necessary.

23 (3) The director's obligations or duties under chapter 62, Laws
24 of 2018 are subject to section 21, chapter 62, Laws of 2018.

25 **Sec. 4.** RCW 31.04.035 and 2018 c 62 s 12 are each amended to
26 read as follows:

27 (1) No person may (~~(make secured or unsecured loans of money or~~
28 ~~things in action, or extend credit, or service or modify the terms or~~
29 ~~conditions of residential mortgage loans, or service or modify~~
30 ~~student education loans,)) engage in any activity subject to this
31 chapter without first obtaining and maintaining a license in
32 accordance with this chapter(~~(, except those exempt under RCW~~
33 ~~31.04.025 or not subject to licensure under RCW 31.04.420)) .~~~~

34 (2) If a transaction violates subsection (1) of this section,
35 any:

36 (a) Nonthird-party fees charged in connection with the
37 origination of the residential mortgage loan must be refunded to the
38 borrower, excluding interest charges; and

1 (b) (~~Fees or interest charged in the making of a nonresidential~~
2 ~~loan must be refunded to the borrower~~) Loan that is not a
3 residential mortgage loan is null, void, uncollectable, and
4 unenforceable.

5 (3) The director's obligations or duties under chapter 62, Laws
6 of 2018 are subject to section 21, chapter 62, Laws of 2018.

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