
HOUSE BILL 1464

State of Washington

69th Legislature

2025 Regular Session

By Representatives Hackney, Walen, and Wylie

Read first time 01/21/25. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to home equity sharing agreements; adding a new
2 chapter to Title 31 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
5 section apply throughout this chapter unless the context clearly
6 requires otherwise.

7 (1) "Agreed home value" means the value of the property at the
8 time of origination, as agreed to by both the homeowner and the home
9 equity sharing agreement originator and does not include any discount
10 or risk adjustment.

11 (2) "Annualized cost" means the annualized cost of a home equity
12 sharing agreement, expressed as a percentage and calculated as
13 follows: $((\text{home equity sharing agreement settlement payment} /$
14 $\text{investment amount})^{(365 / \text{term days})} - 1)$.

15 (3) "Beginning home equity" means the unencumbered equity in a
16 homeowner's property after the home equity sharing agreement is
17 consummated, expressed as a percentage and calculated as follows: $(1 -$
18 $((\text{Senior secured debt} + \text{investment amount}) / \text{agreed home value}))$.

19 (4) "Department" means the department of financial institutions
20 as established under chapter 43.320 RCW.

1 (5) "Director" means the director of the department of financial
2 institutions.

3 (6) "Home equity sharing agreement" means any nonrecourse
4 obligation in which an advance sum of money is extended to a
5 homeowner in exchange for an interest or future share of equity in
6 the homeowner's primary dwelling or a future obligation to pay a sum
7 upon the occurrence of an agreed-upon event. A home equity sharing
8 agreement is not a residential mortgage loan or other form of loan as
9 defined in RCW 31.04.015.

10 (7) "Home equity sharing agreement application" means the
11 submission of a homeowner's financial and property information for
12 purposes of entering a home equity sharing agreement.

13 (8) "Home equity sharing agreement holder" means, with respect to
14 a home equity sharing agreement, the person or persons that are
15 entitled to receive the settlement payment under such agreement.

16 (9) "Home equity sharing agreement originator" means a person who
17 for compensation or gain or with the expectation of compensation or
18 gain, either takes a home equity sharing agreement application or
19 offers or negotiates terms of a home equity sharing agreement. "Home
20 equity sharing agreement originator" does not include a person
21 engaged solely as a processor or underwriter for home equity sharing
22 agreements.

23 (10) "Homeowner" means the owner of the property that applies for
24 or enters into a home equity sharing agreement.

25 (11) "Investment amount" means the gross proceeds of a home
26 equity sharing agreement that is provided to the homeowner, before
27 any deduction of third-party fees or amounts charged by the home
28 equity sharing agreement originator.

29 (12) "Licensee" means a person to whom a license under this
30 chapter has been issued.

31 (13) "Person" means an individual, partnership, association,
32 limited liability company, limited liability partnership, trust,
33 corporation, and any other legal entity.

34 (14) "Senior secured debt" means any obligation secured by a lien
35 on the property that would be senior to the lien securing obligations
36 under the home equity sharing agreement after application of any
37 proceeds from the home equity sharing agreement at closing to reduce
38 the amount of any such senior obligations.

1 (15) "Service" means performing administrative functions and
2 collecting settlement payments on behalf of the home equity sharing
3 agreement holder or home equity sharing agreement originator.

4 (16) "Settle" or "settlement" means the process by which a
5 homeowner terminates a home equity sharing agreement, as set out in
6 the terms of the home equity sharing agreement.

7 (17) "Settlement payment" means the dollar amount that the
8 homeowner will pay to settle a home equity sharing agreement,
9 excluding any amounts paid by the homeowner pursuant to the terms of
10 the home equity sharing agreement as reimbursement for payments made
11 on behalf of the homeowner or administrative fees charged to the
12 homeowner during the term of the home equity sharing agreement or
13 interest required not otherwise prohibited by law.

14 (18) "Term days" means the exact number of days that passed
15 between the effective date and the settlement date of the home equity
16 sharing agreement.

17 NEW SECTION. **Sec. 2.** APPLICATION OF CHAPTER. (1) Any home
18 equity sharing agreement made concerning a homeowner's primary
19 dwelling physically located in this state by a licensee, or persons
20 subject to this chapter, is subject to the authority and restrictions
21 of this chapter.

22 (2) Notwithstanding any other provision of law, home equity
23 sharing agreements offered and provided by a licensee in accordance
24 with this chapter are not a mortgage loan, residential mortgage loan,
25 residential mortgage loan modification, or a reverse mortgage loan.

26 NEW SECTION. **Sec. 3.** LICENSE REQUIRED. Beginning July 1, 2026:

27 (1) No person may conduct business as a home equity sharing
28 agreement originator and may not offer or originate a home equity
29 sharing agreement in this state without first obtaining and
30 maintaining a license in accordance with this chapter.

31 (2) Any person licensed as a home equity sharing agreement
32 originator in accordance with this chapter, or as a consumer loan
33 company in accordance with chapter 31.04 RCW, may also service home
34 equity sharing agreements.

35 NEW SECTION. **Sec. 4.** LICENSE—APPLICATION—BACKGROUND CHECKS—
36 FEE—SURETY BOND. (1) A person subject to this chapter shall apply for
37 a license required under this chapter by submitting an application in

1 the form prescribed by the director. The application must contain at
2 least the following information:

3 (a) The name and the business addresses of the applicant;

4 (b) If the applicant is a partnership, limited liability company,
5 or association, the application must include the names of every
6 member;

7 (c) If the applicant is a corporation, the application must
8 include the names, residential addresses, and telephone numbers of
9 each officer and director;

10 (d) The street address, county, and municipality from which
11 business is to be conducted or a statement that the business is to be
12 conducted entirely online; and

13 (e) Other information as the director may require by rule,
14 necessary to fulfill the purpose of this section.

15 (2)(a) As part of or in connection with an application for any
16 license under this section, or periodically upon license renewal,
17 each officer, director, and owner applicant must furnish identifying
18 information, including:

19 (i) Fingerprints for submission to the Washington state patrol,
20 the federal bureau of investigation, or any governmental agency or
21 entity authorized to receive this information for a state and
22 national criminal history background check;

23 (ii) Personal history;

24 (iii) Experience;

25 (iv) Business record;

26 (v) Purposes; and

27 (vi) Other pertinent facts, as the director may reasonably
28 require.

29 (b) As part of or in connection with an application for a license
30 under this chapter, or periodically upon license renewal, the
31 director is authorized to receive criminal history record information
32 that includes nonconviction data as defined in RCW 10.97.030. The
33 department may only disseminate nonconviction data obtained under
34 this section to criminal justice agencies.

35 (3) At the time of filing an application for a license under this
36 chapter, each applicant shall pay to the director an investigation
37 fee and the license fee in an amount determined by rule by the
38 director to be sufficient to cover the director's costs in
39 administering this chapter.

1 (4) Each applicant must file and maintain a surety bond, approved
2 by the director, executed by the applicant as obligor and by a surety
3 company authorized to do a surety business in this state as surety,
4 whose liability as such surety must not exceed in the aggregate the
5 penal sum of the bond. The penal sum of the bond must be a minimum of
6 \$30,000. The bond must run to the state of Washington as obligee for
7 the use and benefit of the state and of any person or persons who may
8 have a cause of action against the obligor under this chapter. The
9 bond must be conditioned that the obligor as licensee will faithfully
10 conform to and abide by this chapter and all the rules adopted under
11 this chapter. The bond will pay to the state and any person or
12 persons having a cause of action against the obligor all moneys that
13 may become due and owing to the state and those persons under and by
14 virtue of this chapter. The bond must be continuous and may be
15 canceled by the surety upon the surety giving written notice to the
16 director of its intent to cancel the bond. The cancellation applies
17 45 days after the notice is received by the director. Instead of a
18 surety bond, if the applicant is a Washington business corporation,
19 the applicant may maintain unimpaired capital, surplus, and long-term
20 subordinated debt in an amount that at any time its outstanding
21 promissory notes or other evidences of debt (other than long-term
22 subordinated debt) in an aggregate sum do not exceed three times the
23 aggregate amount of its unimpaired capital, surplus, and long-term
24 subordinated debt. The director may define qualifying "long-term
25 subordinated debt" for purposes of this section.

26 (5) The director may waive one or more requirements of this
27 section or permit an applicant to submit other information instead of
28 the required information.

29 NEW SECTION. **Sec. 5.** LICENSE—DIRECTOR'S DUTIES. (1) The
30 director shall issue and deliver a license to the applicant to offer
31 and provide home equity sharing agreements in accordance with this
32 chapter if, after investigation, the director finds that:

33 (a) The applicant has paid all required fees;

34 (b) The applicant has submitted a complete application in
35 compliance with section 4 of this act;

36 (c) Neither the applicant nor its officers or principals have had
37 a license issued under this section or any other section, in this
38 state or another state, revoked or suspended within the last five
39 years of the date of filing of the application;

1 (d) Neither the applicant nor any of its officers or principals
2 have been convicted of a gross misdemeanor involving dishonesty or
3 financial misconduct or a felony or a violation of the banking laws
4 of this state or of the United States within seven years of the
5 filing of an application; and

6 (e) The financial responsibility, experience, character, and
7 general fitness of the applicant are such as to command the
8 confidence of the community and to warrant a belief that the business
9 will be operated honestly, fairly, and efficiently within the
10 purposes of this chapter.

11 (2) If the director does not find the conditions of subsection
12 (1) of this section have been met, the director shall not issue the
13 license. The director shall notify the applicant of the denial and
14 return to the applicant the bond posted and the sum paid by the
15 applicant as a license fee, retaining the investigation fee to cover
16 the costs of investigating the application. The director shall
17 approve or deny every application for license under this chapter
18 within 90 days from the filing of a complete application with the
19 fees and the approved bond.

20 NEW SECTION. **Sec. 6.** LICENSE—INFORMATION CONTAINED. (1) The
21 license must display the following information:

22 (a) The address at which the business is to be conducted or
23 whether the business is to be conducted entirely online;

24 (b) The full name of the licensee, and if the licensee is a
25 copartnership or association, the names of its members; and

26 (c) If the licensee is a corporation, the date and place of its
27 incorporation.

28 (2) The license is not transferable or assignable.

29 NEW SECTION. **Sec. 7.** LICENSE—ASSESSMENT—BOND—TIME OF PAYMENT.
30 A licensee shall, for each license held, on or before the first day
31 of each March, pay to the director an annual assessment as determined
32 by rule by the director. The licensee shall be responsible for
33 payment of the annual assessment for the previous calendar year if
34 the licensee had a license for any time during the preceding calendar
35 year, regardless of whether they surrendered their license during the
36 calendar year or whether their license was suspended or revoked. At
37 the same time the licensee shall file with the director the required
38 bond or otherwise demonstrate compliance with section 4 of this act.

1 NEW SECTION. **Sec. 8.** LICENSING—APPLICATIONS—REGULATION OF
2 LICENSEES—DIRECTOR'S DUTIES AND AUTHORITY—FINES—ORDERS—STATUTE OF
3 LIMITATIONS. (1) The director shall enforce all laws and rules
4 relating to the licensing and regulation of licensees and persons
5 subject to this chapter.

6 (2) The director may deny applications for licenses for:

7 (a) Failure of the applicant to demonstrate within its
8 application for a license that it meets the requirements for
9 licensing in sections 4 and 5 of this act;

10 (b) Violation of an order issued by the director under this
11 chapter or another chapter administered by the director, including
12 but not limited to cease and desist orders and temporary cease and
13 desist orders;

14 (c) Revocation or suspension of a license to offer or provide
15 home equity sharing agreements by this state, another state, or by
16 the federal government within five years of the date of submittal of
17 a complete application for a license; or

18 (d) Filing an incomplete application when that incomplete
19 application has been filed with the department for 60 or more days,
20 provided that the director has given notice to the licensee that the
21 application is incomplete, informed the applicant why the application
22 is incomplete, and allowed at least 20 days for the applicant to
23 complete the application.

24 (3) The director may condition, suspend, or revoke a license
25 issued under this chapter if the director finds that:

26 (a) The licensee has failed to pay any fee due to the state of
27 Washington, has failed to maintain in effect the bond or permitted
28 substitute required under this chapter, or has failed to comply with
29 any specific order or demand of the director lawfully made and
30 directed to the licensee in accordance with this chapter;

31 (b) The licensee, either knowingly or without the exercise of due
32 care, has violated any provision of this chapter or any rule adopted
33 under this chapter;

34 (c) A fact or condition exists that, if it had existed at the
35 time of the original application for the license, clearly would have
36 allowed the director to deny the application for the original
37 license; or

38 (d) The licensee failed to comply with any directive, order, or
39 subpoena issued by the director under this chapter.

1 (4) The director may condition, revoke, or suspend the license
2 with respect to which grounds for conditioning, revocation, or
3 suspension may occur or exist.

4 (5) The director may impose fines of up to \$100 per day, per
5 violation, upon the licensee or other person subject to this chapter
6 for:

7 (a) Any violation of this chapter; or

8 (b) Failure to comply with any directive, order, or subpoena
9 issued by the director under this chapter.

10 (6) The director may issue an order directing the licensee or
11 other person subject to this chapter to:

12 (a) Cease and desist from conducting business in a manner that is
13 injurious to the public or violates any provision of this chapter;

14 (b) Take such affirmative action as is necessary to comply with
15 this chapter;

16 (c) Make a refund or restitution to a consumer who is damaged as
17 a result of a violation of this chapter; or

18 (d) Refund all fees received through any violation of this
19 chapter.

20 (7) The director may issue an order removing from office or
21 prohibiting from participation in the affairs of any licensee, or
22 both, any officer, principal, or any person subject to this chapter
23 for:

24 (a) False statements or omission of material information from an
25 application for a license that, if known, would have allowed the
26 director to deny the original application for a license;

27 (b) Conviction of a gross misdemeanor involving dishonesty or
28 financial misconduct or a felony;

29 (c) Suspension or revocation of a license to offer or provide
30 home equity sharing agreements in this state or another state;

31 (d) Failure to comply with any order or subpoena issued under
32 this chapter; or

33 (e) Failure to obtain a license for activity that requires a
34 license.

35 (8) Except to the extent prohibited by another statute, the
36 director may engage in informal settlement of complaints or
37 enforcement actions including, but not limited to, payment to the
38 department for purposes of financial literacy and education programs
39 authorized under RCW43.320.150. If any person subject to this chapter

1 makes a payment to the department under this section, the person may
2 not advertise such payment.

3 (9) Whenever the director determines that the public is likely to
4 be substantially injured by delay in issuing a cease and desist
5 order, the director may immediately issue a temporary cease and
6 desist order. The order may direct the licensee to discontinue any
7 violation of this chapter, to take such affirmative action as is
8 necessary to comply with this chapter, and may include a summary
9 suspension of the licensee's license and may order the licensee to
10 immediately cease the conduct of business under this chapter. The
11 order becomes effective at the time specified in the order. Every
12 temporary cease and desist order must include a provision that a
13 hearing will be held upon request to determine whether the order will
14 become permanent. Such hearing must be held within 14 days of receipt
15 of a request for a hearing unless otherwise specified in chapter
16 34.05 RCW.

17 (10) A licensee may surrender a license by delivering to the
18 director written notice of surrender, but the surrender does not
19 affect the licensee's civil or criminal liability, if any, for acts
20 committed before the surrender, including any administrative action
21 initiated by the director to suspend or revoke a license, impose
22 fines, compel the payment of restitution to borrowers or other
23 persons, or exercise any other authority under this chapter. The
24 statute of limitations on actions not subject to RCW 4.16.160 that
25 are brought under this chapter by the director is five years.

26 (11) The revocation, suspension, or surrender of a license does
27 not impair or affect the obligation of a preexisting lawful contract
28 between the licensee and a consumer.

29 (12) Every license issued under this chapter remains in force and
30 effect until it has been surrendered, revoked, or suspended in
31 accordance with this chapter. However, the director may reinstate
32 suspended licenses or issue new licenses to a licensee whose license
33 or licenses have been revoked if the director finds that the licensee
34 meets all the requirements of this chapter.

35 (13) A license issued under this chapter expires upon the
36 licensee's failure to comply with the annual assessment requirements
37 in section 7 of this act. The department must provide notice of the
38 expiration to the address of record provided by the licensee. On the
39 15th day after the department provides notice, if the assessment
40 remains unpaid, the license expires. The licensee must receive notice

1 before expiration and have the opportunity to stop the expiration as
2 set forth in rule.

3 NEW SECTION. **Sec. 9.** LICENSEE'S OBLIGATIONS. A person required
4 to be licensed under this chapter shall comply with the following
5 requirements:

6 (1) A person providing a home equity sharing agreement shall
7 provide at least three business days in which the homeowner may
8 rescind their acceptance of the home equity sharing agreement before
9 the home equity sharing agreement becomes effective and binding for
10 the homeowner. The homeowner shall submit the rescission notice in
11 writing to the home equity sharing agreement originator within such
12 designated rescission period.

13 (2) Except in connection with a home purchase transaction, after
14 application of the investment amount to pay down existing liens
15 secured by the property if applicable, the homeowner's beginning home
16 equity must be equal to or greater than 10 percent.

17 (3) All appraisals or other valuation reports must meet industry
18 standards and be conducted by an independent third party, unless an
19 affiliated appraisal or valuation is disclosed and consented to in
20 writing by the homeowner. Copies of all valuation reports must be
21 provided to the homeowner.

22 (4) The annualized cost of a home equity sharing agreement may
23 not exceed 25 percent.

24 NEW SECTION. **Sec. 10.** DISCLOSURE REQUIREMENTS. (1) Before
25 entering into a home equity sharing agreement, a home equity sharing
26 agreement originator shall provide a disclosure to the homeowner in a
27 form prescribed by the director. The disclosure shall contain at
28 least the following information:

29 (a) A clear and conspicuous statement that (i) by entering into
30 the home equity sharing agreement, a lien will be placed on the
31 property and that failure to comply with the terms of the home equity
32 sharing agreement or an inability to settle the home equity sharing
33 agreement may result in the homeowner losing their property, and (ii)
34 that the homeowner should obtain the advice of an attorney before
35 proceeding with the transaction;

36 (b) A summary of the terms of the home equity sharing agreement
37 including:

38 (i) The investment amount;

1 (ii) An itemization of any charges and payments to third parties
2 and any fees paid to the home equity sharing agreement originator
3 that are deducted from the investment amount;

4 (iii) The net proceeds to be delivered to the homeowner at
5 closing;

6 (iv) The maximum term of the home equity sharing agreement;

7 (v) How the homeowner can settle the home equity sharing
8 agreement together with an explanation of how the settlement cost
9 will be calculated; and

10 (vi) A summary of the types of fees that may be charged in
11 connection with settling the home equity sharing agreement;

12 (c) (i) The agreed home value without adjustment and the method
13 used to determine the agreed home value; and

14 (ii) If the agreed home value is adjusted for any discounts, risk
15 adjustments, or enhancements for purposes of the home equity sharing
16 agreement, the amount of the adjustments and the value of the
17 property used for purposes of calculating the share of appreciation
18 or equity;

19 (d) The method of determining the final value of the property
20 that is the subject of the home equity sharing agreement upon
21 settlement of the home equity sharing agreement;

22 (e) The maximum share of appreciation or equity in the property
23 that the home equity sharing agreement originator may receive under
24 the terms of the home equity sharing agreement or an explanation of
25 any other limits on the amount that the home equity sharing agreement
26 originator may receive under the home equity sharing agreement;

27 (f) Any other amounts charged in connection with the home equity
28 sharing agreement;

29 (g) Settlement examples for the home equity sharing agreement
30 after three years, five years, 10 years, 15 years, and 30 years, in
31 each case up to the maximum term of the applicable home equity
32 sharing agreement.

33 (i) For each settlement time frame, examples must be provided
34 based on:

35 (A) No change in the value of the property;

36 (B) A total depreciation of 10 percent;

37 (C) Annual appreciation of 3.5 percent;

38 (D) Annual appreciation of 5.5 percent; and

39 (E) The actual annualized change in value of residential real
40 property in Washington over the prior five-year period, measured from

1 the most recent available data point in the all-transactions house
2 price index as published by the federal reserve bank of St. Louis.

3 (ii) For each combination of settlement time frame and property
4 change in value specified in (g)(i) of this subsection, the home
5 equity sharing agreement originator shall provide the homeowner with:

6 (A) The projected final value of the property;

7 (B) The share of appreciation or equity that the home equity
8 sharing agreement originator would be entitled to receive expressed
9 as a percentage of projected final property value;

10 (C) The dollar value of such share of appreciation or equity, and
11 if any cap applies, the capped dollar value required to settle the
12 home equity sharing agreement; and

13 (D) An annual percentage rate equivalent based on the investment
14 amount, the gross estimated cost of settlement, and the number of
15 days from closing to settlement.

16 (2) Home equity sharing agreement originators may provide
17 homeowners with additional disclosures if the form disclosure
18 prescribed by the director is used and there is no inconsistency
19 between the disclosures.

20 NEW SECTION. **Sec. 11.** PROHIBITED ACTS BY LICENSEES. A person
21 required to be licensed under the authority of this chapter is
22 prohibited from engaging in any of the following:

23 (1) Charging any penalty for settling a home equity sharing
24 agreement before the end of the home equity sharing agreement's
25 specified term;

26 (2) Preventing the homeowner from renting or using the property
27 as the homeowner chooses, provided that such use complies with
28 applicable law. Nothing in this subsection prohibits a home equity
29 sharing agreement from:

30 (a) Requiring that the homeowner notify the home equity sharing
31 agreement holder or their designee of a change in use;

32 (b) Requiring the homeowner to obtain commercially appropriate
33 property insurance in connection with any use of the property; or

34 (c) Imposing risk-based pricing adjustments for properties other
35 than the owner's principal residence;

36 (3) Requiring the use of an appraisal or valuation report
37 prepared or managed by an appraiser, appraisal management company, or
38 other valuation service provider affiliated with the home equity
39 sharing agreement originator, except the homeowner and home equity

1 sharing agreement originator may agree to the use of an affiliated
2 appraiser or appraisal management company to the extent that such
3 affiliation is disclosed and consented to in writing by the
4 homeowner;

5 (4) Agreeing to a valuation that differs from the value obtained
6 by the appraisal or other third-party means unless:

7 (a) At least one third-party valuation report is obtained and
8 shared with the homeowner to provide an indication of market value;
9 and

10 (b) The value that differs from the appraisal or third-party
11 valuation report is fully disclosed to the homeowner and the
12 homeowner agrees to the alternative value in writing;

13 (5) Including provisions in the home equity sharing agreement
14 that prohibit the homeowner from refinancing a mortgage or lien on
15 the primary dwelling, provided that:

16 (a) Nothing in this subsection obligates a home equity sharing
17 agreement holder to subordinate their lien to any other lien holder;
18 and

19 (b) If the homeowner is seeking a cash out refinancing, the home
20 equity sharing agreement may require that the proceeds of such
21 refinancing be used to settle the home equity sharing agreement;

22 (6) Charging an amount to settle a home equity sharing agreement
23 that exceeds the amount permitted under the annualized cost limit,
24 plus reimbursement for payments made on behalf of the homeowner or
25 administrative fees charged to the homeowner during the term of the
26 home equity sharing agreement; and

27 (7) Taking any action in violation of RCW 19.86.020 in connection
28 with a home equity sharing agreement.

29 NEW SECTION. **Sec. 12.** VIOLATIONS. It is a violation of this
30 chapter for a licensee, its officers, board members, or any other
31 person subject to this chapter to:

32 (1) Directly or indirectly employ any scheme, device, or artifice
33 to defraud or mislead any person;

34 (2) Directly or indirectly engage in any unfair or deceptive
35 practice toward any person;

36 (3) Directly or indirectly obtain property by fraud or
37 misrepresentation;

38 (4) Solicit or enter into a contract with a homeowner that
39 provides in substance that the home equity sharing agreement

1 originator may earn a fee or commission through the home equity
2 sharing agreement originator's best efforts to obtain a home equity
3 sharing agreement even though no home equity sharing agreement is
4 actually obtained from the homeowner;

5 (5) Solicit, advertise, or enter into a contract with specific
6 home equity sharing agreement terms unless the terms are generally
7 available at the time of soliciting, advertising, or contracting;

8 (6) Fail to make disclosures to applicants as required by this
9 chapter and any other applicable state or federal law;

10 (7) Make, in any manner, any false or deceptive statement or
11 representation with regard to the costs or other terms or conditions
12 of a home equity sharing agreement or engage in bait and switch
13 advertising;

14 (8) Negligently make any false statement or knowingly and
15 willfully make any omission of material fact in connection with any
16 reports filed with the department by a licensee or in connection with
17 any investigation conducted by the department;

18 (9) Advertise, print, display, publish, distribute, or broadcast
19 or cause or permit to be advertised, printed, displayed, published,
20 distributed, or broadcast, in any manner whatsoever, any statement or
21 representation with regard to the terms and conditions of home equity
22 sharing agreements that is false, misleading, or deceptive;

23 (10) Make any payment, directly or indirectly, to any appraiser
24 of a property for the purpose of influencing the independent judgment
25 of the appraiser with respect to the value of the property;

26 (11) Obtain at the time of closing a waiver or release of future
27 claims for damages or penalties provided by law, including a waiver
28 of the provisions of this chapter;

29 (12) Violate any applicable state or federal law relating to the
30 activities governed by this chapter; or

31 (13) Engage in any device, subterfuge, or pretense to evade the
32 requirements of this chapter including, but not limited to, making,
33 offering, or assisting a homeowner to obtain a home equity sharing
34 agreement with a greater cost than is permitted by this chapter.

35 NEW SECTION. **Sec. 13.** SUBPOENA AUTHORITY—APPLICATION—CONTENTS
36 —NOTICE—FEES. (1) The director or authorized assistants may apply
37 for and obtain a superior court order approving and authorizing a
38 subpoena in advance of its issuance. The application may be made in
39 the county where the subpoenaed person resides or is found, or the

1 county where the subpoenaed documents, records, or evidence are
2 located, or in Thurston county. The application must:

3 (a) State that an order is sought under this section;

4 (b) Adequately specify the documents, records, evidence, or
5 testimony; and

6 (c) Include a declaration made under oath that an investigation
7 is being conducted for a lawfully authorized purpose related to an
8 investigation within the department's authority and that the
9 subpoenaed documents, records, evidence, or testimony are reasonably
10 related to an investigation within the department's authority.

11 (2) When an application under this section is made to the
12 satisfaction of the court, the court must issue an order approving
13 the subpoena. An order under this subsection constitutes authority of
14 law for the agency to subpoena the documents, records, evidence, or
15 testimony.

16 (3) The director or authorized assistants may seek approval and a
17 court may issue an order under this section without prior notice to
18 any person, including the person to whom the subpoena is directed and
19 the person who is the subject of an investigation. An application for
20 court approval is subject to the fee and process set forth in RCW
21 36.18.012(3).

22 NEW SECTION. **Sec. 14.** INVESTIGATIONS AND EXAMINATIONS—

23 DIRECTOR'S DUTIES AND POWERS—PRODUCTION OF INFORMATION—COSTS. (1)
24 For the purpose of discovering violations of this chapter or securing
25 information lawfully required under this chapter, the director may at
26 any time, either personally or by designees, investigate or examine
27 the home equity sharing agreements and business and, wherever
28 located, the books, accounts, records, papers, documents, files, and
29 other information used in the business of every licensee and of every
30 person subject to this chapter, whether the person acts or claims to
31 act as principal or agent, or under or without the authority of this
32 chapter. The director or designated representative:

33 (a) Must have free access to the employees, offices, and places
34 of business, books, accounts, papers, documents, other information,
35 records, files, safes, and vaults of all such persons during normal
36 business hours;

37 (b) May require the attendance of and examine under oath all
38 persons whose testimony may be required about the home equity sharing
39 agreements or the business or the subject matter of any

1 investigation, examination, or hearing, and may require such person
2 to produce books, accounts, papers, records, files, and any other
3 information the director or designated persons deem relevant to the
4 inquiry;

5 (c) May require by directive, subpoena, or any other lawful means
6 the production of original books, accounts, papers, records, files,
7 and other information; may require that such original books,
8 accounts, papers, records, files, and other information be copied; or
9 may make copies of such original books, accounts, papers, records,
10 files, or other information;

11 (d) May issue a subpoena or subpoena duces tecum requiring
12 attendance by any person identified in this section or compelling
13 production of any books, accounts, papers, records, files, or other
14 documents or information identified in this section.

15 (2) The director must make such periodic examinations of the
16 affairs, business, office, and records of each licensee as determined
17 by rule.

18 (3) Every licensee examined or investigated by the director or
19 the director's designee must pay to the director the cost of the
20 examination or investigation of each licensed place of business as
21 determined by rule by the director.

22 (4) In order to carry out the purposes of this section, the
23 director may:

24 (a) Retain attorneys, accountants, or other professionals and
25 specialists as examiners, auditors, or investigators to conduct or
26 assist in the conduct of examinations or investigations;

27 (b) Enter into agreements or relationships with other government
28 officials or regulatory associations in order to improve efficiencies
29 and reduce regulatory burden by sharing resources, standardized or
30 uniform methods or procedures, and documents, records, information,
31 or evidence obtained under this section;

32 (c) Use, hire, contract, or employ public or privately available
33 analytical systems, methods, or software to examine or investigate
34 the licensee, individual, or person subject to this chapter;

35 (d) Accept and rely on examination or investigation reports made
36 by other government officials, within or without this state;

37 (e) Accept audit reports made by an independent certified public
38 accountant for the licensee, individual, or person subject to this
39 chapter in the course of that part of the examination covering the
40 same general subject matter as the audit and may incorporate the

1 audit report in the report of the examination, report of
2 investigation, or other writing of the director; or

3 (f) Assess the licensee, individual, or person subject to this
4 chapter the cost of the services in (a) of this subsection.

5 NEW SECTION. **Sec. 15.** LICENSEE—RECORDKEEPING—DIRECTOR'S ACCESS
6 —REPORT REQUIREMENT—FAILURE TO REPORT. The licensee shall keep and
7 use in the business such books, accounts, records, papers, documents,
8 files, and other information as will enable the director to determine
9 whether the licensee is complying with this chapter and with the
10 rules adopted by the director under this chapter. The director shall
11 have free access to such books, accounts, records, papers, documents,
12 files, and other information wherever located. Every licensee shall
13 preserve the books, accounts, records, papers, documents, files, and
14 other information relevant to a home equity sharing agreement for at
15 least three years after making the final entry on any home equity
16 sharing agreement. No licensee or person subject to examination or
17 investigation under this chapter shall withhold, abstract, remove,
18 mutilate, destroy, or secrete any books, accounts, records, papers,
19 documents, files, or other information.

20 Each licensee shall, on or before the first day of March of each
21 year, file a report with the director giving such relevant
22 information as the director may reasonably require concerning the
23 business and operations of each licensed place of business conducted
24 during the preceding calendar year. The report must be made under
25 oath and must be in the form prescribed by the director, who shall
26 make and publish annually an analysis and recapitulation of the
27 reports. Every licensee that fails to file a report that is required
28 to be filed by this chapter within the time required under this
29 chapter is subject to a penalty of \$50 per day for each day's delay.
30 The attorney general may bring a civil action in the name of the
31 state for recovery of any such penalty.

32 NEW SECTION. **Sec. 16.** DIRECTOR—BROAD ADMINISTRATIVE DISCRETION
33 —RULE MAKING—ACTIONS IN SUPERIOR COURT. (1) The director has the
34 power, and broad administrative discretion, to administer and
35 interpret this chapter to facilitate the delivery of home equity
36 sharing agreement services to the citizens of this state by persons
37 subject to this chapter. The director shall adopt all rules necessary

1 to administer this chapter and to ensure complete and full disclosure
2 by licensees of home equity sharing agreements governed by this
3 chapter.

4 (2) If it appears to the director that a licensee is conducting
5 business in an injurious manner or is violating any provision of this
6 chapter, the director may order or direct the discontinuance of any
7 such injurious or illegal practice.

8 (3) The director or designated persons, with or without prior
9 administrative action, may bring an action in superior court to
10 enjoin the acts or practices that constitute violations of this
11 chapter and to enforce compliance with this chapter or any rule or
12 order made under this chapter. Upon proper showing, injunctive relief
13 or a temporary restraining order shall be granted. The director shall
14 not be required to post a bond in any court proceedings.

15 (4) For purposes of this section, "conducting business in an
16 injurious manner" means conducting business in a manner that violates
17 any provision of this chapter, or that creates the reasonable
18 likelihood of a violation of any provision of this chapter.

19 NEW SECTION. **Sec. 17.** VIOLATIONS—NO PENALTY PRESCRIBED—GROSS
20 MISDEMEANOR—GOOD FAITH EXCEPTION. (1) A person who violates, or
21 knowingly aids or abets in the violation of any provision of this
22 chapter, for which no penalty has been prescribed, and a person who
23 fails to perform any act that is the person's duty to perform under
24 this chapter and for which no penalty has been prescribed for failure
25 to do so, is guilty of a gross misdemeanor.

26 (2) No provision imposing civil penalties or criminal liability
27 under this chapter or rule adopted under this chapter applies to an
28 act taken or omission made in good faith in conformity with a written
29 notice, interpretation, or examination report of the director or the
30 director's agent.

31 NEW SECTION. **Sec. 18.** APPLICATION OF ADMINISTRATIVE PROCEDURE
32 ACT. The proceedings for denying license applications, issuing cease
33 and desist orders, suspending or revoking licenses, and imposing
34 civil penalties or other remedies under this chapter, and any review
35 or appeal of such action, shall be governed by the provisions of the
36 administrative procedure act, chapter 34.05 RCW.

1 NEW SECTION. **Sec. 19.** ENFORCEMENT OF CHAPTER—DIRECTOR'S
2 DISCRETION—HEARING—SANCTIONS—RECOVERY OF COSTS. (1) The director or
3 designated persons may, at their discretion, take such action as
4 provided for in this chapter to enforce this chapter. If the person
5 subject to such action does not appear in person or by counsel at the
6 time and place designated for any administrative hearing that may be
7 held on the action, then the person is deemed to consent to the
8 action. If the person subject to the action consents, or if after
9 hearing the director finds by a preponderance of the evidence that
10 any grounds for sanctions under this chapter exist, then the director
11 may impose any sanction authorized by this chapter.

12 (2) The director may recover the state's costs and expenses for
13 prosecuting violations of this chapter including staff time spent
14 preparing for and attending administrative hearings and reasonable
15 attorneys' fees unless, after a hearing, the director determines no
16 violation occurred.

17 NEW SECTION. **Sec. 20.** APPLICATION OF CONSUMER PROTECTION ACT.
18 The legislature finds that the practices governed by this chapter are
19 matters vitally affecting the public interest for the purpose of
20 applying the consumer protection act, chapter 19.86 RCW. A violation
21 of this chapter is not reasonable in relation to the development and
22 preservation of business and is an unfair and deceptive act or
23 practice and unfair method of competition in the conduct of trade or
24 commerce in violation of RCW 19.86.020. Remedies provided by chapter
25 19.86 RCW are cumulative and not exclusive.

26 NEW SECTION. **Sec. 21.** Sections 1 through 20 of this act
27 constitute a new chapter in Title 31 RCW.

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