

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1205

Chapter 81, Laws of 2001

57th Legislature
2001 Regular Legislative Session

CONSUMER LOAN COMPANIES

EFFECTIVE DATE: 7/22/01

Passed by the House March 20, 2001
Yeas 97 Nays 0

FRANK CHOPP
**Speaker of the House of
Representatives**

CLYDE BALLARD
**Speaker of the House of
Representatives**

Passed by the Senate April 6, 2001
Yeas 45 Nays 0

BRAD OWEN
President of the Senate

Approved April 19, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1205** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A MARTIN
Chief Clerk

FILED

April 19, 2001 - 4:42 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1205

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Representatives Keiser, DeBolt, Barlean, Simpson and Santos; by
request of Department of Financial Institutions

Read first time 01/19/2001. Referred to Committee on Financial
Institutions & Insurance.

1 AN ACT Relating to licensing and regulation of consumer loan
2 companies; amending RCW 31.04.015, 31.04.025, 31.04.045, 31.04.055,
3 31.04.075, 31.04.085, 31.04.093, 31.04.105, 31.04.145, 31.04.155,
4 31.04.165, and 31.04.175; adding new sections to chapter 31.04 RCW; and
5 prescribing penalties.

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

7 **Sec. 1.** RCW 31.04.015 and 1994 c 92 s 161 are each amended to read
8 as follows:

9 The definitions set forth in this section apply throughout this
10 chapter unless the context clearly requires a different meaning.

11 (1) "Person" includes individuals, partnerships, associations,
12 limited liability companies, limited liability partnerships, trusts,
13 corporations, and all other legal entities.

14 (2) "License" means a single license issued under the authority of
15 this chapter with respect to a single place of business.

16 (3) "Licensee" means a person to whom one or more licenses have
17 been issued.

18 (4) "Director" means the director of financial institutions.

1 (5) "Insurance" means life insurance, disability insurance,
2 property insurance, involuntary unemployment insurance, and such other
3 insurance as may be authorized by the insurance commissioner.

4 (6) "Add-on method" means the method of precomputing interest
5 payable on a loan whereby the interest to be earned is added to the
6 principal balance and the total plus any charges allowed under this
7 chapter is stated as the loan amount, without further provision for the
8 payment of interest except for failure to pay according to loan terms.
9 The director may adopt by rule a more detailed explanation of the
10 meaning and use of this method.

11 (7) "Simple interest method" means the method of computing interest
12 payable on a loan by applying the annual percentage interest rate or
13 its periodic equivalent to the unpaid balances of the principal of the
14 loan outstanding for the time outstanding with each payment applied
15 first to any unpaid penalties, fees, or charges, then to accumulated
16 interest, and the remainder of the payment applied to the unpaid
17 balance of the principal until paid in full. In using such method,
18 interest shall not be payable in advance nor compounded, except that on
19 a loan secured by real estate, a licensee may collect at the time of
20 the loan closing up to but not exceeding forty-five days of prepaid
21 interest. The director may adopt by rule a more detailed explanation
22 of the meaning and use of this method.

23 (8) "Applicant" means a person applying for a license under this
24 chapter.

25 (9) "Borrower" means any person who consults with or retains a
26 licensee or person subject to this chapter in an effort to obtain or
27 seek information about obtaining a loan, regardless of whether that
28 person actually obtains such a loan.

29 (10) "Loan" means a sum of money lent at interest or for a fee or
30 other charge and includes both open-end and closed-end loan
31 transactions.

32 (11) "Loan originator" means a person employed, either directly or
33 indirectly, or retained as an independent contractor by a licensee, to
34 make or assist a person in applying to obtain a loan.

35 (12) "Making a loan" means closing a loan in a person's name, or
36 advancing, offering to advance, or making a commitment to advance funds
37 to a borrower for a loan.

38 (13) "Mortgage broker" means the same as defined in RCW 19.146.010,
39 except that for purposes of this chapter, a licensee or person subject

1 to this chapter cannot receive compensation as both a consumer loan
2 licensee making the loan and as a mortgage broker in the same loan
3 transaction.

4 (14) "Officer" means an official appointed by the company for the
5 purpose of making business decisions or corporate decisions.

6 (15) "Principal" means any person who controls, directly or
7 indirectly through one or more intermediaries, alone or in concert with
8 others, a ten percent or greater interest in a partnership; company;
9 association or corporation; or a limited liability company, and the
10 owner of a sole proprietorship.

11 (16) "Senior officer" means an officer of a licensee at the vice-
12 president level or above.

13 (17) "Third party service provider" means any person other than the
14 licensee or a mortgage broker who provides goods or services to the
15 licensee or borrower in connection with the preparation of the
16 borrower's loan and includes, but is not limited to, credit reporting
17 agencies, real estate brokers or salespersons, title insurance
18 companies and agents, appraisers, structural and pest inspectors, or
19 escrow companies.

20 **Sec. 2.** RCW 31.04.025 and 1991 c 208 s 4 are each amended to read
21 as follows:

22 Each loan made to a resident of this state by a licensee is subject
23 to the authority and restrictions of this chapter, unless such loan is
24 made under the authority of another license issued pursuant to a law of
25 this state or under other authority of a law of this state. This
26 chapter shall not apply to any person doing business under and as
27 permitted by any law of this state or of the United States relating to
28 banks, savings banks, trust companies, savings and loan or building and
29 loan associations, or credit unions, nor to any pawnbroking business
30 lawfully transacted under and as permitted by any law of this state
31 regulating pawnbrokers, nor to any loan of credit made pursuant to a
32 credit card plan ((including but not restricted to plans having all of
33 the following characteristics:

34 (1) Where credit cards are issued pursuant to a plan whereby the
35 organization issuing such cards shall be enabled to acquire those
36 certain obligations which its members in good standing incur with those
37 persons with whom the organization has entered into agreements setting
38 forth said plan, and where the obligations are incurred pursuant to

1 such agreements; or whereby the organization issuing such cards shall
2 be enabled to extend credit to its members;

3 (2) Any fee for such credit cards is designed to cover only the
4 administrative costs of the plan and does not exceed twenty-five
5 dollars per year;

6 (3) Any charges, discounts, or fees resulting from the acquisition
7 of such charges shall be paid to the organization issuing said credit
8 cards (or to such other organizations as may be authorized by the
9 issuing organization) by the persons, corporations, or associations
10 with whom the organization has entered into such written agreements)).

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 31.04 RCW
12 to read as follows:

13 It is a violation of this chapter for a licensee, its officers,
14 directors, employees, or independent contractors, or any other person
15 subject to this chapter to:

16 (1) Directly or indirectly employ any scheme, device, or artifice
17 to defraud or mislead any borrower, to defraud or mislead any lender,
18 or to defraud or mislead any person;

19 (2) Directly or indirectly engage in any unfair or deceptive
20 practice toward any person;

21 (3) Directly or indirectly obtain property by fraud or
22 misrepresentation;

23 (4) Solicit or enter into a contract with a borrower that provides
24 in substance that the consumer loan company may earn a fee or
25 commission through the consumer loan company's best efforts to obtain
26 a loan even though no loan is actually obtained for the borrower;

27 (5) Solicit, advertise, or enter into a contract for specific
28 interest rates, points, or other financing terms unless the terms are
29 actually available at the time of soliciting, advertising, or
30 contracting;

31 (6) Fail to make disclosures to loan applicants as required by
32 section 9 of this act and any other applicable state or federal law;

33 (7) Make, in any manner, any false or deceptive statement or
34 representation with regard to the rates, points, or other financing
35 terms or conditions for a residential mortgage loan or engage in bait
36 and switch advertising;

37 (8) Negligently make any false statement or knowingly and willfully
38 make any omission of material fact in connection with any reports filed

1 with the department by a licensee or in connection with any
2 investigation conducted by the department;

3 (9) Make any payment, directly or indirectly, to any appraiser of
4 a property, for the purposes of influencing the independent judgment of
5 the appraiser with respect to the value of the property; or

6 (10) Advertise any rate of interest without conspicuously
7 disclosing the annual percentage rate implied by that rate of interest
8 or otherwise fail to comply with any requirement of the truth in
9 lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226,
10 the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and
11 regulation X, 24 C.F.R. Sec. 3500, or the equal credit opportunity act,
12 15 U.S.C. Sec. 1691 and regulation B, Sec. 202.9, 202.11, and 202.12,
13 or any other applicable federal statute, as now or hereafter amended,
14 in any advertising of residential mortgage loans or any other consumer
15 loan company activity.

16 **Sec. 4.** RCW 31.04.045 and 1994 c 92 s 162 are each amended to read
17 as follows:

18 (1) Application for a license under this chapter must be in writing
19 and in the form prescribed by the director. The application must
20 contain at least the following information:

21 (a) The name and the business ~~((and the residence))~~ addresses of
22 the applicant;

23 (b) If the applicant is a partnership or association, the name of
24 every member;

25 (c) If the applicant is a corporation, the name, residence address,
26 and telephone number of each officer and director;

27 (d) The street address, county, and municipality ~~((where))~~ from
28 which business is to be conducted; and

29 (e) Such other information as the director may require by rule.

30 (2) At the time of filing an application for a license under this
31 chapter, each applicant shall pay to the director an investigation fee
32 and the ~~((initial year's))~~ license fee in an amount determined by rule
33 of the director to be sufficient to cover the director's costs in
34 administering this chapter.

35 (3) Each applicant shall file and maintain a surety bond, approved
36 by the director, ~~((in the penal sum of one hundred thousand dollars,))~~
37 executed by the applicant as obligor and by a surety company authorized
38 to do a surety business in this state as surety, whose liability as

1 such surety shall not exceed in the aggregate the penal sum (~~(in the~~
2 ~~aggregate))~~ of the bond. The penal sum of the bond shall be one
3 hundred thousand dollars for each licensed location up to and including
4 five licensed locations, and an additional ten thousand dollars for
5 each licensed location in excess of five licensed locations, except
6 that a licensee who makes a loan secured by real property shall
7 maintain at a minimum a surety bond with a penal sum of not less than
8 four hundred thousand dollars. The bond shall run to the state of
9 Washington as obligee for the use and benefit of the state and of any
10 person or persons who may have a cause of action against the obligor
11 under this chapter. The bond shall be conditioned that the obligor as
12 licensee will faithfully conform to and abide by this chapter and all
13 the rules adopted under this chapter. The bond will pay to the state
14 and any person or persons having a cause of action against the obligor
15 all moneys that may become due and owing to the state and those persons
16 under and by virtue of this chapter. In lieu of a surety bond, if the
17 applicant is a Washington business corporation, the applicant may
18 maintain unimpaired capital, surplus, and long-term subordinated debt
19 in an amount that at any time its outstanding promissory notes or other
20 evidences of debt (other than long-term subordinated debt) in an
21 aggregate sum do not exceed three times the aggregate amount of its
22 unimpaired capital, surplus, and long-term subordinated debt. The
23 director may define qualifying "long-term subordinated debt" for
24 purposes of this section.

25 **Sec. 5.** RCW 31.04.055 and 1994 c 92 s 163 are each amended to read
26 as follows:

27 (1) The director shall issue and deliver a license to the applicant
28 to make loans in accordance with this chapter at the location specified
29 in the application if, after investigation, the director finds that:

30 (a) The applicant has paid all required fees(~~(, has complied))~~;

31 (b) The applicant has submitted a complete application in
32 compliance with RCW 31.04.045(~~(, and that))~~;

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

37 (d) Neither the applicant nor any of its officers or principals
38 have been convicted of a gross misdemeanor involving dishonesty or

1 financial misconduct or a felony or a violation of the banking laws of
2 this state or of the United States within seven years of the filing of
3 an application; and

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

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

18 **Sec. 6.** RCW 31.04.075 and 1994 c 92 s 164 are each amended to read
19 as follows:

20 The licensee may not maintain more than one place of business under
21 the same license, but the director may issue more than one license to
22 the same licensee upon application by the licensee in a form and manner
23 established by the director. ~~((A licensee who has five licensed~~
24 ~~locations shall not be required to maintain a bond in a penal sum~~
25 ~~exceeding ten thousand dollars for each additionally licensed~~
26 ~~location.))~~

27 Whenever a licensee wishes to change the place of business to a
28 street address other than that designated in the license, the licensee
29 shall give written notice to the director as required by rule, pay the
30 license fee, and ~~((shall))~~ obtain the director's approval.

31 **Sec. 7.** RCW 31.04.085 and 1994 c 92 s 165 are each amended to read
32 as follows:

33 A licensee shall, for each license held by any person, on or before
34 the ~~((twentieth))~~ first day of each ~~((December))~~ March, pay to the
35 director an annual ~~((license fee))~~ assessment as determined by rule by
36 the director. The licensee shall be responsible for payment of the
37 annual assessment for the previous calendar year if the licensee had a

license for any time during the preceding calendar year, regardless of whether they surrendered their license during the calendar year or whether their license was suspended or revoked. At the same time the licensee shall file with the director the required bond or otherwise demonstrate compliance with RCW 31.04.045.

Sec. 8. RCW 31.04.093 and 1994 c 92 s 166 are each amended to read as follows:

(1) The director shall enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter.

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

(a) Failure of the applicant to demonstrate within its application for a license that it meets the requirements for licensing in RCW 31.04.045 and 31.04.055;

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

(c) Revocation or suspension of a license to conduct lending, or to provide settlement services associated with lending, by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license; or

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

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

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

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

1 (c) A fact or condition exists that, if it had existed at the time
2 of the original application for the license, clearly would have allowed
3 the director to deny the application for the original license. The
4 director may revoke or suspend only the particular license with respect
5 to which grounds for revocation or suspension may occur or exist unless
6 the director finds that the grounds for revocation or suspension are of
7 general application to all offices or to more than one office operated
8 by the licensee, in which case, the director may revoke or suspend all
9 of the licenses issued to the licensee.

10 ~~((2))~~ (4) The director may impose fines of up to one hundred
11 dollars per day upon the licensee, its employee or loan originator, or
12 other person subject to this chapter for:

13 (a) Any violation of this chapter; or

14 (b) Failure to comply with any order or subpoena issued by the
15 director under this chapter.

16 (5) The director may issue an order directing the licensee, its
17 employee or loan originator, or other person subject to this chapter
18 to:

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

21 (b) Take such affirmative action as is necessary to comply with
22 this chapter; or

23 (c) Make restitution to a borrower or other person who is damaged
24 as a result of a violation of this chapter.

25 (6) The director may issue an order removing from office or
26 prohibiting from participation in the affairs of any licensee, or both,
27 any officer, principal, employee or loan originator, or any person
28 subject to this chapter for:

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

32 (b) Conviction of a gross misdemeanor involving dishonesty or
33 financial misconduct or a felony;

34 (c) Suspension or revocation of a license to engage in lending, or
35 perform a settlement service related to lending, in this state or
36 another state;

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

39 (e) A violation of section 3 of this act.

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

14 (8) A licensee may surrender a license by delivering to the
15 director written notice of surrender, but the surrender does not affect
16 the licensee's civil or criminal liability, if any, for acts committed
17 before the surrender, including any administrative action initiated by
18 the director to suspend or revoke a license, impose fines, compel the
19 payment of restitution to borrowers or other persons, or exercise any
20 other authority under this chapter.

21 ~~((3))~~ (9) The revocation, suspension, or surrender of a license
22 does not impair or affect the obligation of a preexisting lawful
23 contract between the licensee and a borrower.

24 ~~((4))~~ (10) Every license issued under this chapter remains in
25 force and effect until it has been surrendered, revoked, or suspended
26 in accordance with this chapter. However, the director may on his or
27 her own initiative reinstate suspended licenses or issue new licenses
28 to a licensee whose license or licenses have been revoked if the
29 director finds that the licensee meets all the requirements of this
30 chapter.

31 **NEW SECTION. Sec. 9.** A new section is added to chapter 31.04 RCW
32 to read as follows:

33 Within three business days following receipt of a loan application,
34 a licensee shall provide to each borrower a written disclosure
35 containing an itemized estimation and explanation of all fees and costs
36 that the borrower is required to pay in connection with obtaining a
37 loan from the licensee. A good faith estimate of a fee or cost shall
38 be provided if the exact amount of the fee or cost is not available

1 when the disclosure is provided. Disclosure in a form which complies
2 with the requirements of the truth in lending act, 15 U.S.C. Sec. 1601
3 and regulation Z, 12 C.F.R. Sec. 226, the real estate settlement
4 procedures act and regulation X, 24 C.F.R. Sec. 3500, and all other
5 applicable federal laws and regulations, as now or hereafter amended,
6 shall be deemed to constitute compliance with the disclosure
7 requirements of this section when it is provided to the borrower within
8 three days of receipt of a loan application. Each licensee shall
9 comply with all other applicable federal and state laws and
10 regulations.

11 **Sec. 10.** RCW 31.04.105 and 1998 c 28 s 1 are each amended to read
12 as follows:

13 Every licensee may:

14 (1) Lend money at a rate that does not exceed twenty-five percent
15 per annum as determined by the simple interest method of calculating
16 interest owed;

17 (2) In connection with the making of a loan, charge the borrower a
18 nonrefundable, prepaid, loan origination fee not to exceed four percent
19 of the first twenty thousand dollars and two percent thereafter of the
20 principal amount of the loan advanced to or for the direct benefit of
21 the borrower, which fee may be included in the principal balance of the
22 loan;

23 (3) Agree with the borrower for the payment of fees to third
24 parties other than the licensee who provide goods or services to the
25 licensee in connection with the preparation of the borrower's loan,
26 including, but not limited to, credit reporting agencies, title
27 companies, appraisers, structural and pest inspectors, and escrow
28 companies, when such fees are actually paid by the licensee to a third
29 party for such services or purposes and may include such fees in the
30 amount of the loan. However, no charge may be collected unless a loan
31 is made, except for reasonable fees properly incurred in connection
32 with the appraisal of property by a qualified, independent,
33 professional, third-party appraiser selected by the borrower and
34 approved by the lender or in the absence of borrower selection,
35 selected by the lender;

36 (4) In connection with the making of a loan secured by real estate,
37 when the borrower actually obtains a loan, agree with the borrower to
38 pay a fee to a mortgage broker that is not owned by the licensee or

1 under common ownership with the licensee and that performed services in
2 connection with the origination of the loan. A licensee may not
3 receive compensation as a mortgage broker in connection with any loan
4 made by the licensee;

5 (5) Charge and collect a penalty of ten cents or less on each
6 dollar of any installment payment delinquent ten days or more;

7 ((5)) (6) Collect from the debtor reasonable attorneys' fees,
8 actual expenses, and costs incurred in connection with the collection
9 of a delinquent debt, a repossession, or a foreclosure when a debt is
10 referred for collection to an attorney who is not a salaried employee
11 of the licensee;

12 ((6)) (7) Make open-end loans as provided in this chapter;

13 ((7)) (8) Charge and collect a fee for dishonored checks in an
14 amount approved by the director; and

15 ((8)) (9) In accordance with Title 48 RCW, sell insurance
16 covering real and personal property, covering the life or disability or
17 both of the borrower, and covering the involuntary unemployment of the
18 borrower.

19 **Sec. 11.** RCW 31.04.145 and 1995 c 9 s 2 are each amended to read
20 as follows:

21 (1) For the purpose of discovering violations of this chapter or
22 securing information lawfully required under this chapter, the director
23 may at any time, either personally or by ((a)) designees, investigate
24 or examine the loans and business and ((examine)), wherever located,
25 the books, accounts, records, ((and)) papers, documents, files, and
26 other information used in the business of every licensee and of every
27 person who is engaged in the business ((described in RCW 31.04.035))
28 making or assisting in the making of loans at interest rates authorized
29 by this chapter, whether the person acts or claims to act as principal
30 or agent, or under or without the authority of this chapter. For
31 ((that)) these purposes, the director ((and)) or designated
32 representatives shall have free access to the offices and places of
33 business, books, accounts, papers, documents, other information,
34 records, files, safes, and vaults of all such persons. The director
35 ((and)) or persons designated by the director may require the
36 attendance of and examine under oath all persons whose testimony may be
37 required about the loans or the business or the subject matter of any
38 investigation, examination, or hearing and may require such person to

1 produce books, accounts, papers, records, files, and any other
2 information the director or designated persons deem relevant to the
3 inquiry. The director may require the production of original books,
4 accounts, papers, records, files, and other information; may require
5 that such original books, accounts, papers, records, files, and other
6 information be copied; or may make copies himself or herself or by
7 designee of such original books, accounts, papers, records, files, or
8 other information. If a licensee or person does not attend and
9 testify, or does not produce the requested books, accounts, papers,
10 records, files, or other information, then the director or designated
11 persons may issue a subpoena or subpoena duces tecum requiring
12 attendance or compelling production of the books, accounts, papers,
13 records, files, or other information.

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

17 (3) Every licensee ~~((so))~~ examined or investigated by the director
18 or the director's designee shall pay to the director the ~~((actual))~~
19 cost of ~~((examining and supervising))~~ the examination or investigation
20 of each licensed place of business as determined by rule by the
21 director.

22 **Sec. 12.** RCW 31.04.155 and 1994 c 92 s 170 are each amended to
23 read as follows:

24 The licensee shall keep and use in the business such books,
25 accounts, ~~((and))~~ records, papers, documents, files, and other
26 information as will enable the director to determine whether the
27 licensee is complying with this chapter and with the rules adopted by
28 the director under this chapter. The director shall have free access
29 to such books, accounts, ~~((and))~~ records, papers, documents, files, and
30 other information wherever located. Every licensee shall preserve the
31 books, accounts, ~~((and))~~ records, papers, documents, files, and other
32 information relevant to a loan for at least ~~((two years))~~ twenty-five
33 months after making the final entry on any loan ~~((recorded in them))~~.
34 No licensee or person subject to examination or investigation under
35 this chapter shall withhold, abstract, remove, mutilate, destroy, or
36 secrete any books, accounts, records, papers, documents, files, or
37 other information.

1 Each licensee shall, on or before the first day of March of each
2 year, file a report with the director giving such relevant information
3 as the director may reasonably ((may)) require concerning the business
4 and operations ((during the preceding calendar year)) of each licensed
5 place of business conducted ((by the licensee within the state)) during
6 the preceding calendar year. The report must be made under oath and
7 must be in the form prescribed by the director, who shall make and
8 publish annually an analysis and recapitulation of the reports. Every
9 licensee that fails to file a report that is required to be filed by
10 this chapter within the time required under this chapter is subject to
11 a penalty of fifty dollars per day for each day's delay. The attorney
12 general may bring a civil action in the name of the state for recovery
13 of any such penalty.

14 **Sec. 13.** RCW 31.04.165 and 1994 c 92 s 171 are each amended to
15 read as follows:

16 (1) The director has the power, and broad administrative
17 discretion, to administer and interpret this chapter to facilitate the
18 delivery of financial services to the citizens of this state by loan
19 companies subject to this chapter. The director shall adopt all rules
20 necessary to administer this chapter and to ensure complete and full
21 disclosure by licensees of lending transactions governed by this
22 chapter.

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

27 (3) For purposes of this section, "conducting business in an
28 injurious manner" means conducting business in a manner that violates
29 any provision of this chapter, or that creates the reasonable
30 likelihood of a violation of any provision of this chapter.

31 (4) The director or designated persons, with or without prior
32 administrative action, may bring an action in superior court to enjoin
33 the acts or practices that constitute violations of this chapter and to
34 enforce compliance with this chapter or any rule or order made under
35 this chapter. Upon proper showing, injunctive relief or a temporary
36 restraining order shall be granted. The director shall not be required
37 to post a bond in any court proceedings.

1 **Sec. 14.** RCW 31.04.175 and 1994 c 92 s 172 are each amended to
2 read as follows:

3 ~~((Every licensee that fails to file a report that is required~~
4 ~~to be filed by this chapter within the time required under this chapter~~
5 ~~is subject to a penalty of fifty dollars per day for each day's delay.~~
6 ~~The attorney general may bring a civil action in the name of the state~~
7 ~~for recovery of any such penalty.~~

8 ~~((2)))~~ A person who violates, or knowingly aids or abets in the
9 violation of any provision of this chapter, for which no penalty has
10 been prescribed, and a person who fails to perform any act that it is
11 ~~((made))~~ his or her duty to perform under this chapter and for which
12 failure no penalty has been prescribed, is guilty of a gross
13 misdemeanor. ~~((No person who has been convicted for the violation of~~
14 ~~the banking laws of this state or of the United States may be permitted~~
15 ~~to engage in the business, or become an officer or official, of any~~
16 ~~licensee in this state.~~

17 ~~((3)))~~ (2) No provision imposing civil penalties or criminal
18 liability under this chapter or rule adopted under this chapter applies
19 to an act taken or omission made in good faith in conformity with a
20 written notice, interpretation, or examination report of the director
21 or his or her agent.

22 **NEW SECTION. Sec. 15.** A new section is added to chapter 31.04 RCW
23 to read as follows:

24 The proceedings for denying license applications, issuing cease and
25 desist orders, suspending or revoking licenses, and imposing civil
26 penalties or other remedies under this chapter, and any review or
27 appeal of such action, shall be governed by the provisions of the
28 administrative procedure act, chapter 34.05 RCW.

29 **NEW SECTION. Sec. 16.** A new section is added to chapter 31.04 RCW
30 to read as follows:

31 The director or designated persons may, at his or her discretion,
32 take such action as provided for in this chapter to enforce this
33 chapter. If the person subject to such action does not appear in
34 person or by counsel at the time and place designated for any
35 administrative hearing that may be held on the action, then the person
36 shall be deemed to consent to the action. If the person subject to the
37 action consents, or if after hearing the director finds by a

1 preponderance of the evidence that any grounds for sanctions under this
2 chapter exist, then the director may impose any sanction authorized by
3 this chapter.

4 NEW SECTION. **Sec. 17.** A new section is added to chapter 31.04 RCW
5 to read as follows:

6 The legislature finds that the practices governed by this chapter
7 are matters vitally affecting the public interest for the purpose of
8 applying the consumer protection act, chapter 19.86 RCW. Any violation
9 of this chapter is not reasonable in relation to the development and
10 preservation of business and is an unfair and deceptive act or practice
11 and unfair method of competition in the conduct of trade or commerce in
12 violation of RCW 19.86.020. Remedies provided by chapter 19.86 RCW are
13 cumulative and not exclusive.

Passed the House March 20, 2001.

Passed the Senate April 6, 2001.

Approved by the Governor April 19, 2001.

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