



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

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CONSUMER LOAN ACT

INTERPRETIVE STATEMENT-02-07

DATE: November 19, 2007

FROM: Deborah Bortner, Director, Division of Consumer Services

RE: Annual Reporting and Assessment under the Consumer Loan Act, chapter 31.04 RCW

QUESTION PRESENTED: When a company holds a Consumer Loan Act license, how does the Department of Financial Institutions (DFI) calculate the licensee's annual assessment?

DISCUSSION: A company holding a Consumer Loan Act (CLA) license must report and pay to DFI an annual assessment on all loans made, brokered, or purchased¹, unless the loans fall under an allowable exception from the CLA². While the CLA provides the authority for a licensee to make loans to Washington consumers at an interest rate higher than the interest rate set in the state's usury statute, chapter 19.52 RCW³ (currently twelve percent), once a company holds the CLA license, all loans made by the company are included in the annual assessment, regardless of the rate of interest. Additionally, loans brokered by the licensee, and loans purchased by the licensee, will be included in the assessment calculation.⁴

The CLA annual report and assessment is designed to provide DFI with “. . . such relevant information as the director may reasonably require concerning the business and operations of each licensed place of business conducted during the preceding calendar year.”⁵ To accurately reflect this “relevant information” about the licensee's “business and operations,” the report and assessment includes loans made and held in the licensee's portfolio (because the loans remain the

¹ For purposes of this Interpretive Statement, “purchased” means the acquisition of a loan via a simultaneous assignment from another entity in whose name the loan closed, or the acquisition of a loan on the secondary market.

² See RCW 31.04.025.

³ To determine if a rate exceeds usury, DFI considers the loan's annual percentage rate, not the note rate. See WAC 208-620-240.

⁴ Consumer Loan Act licensees have historically been assessed annual fees based on their total assets at the end of the reporting year, not on their loan portfolio. However, because of the difficulty in assessing the portion of the licensee's assets attributable to Washington operations, the DFI opted to simplify the calculation of the annual assessment fee by assessing all loans made, brokered, or purchased.

⁵ RCW 31.04.155.

licensee's asset from year to year), loans brokered by the licensee, and loans purchased by the licensee (because they become the licensee's business assets).

CONCLUSION: When a company holds a CLA license, all loans the company makes, brokers, or purchases must be included in the annual report and assessment to DFI. This includes loans made at or below the usury rate (currently twelve percent), and includes loans the licensee purchased.

ASSESSMENT FEE SUMMARY

1. DFI will assess fees on these loans:

- a) All mortgage and non-mortgage loans made by the licensee, regardless of the interest rate or lien position.
- b) All mortgage and non-mortgage loans brokered by the licensee, regardless of the interest rate, or lien position.
- c) All mortgage and non-mortgage loans purchased by the licensee.

2. DFI will NOT assess fees on:

- a) Servicing rights on loans that have been sold.
- b) Loans made under the authority of another license issued pursuant to a law of this state. This exception only applies if there is another state license permitting and regulating the activity (such as loans made by a CLA licensee that also holds a Mortgage Broker Practices Act (MBPA) license pursuant to chapter 19.146 RCW). When a licensee purchases a loan that was made under the authority of another license issued pursuant to a law of this state, the licensee will be assessed for that purchase. Licensees with loans excepted from annual reporting and assessment under the CLA are still subject to the provisions of RCW 31.04.145. Licensees that make or broker loans under the MBPA are subject to the interest rate restriction in the usury statute (currently twelve percent).
- c) Loans made under other authority of a law of this state. This exception applies to a law that provides a regulatory structure for making loans and the loan in question complies with that law (such as loans made by a CLA licensee that also comply with the Retail Installment Sales Contracts statute, chapter 63.14 RCW).

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STATUTES AND RULES RELIED UPON: Chapter 31.04 RCW and chapter 208-620 WAC.