



RULE-MAKING ORDER

CR-103E (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Financial Institutions, Div. of Consumer Services

Emergency Rule Only

Effective date of rule:

Emergency Rules

Immediately upon filing.

Later (specify) _____

This emergency rule will be superseded by permanent rules adopted under the rulemaking initially filed under WSR 10-07-099.

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes

No

If Yes, explain:

Purpose: The general welfare of the public who use unsecured consumer loans must be protected from unreasonable fees. Some licensees formerly operating under chapter 31.45 (the payday lending law) have begun offering products under the Consumer Loan Act that mirror small loans, but with unconscionable terms that fail to provide the protections of the payday lending law. Under the payday lending law, new consumer protections begin in January that limit the fees on payday loans. They also provide consumers with a free installment plan option. In amending the payday lending law, the legislature specifically sought to limit fees and provide a mechanism for borrowers with multiple loans to pay off the loans over a period of time without having to re-loan, continuing their cycle of debt. This emergency rule would serve as a stopgap to allow DFI to protect the welfare of the public while seeking a more permanent solution through rulemaking or the legislature. The DFI has begun rulemaking to permanently adopt the rule on this topic. See WSR 10-07-099.

Citation of existing rules affected by this order:

Repealed: None

Amended: WAC 208-620-515

Suspended: None

Statutory authority for adoption: RCW 31.04.165; RCW 43.320.040

Other authority : N/A

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Due to changes in chapter 31.45 RCW some licensees have obtained a license under chapter 31.04 RCW, the Consumer Loan Act, in order to use a specific provision within that act, RCW 31.04.115(3), to charge exorbitant fees to borrowers. In one example, a consumer loan of \$600 generated a participation fee of \$1,980, payable over 12 twelve months, in addition to the statutorily allowed interest rate. This is equivalent to an APR of over 4,000 percent. Additionally, the participation fee is charged monthly if the small loan is paid off but the line of credit account is kept open. If this rule were amended by the notice and negotiated rulemaking process, great harm could occur to the borrowers who need the consumer loan now. Consumer demand is presently high due to the economic downturn causing both increased unemployment and the tightening of normal credit sources, which increases the necessity of immediate action. DFI has begun a notice and negotiated rulemaking (filed March 19, 2010, under WSR 10-07-099) but in the interim needs to be able to protect the welfare of the consumers and prevent lenders from circumventing the will of the legislature.

Date adopted: August 4, 2010

NAME (TYPE OR PRINT)

Deborah Bortner

SIGNATURE

TITLE

Director, Division of Consumer Services

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 04, 2010

TIME: 8:21 AM

WSR 10-16-136

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>1</u>	Repealed	_____
-----	-------	---------	----------	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____