



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

DIVISION OF CONSUMER SERVICES

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November 12, 2014

Concise Explanatory Statement Pursuant to RCW 34.05.325(6)

RE: Rule Amendments to the Check Cashers & Sellers Act (chapter 31.45 RCW), chapter 208-630 WAC

Agency reasons for adopting the rules. (RCW 34.05.325(6)(a)(i))

The proposed rules will clarify the department's interpretation of the law as to small loan agents regulated under the Act.

Describe differences between the text of the proposed rules as published in the Washington State Register and the text of the rules as adopted, other than editing changes, stating the reasons for differences. (RCW 34.05.325(6)(a)(ii))

1. WAC 208-630-110 is further amended to make technical changes to the definition of "Small loan agent services" under Sections (c), and (e) (formerly labelled (3), and (5)).
2. WAC 208-630-110 is further amended to add new language to the definition of "Small loan agent services." The new language provides that entities licensed or exempt from licensing under chapter 19.16 RCW or those who are otherwise authorized under Washington law to act as a collection agent are not conducting activities considered small loan agent services.
3. NEW WAC 208-630-135 (1)(e) is further amended with one technical change and to require an applicant to advise the department of having been subject to a cease and desist or injunctive action issued pursuant to any state or federal law applicable to the business activity.
4. NEW WAC 208-630-135(f) is further amended to require an applicant to advise the department of charges or findings through administrative, civil or criminal proceedings under provisions of any state or federal law applicable to the business activity.

5. NEW WAC 208-630-136 in (2) and (3) is further amended to make technical changes.
6. NEW WAC 208-630-136 in (5) is further amended to make one technical change and to provide that entities may collect on small loans if licensed or exempt under chapter 19.16 RCW or are otherwise authorized by Washington law to act as a collection agent.
7. NEW WAC 208-630-137 in (2) is further amended to add the department's telephone number.
8. NEW WAC 208-630-138 in (1) is further amended to make one technical change to include "other entities" consistent with the definition of Small loan agent services.

Summary of comments received by DFI during the rulemaking process, and DFI's responses to the comments. (RCW 34.05.325(6)(a)(iii))

I. Summary of written comments received:

1. October 28, 2014. Greg Overstreet, Moneytree, Inc. Concerns that attorneys may be regulated under the new program. Suggestion to add language with the same exemptions as those found in chapter 19.16 RCW.

DFI further amended the proposed language based on this comment.

2. October 24, 2014. Greg Overstreet, Moneytree, Inc. Suggestions for language under the definition of Small loan agent services that would exempt companies licensed as a collection agent anywhere, and a change to proposed new section WAC 208-630-136(5) consistent with the aforementioned.

DFI did not amend the language based on this comment.

3. October 6, 2014. Online Lenders Alliance. Writing in support of the rule amendments; summarizing the work with other states and stakeholders to develop model regulation unique to the lead generation industry and in light of the poor fit of existing regulation to the industry; noting the rule amendments contain many elements from the model regulation; specific support of proper identification of the lead generator, proper data protection policies, caution to potential borrowers about the role of the lead generator, and allowance of sales of data between properly licensed lead generators.

DFI's proposed rule amendments were based in part on the model regulation provided by the Alliance.

4. September 19, 2014. Greg Overstreet, Moneytree, Inc. Suggestion that the definition of "small loan agent services" NOT apply to collection agencies regulated under other regulatory programs.

DFI amended the definition to not included entities regulated under chapter 19.16 RCW.

5. September 5, 2014. Trent Matson, Moneytree, Inc. Suggestion that current licensees not have to obtain a second license under the act for their collection activities. Offer to assist in drafting language.

DFI would not require an existing licensee under the Act to obtain a second license to conduct small loan agent activities. The proposed rules were amended to clarify that if a small loan agent is regulated under chapter 19.16 RCW, they do not need a license under the Act for those collection activities.

II. Summary of oral comments received during the public hearing held October 21, 2014, at the DFI office in Olympia, Washington:

1. T.K. Bentler, representing the Online Lenders Alliance, in support of the proposed rule amendments and thanking the department for the opportunity to participate in drafting the rules.

The comment period was open from the filing of the CR-101 on July 23, 2014, until November 4, 2014.

The written comments in their entirety are available on our website:

http://dfi.wa.gov/cs/current_rulemaking.htm#cla-11-23-062

The complete audio of the hearing is available on our website.

CONCLUSION

DFI made the proposed rules available to all interested parties and published the proposed amendments on the department website along with all rulemaking notices and audio of public meetings. The final proposed rules are the product of an open, deliberative process.