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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

NO. C-03-135-03-CO01

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VALENTINE LENDER SERVICES, INC., and
MICHAEL SILBERNAGEL, President and Owner,

CONSENT ORDER

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Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through her designee Chuck Cross, Acting Division Director, Division of Consumer Services, and Valentine Lender Services, Inc. and President and Owner Michael Silbernagel (hereinafter collectively as "Respondents"), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-03-135-03-SC01, entered August 15, 2003, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve Statement of Charges No. C-03-135-03-SC01, entered August 15, 2003.

Based upon the foregoing:

A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.

CONSENT ORDER

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
210 11th Ave SW, Room 300
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing before
2 an administrative law judge, and that they have waived their right to a hearing and any and all administrative and
3 judicial review of the issues raised in this matter, or of the resolution reached herein.

4 **C. Consumer Loan License.** It is AGREED that Respondents have voluntarily surrendered their consumer
5 loan license to the Department. It is further AGREED that Respondents shall not apply to the Department for any
6 license for a period of seven (7) years from the entry of this Consent Order.

7 **D. Fine.** It is AGREED that, should Respondents apply to the Department for any license at any time after
8 seven (7) years from the date of entry of this Consent Order, Respondents shall pay to the Department a fine of
9 \$20,250.00 for failing to file annual reports relating to Respondents' consumer lending activity for the years 2000, 2001
10 and 2002, failing to make timely payment of annual assessments relating to Respondents' consumer lending activity for
11 the years 2000, 2001 and 2002, failing to make timely payment of an examination fee, failing to notify the Director of
12 change in business address, and failing to maintain a surety bond with the Director, calculated at \$75 per statutory
13 violation per day, for 30 days.

14 **E. Annual Assessments.** It is AGREED that Respondents have delinquenty provided the Department with
15 Annual Assessment Worksheets and Consolidated Annual Reports for the years ended December 31, 2000, 2001 and
16 2002, respectively. It is further AGREED that Respondents have certified that these Annual Assessment Worksheets
17 and Consolidated Annual Reports are correct, complete and free of any misrepresentations or omissions of material
18 facts, under penalty of perjury. It is further AGREED that Respondents shall pay to the Department the cumulative
19 delinquent annual assessments through December 31, 2002 totaling \$360.35 (\$200.63 for the year ended December 31,
20 2000, \$134.49 for the year ended December 31, 2001, and \$25.23 for the year ended December 31, 2002), as
21 calculated on these Annual Assessment Worksheets and Consolidated Annual Reports, in accordance with the payment
22 schedule in Item I of this order.

23 **F. Supporting Documentation for Annual Assessments:** It is AGREED that Respondents have failed to
24 provide the Department with required supporting documentation for the Annual Assessment Worksheets and

1 Consolidated Annual Reports for the years ended December 31, 2000, 2001 and 2002, respectively, discussed in Item
2 E. It is further AGREED that Respondents shall provide such supporting documentation by the close of business
3 Thursday, April 15, 2004.

4 **G. Examination Fee.** It is AGREED that Respondents shall pay to the Department an examination fee of
5 \$1,107.59, calculated at \$66.81 per hour for fourteen and a half (14.5) staff hours devoted to the examination, plus
6 interest calculated at 12.00% per annum from the date payment was due (December 20, 2002) through February 29,
7 2004, in accordance with the payment schedule in Item I of this order.

8 **H. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an investigation fee of
9 \$1,725.25, calculated at \$69.01 per hour for twenty-five (25) staff hours devoted to the investigation, in accordance
10 with the payment schedule in Item I of this order.

11 **I. Payment Schedule.** It is AGREED that Respondents shall pay \$3,193.19 to the Department for the
12 annual assessments discussed in Item E above, examination fee discussed in Item G above, and investigation fee
13 discussed in Item H above, pursuant to the following payment schedule:

14 \$1,193.19 due by close of business Thursday, April 15, 2004
15 \$1,000.00 due by close of business Monday, May 17, 2004
16 \$1,000.00 due by close of business Tuesday, June 15, 2004

17 **J. Compliance with the Law.** It is AGREED that Respondents shall comply with the Consumer Loan Act
18 and the rules adopted thereunder, particularly, the provisions relating to maintenance of records. It is further AGREED
19 that Respondents have provided the Department with a fully completed "Consumer Loan Office Closure Form" which,
20 among other things, indicates the Respondents' consumer loan business was closed effective April 1, 2002 and the
21 current location of its records as:

22 26700 SE Samuels Rd
23 Eagle Creek, Oregon, 97022

24 **K. Non-Compliance with Order.** It is AGREED that Respondents understand that failure to abide by
25 the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of

1 such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in pursuing
2 such action, including but not limited to, attorney fees.

3 **L. Authority to Execute Order.** It is AGREED that the undersigned have represented and warranted that
4 they have the full power and right to execute this Consent Order on behalf of the parties represented.

5 **M. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered into this
6 Consent Order, which is effective when signed by the Director's designee.

7 **N. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read this Consent
8 Order in its entirety and fully understand and agree to all of the same.

9 **RESPONDENTS:**

10 **Valentine Lender Services, Inc.**

11 By:

12 /s/
13 Michael Silbernagel
14 President and Owner

3/29/04
Date

15 /s/
16 Michael Silbernagel, Individually

3/29/04
Date

17 /s/
18 Chris Ambrose
19 Attorney At Law
20 Ambrose Law Group
21 Attorney for Respondents

3/29/04
Date

22
23 THIS ORDER ENTERED THIS 2nd DAY OF April, 2004.

24 /s/
25 Chuck Cross, Acting Division Director
Division of Consumer Services
Department of Financial Institutions

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

VALENTINE LENDER SERVICES, INC., and
MICHAEL SILBERNAGEL,

Respondents.

NO. C-03-135-03-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO REVOKE LICENSE,
COLLECT EXAMINATION AND
INVESTIGATION FEES,
DIRECT PRODUCTION OF DOCUMENTS,
COLLECT ANNUAL ASSESSMENTS,
IMPOSE LATE PENALTIES,
AND IMPOSE FINES

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (“Director”) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (“Act”). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of July 31, 2003 the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1. Respondents:

A. **Valentine Lender Services, Inc.** (“Respondent Valentine”) is licensed to conduct the business of a consumer lender at:

15630 SE 90th Ave
Clackamas OR 97015

1 B. **Michael Silbernagel** (“Respondent Silbernagel”) was identified as President of Respondent
2 Valentine in the application for Consumer Loan License for the Department of Financial Institutions of the State
3 of Washington (“Department”).

4 **2. License:** Respondent Valentine was licensed by the Department to conduct business as a consumer
5 lender on May 21, 2000, and has continued to be licensed to date.

6 **3. Location of Records:** During the license application process, Respondents requested Department
7 approval to maintain consumer loan records outside the state of Washington at:

8 15630 SE 90th Ave
9 Clackamas OR 97015

10 **4. Registered Agent:** During the license application process, Respondents identified:

11 Curt Kimsey (“Kimsey”)
12 404 North West 74th St
13 Vancouver WA 98665

14 as registered agent. Kimsey provided the Department with his consent to serve as registered agent for Respondent
15 Valentine. As of July 30, 2003, the phone number provided for Kimsey is disconnected, and Kimsey cannot be
16 located with reasonable diligence. The Washington Secretary of State’s Online Corporations Database lists
17 Respondent Valentine’s most recent registered agent as:

18 Michael W. Bortz (“Bortz”)
19 915 Broadway
20 Vancouver WA 98666

21 Based on information provided by his office, Bortz was the registered agent for Respondent Valentine from
22 March 2001 through July 23, 2003. To date, Respondents have failed to notify the Director of a change of the
23 registered agent and of a change of the registered agent’s address. In addition, Respondents have failed to
24 continuously maintain a registered agent.

1 **5. Annual Report:** To date, Respondents have failed to provide the Director with annual reports, in the
2 form prescribed by the Director, relating to the years ending December 31, 2000, 2001, and 2002, respectively.
3 The annual report for the year ending December 31, 2003 will be due no later than March 1, 2004.

4 **6. Annual Assessment:** To date, Respondents have failed to provide the Director with calculation or
5 payment of annual assessments, in the form prescribed by the Director, relating to the years ending December 31,
6 2000, 2001, and 2002, respectively. Calculation and payment of the annual assessment for the year ending
7 December 31, 2003 will be due no later than March 1, 2004.

8 **7. Issuance of Demand:** The Department directed Respondents, by letter dated January 14, 2002, to either
9 increase its surety bond coverage to meet statutory minimums for licensees making mortgage loans or provide a
10 written statement indicating residential mortgage lending was not being conducted. Respondents were given until
11 January 30, 2002 to comply with this order. The Department sent Respondents a second letter dated July 8, 2002.
12 This second letter allowed Respondents thirty (30) days to file the annual reports for the years ended December
13 31, 2000 and December 31, 2001, and either increase its surety bond coverage as previously ordered or provide a
14 written statement indicating residential mortgage lending was not being conducted. The letter was sent certified
15 mail and receipt was acknowledged by Respondent Silbernagel's signature dated July 9, 2002. To date,
16 Respondents have not complied with any of the demands contained in these two letters.

17 **8. Examination Fee:** In or around March 2002, the Department conducted an examination of the records
18 of Respondent Valentine. An invoice for the expenses related to this examination was mailed to Respondents on
19 or around November 21, 2002. To date, Respondents have not paid the Department \$1,029.88 for the cost of the
20 examination.

21 **9. Change in address:** On or about May 31, 2003, the Department mailed an invoice for the examination
22 fees to Respondent Valentine's last known address. On or about June 13, 2003, the invoice was returned to the
23 Department marked "NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD." To date,
24

1 Respondents have not requested Department approval for a change in place of business or location of records, nor
2 notified the Department of such change.

3 **10. Surety Bond:** The surety bond for Respondent Valentine was cancelled effective November 14, 2002.
4 To date, Respondents have failed to provide the required bond.

6 II. GROUNDS FOR ENTRY OF ORDER

7 **1. Director's Authority:** Pursuant to RCW 31.04.165(1), the Director has the power, and broad
8 administrative discretion, to administer and interpret the Act to facilitate the delivery of financial services to the
9 citizens of this state by loan companies subject to the Act.

10 **2. Requirement to File Annual Report:** Pursuant to RCW 31.04.155 and WAC 208-620-220(1), each
11 licensee shall file a report with the Director on or before the first day of March of each year. The report shall
12 contain such relevant information as the Director may reasonably require concerning the business and operations
13 conducted during the preceding calendar year. The report must be made under oath and must be in the form
14 prescribed by the Director.

15 **3. Requirement to Calculate and Pay Annual Assessment:** Pursuant to RCW 31.04.085 and WAC 208-
16 620-190(3), each licensee shall pay an annual assessment to the Director on or before the first day of March of
17 each year. The assessment shall apply to the previous calendar year and the licensee shall be responsible for
18 payment of the assessment if the licensee had a license for any time during the preceding calendar year. The
19 amount of the annual assessment shall be calculated by the licensee in accordance with a worksheet provided by
20 the Director and shall be based on information contained in the annual report for the period of assessment.

21 **4. Requirement to Pay Examination and Investigation Fees:** Pursuant to RCW 31.04.145(3), WAC
22 208-620-180(1), WAC 208-620-190(2) and WAC 208-620-191, every licensee examined or investigated by the
23 Director or the Director's designee shall pay for the cost of the examination or investigation, calculated at \$66.81

1 per hour for time incurred from July 1, 2001 through June 30 2002, and \$69.01 per hour for time incurred after
2 June 30, 2002.

3 **5. Requirement to Notify Director of Change in Address:** Pursuant to RCW 31.04.075 and WAC 208-
4 620-200, a licensee shall notify the Director in writing and obtain approval from the Director prior to changing its
5 place of business from the street address designated in the license.

6 **6. Requirement to Maintain Registered Agent:** Pursuant to WAC 208-620-060 and WAC 208-620-070,
7 an out-of-state licensee must continuously maintain a registered agent within the State of Washington. An out-of-
8 state licensee must notify the Director of a change in its registered agent or it's registered agent's address on the
9 records of the Department.

10 **7. Requirement to Maintain Surety Bond:** Pursuant to RCW 31.04.045(3) and WAC 208-620-030(1),
11 each licensee shall file and maintain a surety bond with the Director.

12 **8. Requirement to Maintain Accounting Records:** Pursuant to RCW 31.04.155, each licensee shall
13 maintain accurate and current books and records which shall be readily available to the Director or Director's
14 designee until at least twenty-five months have elapsed following the effective period to which the books and
15 records relate.

16 **9. Authority to Revoke License:** Pursuant to RCW 31.04.093(3)(a) and (b), the Director may revoke a
17 license if a licensee fails to pay any fee due to the State of Washington, or fails to maintain in effect the bond
18 required by the Act, or has failed to comply with any specific order or demand of the Director, or has violated any
19 provision of the Act or any rule adopted under the Act.

20 **10. Authority to Impose Late Penalties:** Pursuant to RCW 31.04.155 and WAC 208-620-220(2), a licensee
21 that fails to submit the required annual report by the March 1 due date is subject to a penalty of fifty dollars for
22 each day of delay.

23 **11. Authority to Impose Fine:** Pursuant to RCW 31.04.093(4)(a), the Director may impose fines of up to one
24 hundred dollars per day upon the licensee for any violation of the Act.

1 **12. Authority to Issue Orders:** Pursuant to RCW 31.04.093(5)(b), the Director may issue an order
2 directing a licensee to take such affirmative action as is necessary to comply with the Act.

3 **III. NOTICE OF INTENT TO ENTER ORDER**

4 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in the
5 above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW
6 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the Director's intention to ORDER that:

- 7 1. Respondent Valentine's license to conduct business in the State of Washington as a consumer loan
8 licensee be revoked; and
- 9 2. Respondents jointly and severally pay an examination fee in the amount of \$1,029.88 calculated at \$66.81
10 per hour for each staff hour devoted to the examination (14.5 hours) plus interest calculated at 12.00% per
11 annum from the date payment was due (December 20, 2002) through July 31, 2003; and
- 12 3. Respondents jointly and severally pay an investigation fee in the amount of \$1,725.25 calculated at \$69.01
13 per hour for each staff hour devoted to the investigation (25 hours); and
- 14 4. Respondents provide to the Director completed Consolidated Annual Reports and Annual Assessment
15 Worksheets (blank forms and instructions for 2000, 2001 and 2002 attached hereto), including all required
16 supporting documentation, for each of the years ending December 31, 2000, 2001 and 2002, respectively.
17 Each form must be made under oath.
- 18 5. Respondents jointly and severally pay the annual assessments due for the years ending December 31, 2000,
19 2001 and 2002, respectively, as calculated in accordance with the instructions for the Annual Assessment
20 Worksheets for the same years.
- 21 6. On or before March 1, 2004, Respondents provide to the Director a completed Consolidated Annual
22 Report and a completed Annual Assessment Worksheet relating to Respondent Valentine's consumer
23 lending activity for the year ended December 31, 2003, and pay the related annual assessment, if any.
- 24 7. Respondents jointly and severally pay a late penalty of \$4,500.00 for failure to file annual reports by
25 March 1 of 2001, 2002 and 2003 relating to Respondent Valentine's consumer lending activity during the
years 2000, 2001 and 2002, respectively, calculated at \$50 per day for each report, for thirty (30) days.
8. Respondents jointly and severally pay a fine of \$20,250.00 for failure to file annual reports relating to
Respondent Valentine's consumer lending activity for the years 2000, 2001, and 2002, failure to pay
annual assessments relating to Respondent Valentine's consumer lending activity for the years 2000, 2001
and 2002, failure to pay examination fee, failure to notify Director of change in business address, and
failure to maintain a surety bond with the Director, calculated at \$75 per statutory violation per day, for 30
days; and

1 9. Respondents maintain records in compliance with the Act and provide the Director with the location of the
2 books, records and other information relating to Respondent Valentine's consumer lending business, and
3 the name, address and telephone number of the individual responsible for maintenance of such records in
4 compliance with the Act.

5 **IV. AUTHORITY AND PROCEDURE**

6 This Statement of Charges and Notice of Intent to Revoke License, Collect Examination and Investigation Fees,
7 Direct Production of Documents, Collect Annual Assessments, Impose Late Penalties, and Impose Fines is
8 entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205,
9 and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may
10 make a written request for a hearing as set forth in the Notice of Opportunity to Defend and Opportunity for
11 Hearing accompanying this Statement of Charges and Notice of Intent to Revoke License, Collect Examination
12 and Investigation Fees, Direct Production of Documents, Collect Annual Assessments, Impose Late Penalties,
13 and Impose Fines.

14 Dated this 15 day of August, 2003.

15 /S/

16 CHUCK CROSS

17 Acting Director and Enforcement Chief

18 Division of Consumer Services

19 Department of Financial Institutions

20 Presented by:

21 /S/

22 Mark T. Olson

23 Legal Extern

1 **RCW 31.04.045 License -- Application -- Fee -- Surety bond.**

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

18 [2001 c 81 § 4; 1994 c 92 § 162; 1991 c 208 § 5.]

19 **RCW 31.04.075 Licensee -- Place of business.**

20 The licensee may not maintain more than one place of business under the same license, but the director may issue more
21 than one license to the same licensee upon application by the licensee in a form and manner established by the director.

22 Whenever a licensee wishes to change the place of business to a street address other than that designated in the license,
23 the licensee shall give written notice to the director as required by rule, pay the license fee, and obtain the director's
24 approval.

25 [2001 c 81 § 6; 1994 c 92 § 164; 1991 c 208 § 8.]

RCW 31.04.085 Licensee -- Assessment -- Bond -- Time of payment.

A licensee shall, for each license held by any person, on or before the first day of each March, pay to the director an
annual assessment as determined by rule by the director. The licensee shall be responsible for payment of the 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.

[2001 c 81 § 7; 1994 c 92 § 165; 1991 c 208 § 9.]

RCW 31.04.093 Licensing -- Applications -- Regulation of licensees--Director's duties -- Fines -- Orders.

(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;

1 (c) Revocation or suspension of a license to conduct lending, or to provide settlement services associated with lending, by
2 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

3 (d) Filing an incomplete application when that incomplete application has been filed with the department for sixty or
4 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.

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

6 (a) The licensee has failed to pay any fee due the state of Washington, has failed to maintain in effect the bond or
7 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;

8 (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

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

12 (4) The director may impose fines of up to one hundred dollars per day upon the licensee, its employee or loan originator,
or 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 director under this chapter.

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

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

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

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

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

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

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

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

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

2 (e) A violation of RCW [31.04.027](#).

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

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

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

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

[2001 c 81 § 8; 1994 c 92 § 166; 1991 c 208 § 10.]

13 **RCW 31.04.145 Investigations and examinations -- Director's duties -- Production of information -- Costs.**

14 (1) For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter,
15 the director may at any time, either personally or by designees, investigate or examine the loans and business and,
16 wherever located, the books, accounts, records, papers, documents, files, and other information used in the business of
every licensee and of every person who is engaged in the business making or assisting in the making of loans at interest
17 rates authorized by this chapter, whether the person acts or claims to act as principal or agent, or under or without the
authority of this chapter. For these purposes, the director or designated representatives shall have free access to the offices
and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such
18 persons. The director or persons designated by the director may require the attendance of and examine under oath all
persons whose testimony may be required about the loans or the business or the subject matter of any investigation,
19 examination, or hearing and may require such person to produce books, accounts, papers, records, files, and any other
information the director or designated persons deem relevant to the inquiry. The director may require the production of
20 original books, accounts, papers, records, files, and other information; may require that such original books, accounts,
papers, records, files, and other information be copied; or may make copies himself or herself or by designee of such
21 original books, accounts, papers, records, files, or other information. If a licensee or person does not attend and testify, or
does not produce the requested books, accounts, papers, records, files, or other information, then the director or
designated persons may issue a subpoena or subpoena duces tecum requiring attendance or compelling production of the
books, accounts, papers, records, files, or other information.

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

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

1 [2001 c 81 § 11; 1995 c 9 § 2; 1994 c 92 § 169; 1991 c 208 § 15.]

2 **RCW 31.04.155 Licensee -- Recordkeeping -- Director's access -- Report requirement -- Failure to report.**

3 The licensee shall keep and use in the business such books, accounts, records, papers, documents, files, and other
4 information as will enable the director to determine whether the licensee is complying with this chapter and with the
5 rules adopted by the director under this chapter. The director shall have free access to such books, accounts, records,
6 papers, documents, files, and other information wherever located. Every licensee shall preserve the books, accounts,
7 records, papers, documents, files, and other information relevant to a loan for at least twenty-five months after making
8 the final entry on any loan. No licensee or person subject to examination or investigation under this chapter shall
9 withhold, abstract, remove, mutilate, destroy, or secrete any books, accounts, records, papers, documents, files, or other
10 information.

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

18 [2001 c 81 § 12; 1994 c 92 § 170; 1991 c 208 § 16.]

19 **RCW 31.04.165 Director -- Broad administrative discretion -- Rule making--Actions in superior court.**

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

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

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

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

[2001 c 81 § 13; 1994 c 92 § 171; 1991 c 208 § 17.]

RCW 31.04.202 Application of administrative procedure act.

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

[2001 c 81 § 15.]

RCW 31.04.205 Enforcement of chapter -- Director's discretion -- Hearing -- Sanctions.

The director or designated persons may, at his or her discretion, take such action as provided for in this chapter to enforce
this chapter. If the person subject to such action does not appear in person or by counsel at the time and place designated

1 for any administrative hearing that may be held on the action, then the person shall be deemed to consent to the action. If
2 the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any
grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

[2001 c 81 § 16.]

3 **WAC 208-620-030 Surety bond** (1) Bond required. Each licensee shall file and maintain a surety bond, approved by
4 the director, and executed by the applicant as obligor and by a surety company authorized to do a surety business in this
state as surety. The surety company may not be a wholly owned subsidiary or an affiliate of the licensee.

...

5 [Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105,[31.04].145 , [31.04].155 and [31.04].165. 96-04-013, §
208-620-030, filed 1/26/96, effective 2/26/96.]

6 **WAC 208-620-060 Registered agent and agent's office for out-of-state licensees** (1) Agent required. Any out-of-
7 state licensee must continuously maintain a registered agent in this state. Service of process, notice, or demand in any
judicial or administrative noncriminal suit, action, or proceeding against the licensee which arises under the act or any
8 order under the act on the agent shall have the same force and validity as if served personally on the licensee.

(2) Agent's address. Each out-of-state licensee must file with the director the agent's name, office mailing address, and
9 consent to appointment. The office mailing address must accurately identify the actual location of the agent's office. It
may not be identified by a post office box number or a street address and box number of a private mail box company
10 which creates the illusion of a physical office location where none in fact exists, or other nongeographic address.

(3) Agent's consent required. An out-of-state licensee may not appoint a registered agent without the agent's prior written
11 consent to the appointment. If any person has been appointed agent without consent, that person may file a notarized
statement attesting to that fact, and the agent's name will be promptly removed from the records of the department.

12 [Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145, [31.04].155 and [31.04].165. 96-04-013, §
208-620-060, filed 1/26/96, effective 2/26/96.]

13 **WAC 208-620-070 Change of registered agent or agent's office for out-of-state licensees** An out-of-state licensee
14 may change its registered agent or its agent's office mailing address on the records of the department by filing with the
director a statement of change that sets forth:

15 (1) The licensee's name;

16 (2) If the current registered agent's office location is to be changed, the address of the registered agent's new office in
accordance with WAC 208-620-060; and

17 (3) If the registered agent is to be changed, the new registered agent's name, office mailing address in accordance with
WAC 208-620-060 and written consent to the appointment.

18 [Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145, [31.04].155 and [31.04].165. 96-04-013, §
208-620-070, filed 1/26/96, effective 2/26/96.]

19 **WAC 208-620-180 Examinations** (1) For the purpose of discovering violations of the act or this chapter or securing
20 information lawfully required, the director or designee may investigate the loans and business of every licensee and of
every person engaged in the business described in RCW 31.04.035. The director or designee may examine, wherever
21 located, the records used in the business of every licensee and of every person who is engaged in the business described in
RCW 31.04.035, whether the person acts or claims to act as principal or agent, or under or without the authority of this
22 chapter. For that purpose the director or designee shall have access, at reasonable times during business hours, to the
offices and places of business, records, safes, and vaults of all such persons. A licensee so examined shall pay to the
23 director the cost of examining and supervising each licensed place of business at the rate specified in WAC 208-620-
190(2).

...

1 [Statutory Authority: RCW 43.320.040 and 31.04.165. 99-22-047, § 208-620-180, filed 10/29/99, effective 11/29/99.
2 Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145,[31.04].155 and [31.04].165. 96-04-013, §
3 208-620-180, filed 1/26/96, effective 2/26/96.]

4 **WAC 208-620-190 Schedule of fees** The director shall collect fees for services as specified below:

5 . . .
6 (2) Examinations. A charge of \$66.81 per hour for regular and special examinations of the licensee's records. The
7 director will submit a statement for the charges following the completion of any applicable examination. The charges
8 must be paid within thirty days after the statement is submitted to the licensee.

9 (3) Annual assessment fee.

10 (a) An annual assessment fee based on adjusted total loan value as defined in (b) of this subsection. The amount of the
11 annual assessment fee is 0.000174529 multiplied by the adjusted total loan value as calculated from the consolidated
12 annual report for the previous calendar year.

13 (b) The "adjusted total loan value" is the sum of:

14 (i) The total unpaid balance of loans originated subject to the act that were retained or purchased by the licensee; and

15 (ii) The total unpaid balance of loans originated subject to the act that were sold by the licensee with servicing retained
16 (if any); and

17 (iii) The total amount of loans originated subject to the act that were sold by the licensee during the previous calendar
18 year with servicing released (if any).

19 [Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-620-
20 190, filed 5/29/01, effective 7/1/01. Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145,
21 [31.04].155 and[31.04].165 . 96-04-013, recodified as § 208-620-190, filed 1/26/96, effective 2/26/96. Statutory
22 Authority: 1991 c 208 § 17. 91-22-035, § 50-20-190, filed 10/30/91, effective 1/1/92.]

23 **WAC 208-620-191 Fee increase** The division intends to increase its fee and assessment rates each year for several
24 bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an
25 automatic annual increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

(1) On July 1, 2002, the fee and assessment rates under WAC 208-620-190, as increased in the prior fiscal year, will
increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section,
"fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed
the applicable fiscal growth factor.

(3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the
immediately following July 1.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-620-
191, filed 5/29/01, effective 7/1/01.]

WAC 208-620-200 Change of place of business A licensee may do business under the act only from the location
named on the license. This is not intended to prohibit loans by mail or the closing of real estate-secured loans in an
escrow company, a title insurance company or an attorney's office.

A licensee shall not change its place of business to another location until the director has approved the change.

[Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145, [31.04].155 and [31.04].165. 96-04-013, §
208-620-200, filed 1/26/96, effective 2/26/96.]

1 **WAC 208-620-220 Annual report and annual fee -- Due date -- Late penalties** (1) Due date. The director will mail a
2 notice to each licensee showing the way to calculate the annual fee due along with a worksheet for such purposes and the
3 consolidated annual report form. The licensee will calculate the annual fee on the worksheet. The licensee must submit its
4 completed consolidated annual report, worksheet and annual fee to the office of the director by March 1 of each year.

(2) Late penalties. A licensee that fails to submit the required annual report by the March 1 due date is subject to a
penalty of fifty dollars for each day of delay.

[Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145, [31.04].155 and [31.04].165. 96-04-013, §
208-620-220, filed 1/26/96, effective 2/26/96.]

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