STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION

IN THE MATTER OF DETERMINING Whether there has been a violation of the Check Cashers and Sellers Act of Washington by:	NO. C-04-086-04-SC01
PFH, Inc., dba FAST CASH LOANS and LOAN EX, and J. BLAKE GOLDBERG, President and Chief Executive Officer, and STEVE H. SELVAR, Collections Manager, and MICHAEL D. FRYE, Collections Employee, and MARGARET COOK, Collections Employee, Respondents.	STATEMENT OF CHARGES and NOTICE OF INTENTION TO ENTER AN ORDER TO REVOKE LICENSE, IMPOSE FINE, ORDER RESTITUTION, REMOVE AND BAN FROM INDUSTRY, AND COLLECT EXAMINATION FEE

INTRODUCTION

Pursuant to RCW 31.45.110 and RCW 31.45.200, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.45 RCW, the Check Cashers and Sellers Act (Act). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 31.45.100, and based upon the facts available as of September 24, 2004 the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents:

A. **PFH, Inc. dba Fast Cash Loans and Loan Ex (Respondent PFH)** was licensed by the Department of Financial Institutions of the State of Washington (Department) as a check casher, with a small loan endorsement, on August 23, 1996, and has continued to be licensed to date. Respondent PFH also currently holds nineteen (19) branch check casher licenses and nineteen (19) branch small loan endorsements.

B. **J. Blake Goldberg (Respondent Goldberg)** is President and Chief Executive Officer of Respondent PFH.

C. **Steve H. Selvar (Respondent Selvar)** is employed by Respondent PFH as manager of the collections department.

D. **Michael D. Frye (Respondent Frye)** is employed by Respondent PFH as a collector.

E. **Margaret Cook (Respondent Cook)** is employed by Respondent PFH as a collector.

1.2 Consumer Complaints: To date, the Department and the Office of the Attorney General of Washington (Attorney General) have collectively received over fifty (50) consumer complaints regarding Respondent PFH's business operations, including its activities related to the collection of delinquent small loans, during the period beginning in or around July of 2000 and continuing through July of 2004.

1.3 Using Improper Methods of Collecting Delinquent Small Loans:

A. At least thirty-five (35) of the consumer complaints referenced in paragraph 1.2 allege that, during contacts with borrowers related to their delinquent small loans, Respondent PFH's employees told borrowers that they were being investigated for criminal felony check fraud and threatened borrowers with criminal prosecution for felony check fraud, and while attempting to contact borrowers related to their delinquent small loans, Respondent PFH's employees told non-borrowers that borrowers were being investigated for criminal felony check fraud. Of these thirty-five (35) consumer complaints, at least sixteen (16) allege that such activity occurred on or after July 27, 2003. Of these sixteen (16) consumer complaints, at least ten (10) allege that such contacts were made by a person identifying himself as Dave Holt, and at least two (2) allege that such contacts were made by a person identifying herself as Olivia Cruz. During the period from July 27, 2003 through July 2004, Respondents Frye and Cook regularly used the aliases Dave Holt and Olivia Cruz, respectively, while making collection telephone calls to borrowers and non-borrowers for Respondent PFH.

B. From November of 2001, when Respondent Cook was hired by Respondent PFH, until the end of 2003, she was employed as a "soft" collector, with responsibility for accounts delinquent thirty days or less at particular branches. In January of 2004, she began working with Respondent Frye as a "hard" collector, collecting on accounts delinquent for over thirty days. From January of 2004 until mid-May of 2004, according to Respondent Cook, her standard introduction to borrowers was as follows:

> "My name is Olivia Cruz [an alias used by Respondent Cook], I'm a fraud investigator, I'm conducting an investigation into the felony check fraud that you were involved in when you wrote your check to Fast Cash Loans. Check fraud is a felony under RCW 9A.56.060. Do you want to go ahead and resolve that or do you want me to take further action?"

For the period from January of 2004 until mid-May of 2004, Respondent Cook, while attempting to contact delinquent borrowers, would regularly tell non-borrowers that she was a fraud investigator investigating the felony check fraud that the delinquent borrower had committed and would regularly ask borrowers and non-borrowers if the delinquent borrower had ever been arrested.

C. From November of 2001, when Respondent Frye was hired by Respondent PFH, until the end of July of 2004, he was a "hard" collector, meaning he had collection responsibility over accounts that the "soft" collectors were unable to collect, usually borrowers delinquent over forty-five days. From November of 2001 until July of 2003, according to Respondent Frye, his standard introduction to borrowers was as follows:

> "My name is [generally an alias used by Respondent Frye], I'm a fraud investigator hired by Fast Cash Loans conducting a felony fraud investigation on you under the RCW 9A.56.060. If you would like to resolve this without me having to turn this over to [law enforcement agency in County where loan was originated, such as "King County Sheriff's Office"], you have until [specific date] to pay it. Do you want to resolve it?"

After July of 2003, Respondent Frye used the same introduction except that he would tell borrowers they would be turned over to a County, rather than a specific law enforcement agency within that County (i.e. "King County" rather than "King County Sheriff's Office"). Respondent Frye claimed he always indicated that he had been hired by Fast Cash Loans. However, in or around September 2003 Respondent Frye left the following voicemail for a customer:

"You need to give Dave Holt [an alias used by Respondent Frye] a call, you are currently under investigation by my office for the felony fraud that you committed against Fast Cash Loans back on July 27. It is under the Revised Code of Washington 9A.56.060. If this is something that you would like to go ahead and resolve without me having to proceed against you under this statute, I can be reached at 253-954-1207."

For the period from November of 2001 through July of 2004, Respondent Frye, while attempting to contact delinquent borrowers, would regularly tell non-borrowers that he was a fraud investigator investigating the felony check fraud that the delinquent borrower had committed and would regularly ask borrowers and non-borrowers if the delinquent borrower had ever been arrested.

1.4 Using a Fictitious Name Indicating a Third Person is Attempting to Collect Loans: At least thirty-two (32) of the consumer complaints referenced in paragraph 1.2 allege that, during contacts with borrowers related to their delinquent small loans and while attempting to contact borrowers related to their delinquent small loans, Respondent PFH's collection employees represented that they were fraud investigators or investigators, or that they were employed by Western Washington Fraud Unit or the Fraud Unit. Of these thirty-two (32) consumer complaints, at least seventeen (17) allege that such activity occurred on or after July 27, 2003. Of these seventeen (17) consumer complaints, at least twelve (12) allege that such contacts were made by a person identifying himself as Dave Holt, and at least two (2) allege that such contacts were made by a person identifying herself as Olivia Cruz. During the period from July 27, 2003 through July 2004, Respondents Frye and Cook regularly used the aliases Dave Holt and Olivia Cruz, respectively, while making collection telephone calls to borrowers and non-borrowers for Respondent PFH. Respondents Frye and Cook regularly identified themselves as fraud investigators between November of 2001 and May of 2004, and for an indeterminate period of time, the main telephone number (253-927-4200) associated with Respondents Frye and Cook, while they were employed as "hard" collectors as discussed in paragraphs 1.3B and 1.3C, had an outgoing voice mail message for callers stating they had reached Western Washington Fraud Unit. As late as

June 8, 2004, when calling the same telephone number (253-927-4200), the outgoing voice mail message referred to Western Washington Fraud Unit.

1.5 Using Abusive Debt Collection Practices: All of the consumer complaints referenced in paragraph 1.4 allege abusive debt collection practices by employees in Respondent PFH's collection department, including:

(a) Contacting non-borrowers in an attempt to locate borrowers, and telling such non-borrowers that borrowers either owed Respondent PFH for a delinquent small loan or were under investigation for felony check fraud. (In this and following descriptions of alleged collection activities, non-borrowers include adult and juvenile members of the borrowers' households, family members, friends, coworkers, supervisors, Human Resource employees at borrowers' places of employment, landlords, neighbors, grocery store employees, and non-borrowers listed as references on small loan applications);

(b) Contacting non-borrowers multiple times in an attempt to locate borrowers, even after being told by such non-borrowers multiple times that they did not know the location of the borrowers;

(c) Contacting borrowers early in the morning, late in the evening, or at inconvenient locations such as while shopping at local supermarkets;

(d) Contacting borrowers at their place of employment, even after being asked to stop by borrowers, supervisors or employers;

(e) Contacting non-borrowers and telling such non-borrowers that borrowers either owed Respondent PFH for a delinquent small loan or were under investigation for felony check fraud, even after the location of the borrowers was known;

(f) Using profanity while communicating with borrowers;

(g) Contacting or attempting to contact borrowers and non-borrowers more than five times in a given day, or more than twenty times in a given week;

(h) Telling borrowers that they were "a nobody", because if they were somebody they wouldn't need to use a payday lender;

(i) Telling borrowers that they would lose custody of their children, and telling children of borrowers that their parents would be going to jail;

(j) Representing themselves as fraud investigators or investigator, as discussed in paragraph 1.4; and

(k) Representing or implying that non-payment of the delinquent small loan would lead to the borrowers' arrest or imprisonment, as discussed in paragraph 1.3.

1.6 Charging Excess Interest or Fees on Small Loans: During an examination of two hundred eighty-eight (288) loan files conducted by Department personnel in August of 2004, twenty (20) loans were identified as having been charged excess interest or fees. The interest or fee overpayments on these loans totaled one hundred dollars ($100.00). The overcharges occurred when individual borrowers took out more than one loan from Respondent PFH, and the aggregated principal of all loans made to such individual borrowers exceeded five hundred dollars ($500.00) at any one time. In such instances, Respondent PFH charged interest or fees equal to fifteen percent (15%) of the entire principal balance. As stated in Section II below, RCW 31.45.073 limits interest or fees on the portion of principal balances that exceed five hundred dollars ($500.00) to ten percent (10%) of such balances.

1.7 Charging Excess Fees on Small Loan Payment Plans: At Respondent PFH, all borrower requests for small loan payment plans are referred to the collection department. During the period from September 2003 through at least July 2004, the collection department would not enter into a small loan payment plan until the requesting borrower's check was returned by the bank it was drawn on as insufficient funds (NSF). This procedure was applied to all borrower requests for small loan payment plans, including requests by borrowers who qualified for mandatory conversion to a small loan payment plan under the Act (request made after four successive loans and prior to default upon the last loan). Once a small loan payment plan was set up, Respondent PFH charged borrowers a one-time fee for the payment plan equal to the fee or interest on the

outstanding principal of the loan as allowed by the Act. Beginning in or around October of 2003 and ending in or around May of 2004, Respondent PFH also charged such borrowers an NSF fee of $25. After May of 2004, Respondent PFH no longer charged the NSF fee, but borrowers must still bear any fees charged by the borrower's bank.

1.8 Failure to Provide Small Loan Payment Plan: On at least one occasion, Respondent PFH failed to provide a small loan payment plan for a borrower who qualified for mandatory conversion under the Act. In August of 2004, a branch manager of Respondent PFH stated to Department personnel that a borrower had recently attempted to set up a small loan payment plan, and had left seventy five dollars ($75.00) in cash with the branch manager as payment for the small loan payment plan fee. A review of the borrower's loan history showed she was in her fourth successive loan, and had not yet defaulted on that loan. The branch manager stated that the collections department told her that the borrower could not be set up on a payment plan because the borrower was unemployed and was not married.

1.9 Disclosing Understated Annual Percentage Rate (APR) to Borrowers: During an examination of forty (40) loan files from Respondent PFH's Tumwater and Centralia branch offices, conducted by Department personnel in August 2004, five (5) loans were identified as having handwritten disclosures with understated APR's. In two of these loans, the understatement required refunds of $15.94 and $3.20, totaling $19.14.

1.10 Failure to Notify Department of Location Closure: On or around July 22, 1999, the Department issued a license and small loan endorsement to Respondent PFH for a location at 13303 Pacific Ave S, Tacoma, Washington. On or around July 15, 2001, Respondent PFH closed this location. On or around December 13, 2002, the Department issued a license and small loan endorsement to Respondent PFH for a location at 706 Yelm Ave E, Yelm, Washington. This location was never opened. To date, the Department has not received any written notification of Respondent PFH's closure of these two locations.

1.11 Failure to Notify Department of Significant Developments: Respondent PFH's license application, filed with the Department in June of 1996, lists Respondent Goldberg as President and fifty percent owner of Respondent PFH, and David M. Otto as Vice President and fifty percent owner of Respondent PFH. In an

interview conducted by Department personnel on September 1, 2004, Respondent Goldberg stated that the ownership of Respondent PFH has changed between initial licensure and the present, that he currently owns approximately one percent of Respondent PFH, and that no individual shareholder currently owns more than fourteen percent of Respondent PFH. Respondent Goldberg further stated that between 1998 and 2000, Mike Humphries was the Chief Executive Officer of Respondent PFH. To date, the Department has not received any written notification of a change in control of Respondent PFH since initial licensure in 1996.

1.12 On-Going Examination: The Department's examination into the alleged violations of the Act by Respondents continues to date.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Collection of Delinquent Small Loans:

A. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.082 for threatening criminal prosecution as a method of collecting a delinquent small loan.

B. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.082 and WAC 208-630-080 for failing to comply with all applicable state and federal laws when collecting a delinquent small loan, in particular, 15 USC 1692, the Fair Debt Collection Practices Act and RCW 19.16, the Collection Agency Act. Pursuant to 15 USC 1692a(6), the definition of a debt collector includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. Pursuant to RCW 19.16.100(2)(c), the definition of a collection agency includes any person who in attempting to collect or in collecting his or her own claim uses a fictitious name or any name other than his or her own which would indicate to the debtor that a third person is collecting or attempting to collect such claim. The Fair Debt Collection Practices Act and the Collection Agency Act prohibit the use of abusive debt collection practices by debt collectors, including the following activities in connection with the collection of any debt:

- Stating that a consumer owes any debt while communicating with any person other than the consumer for the purpose of acquiring location information about the consumer.

- Communicating with any person other than the consumer for the purpose of acquiring location information about the consumer more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information.
- Communicating with a consumer at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer.
- Communicating with a consumer at a consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.
- Communicating with any person other than the consumer, other than to acquire location information about the consumer.
- Engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person, including the use of obscene or profane language, or causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
- Using any false, deceptive, or misleading representation, including the false representation that the debt collector is affiliated with any State, the representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person unless such action is lawful and the debt collector or creditor intends to take such action, the threat to take any action that cannot legally be taken or that is not intended to be taken, the false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer, the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer, or the

use of any business, company, or organization name other than the true name of the debt collector's business, company, or organization.

The Collection Agency Act requires collection agencies to be licensed by the State of Washington.

C. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.110(1)(k) and (l) for committing acts of fraudulent or dishonest dealing and engaging in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury and loss to the public.

2.2 Maximum Interest or Fees on a Small Loan: Based on the Factual Allegations set forth in Section I above, Respondent PFH is in apparent violation of RCW 31.45.073(3) for charging interest or fees exceeding, in the aggregate, fifteen percent of the first five hundred dollars of aggregated principal of all loans to a single borrower at any one time, and ten percent of that portion of the aggregated principal balances of all loans to a single borrower which exceed five hundred dollars at any one time.

2.3 Small Loan Payment Plans: Based on the Factual Allegations set forth in Section I above, Respondent PFH is in apparent violation of RCW 31.45.084(1) for failing to provide a small loan payment plan to a borrower who had at least four successive loans and who requested a small loan payment plan prior to default on the last loan, and for charging fees on small loan payment plans in excess of the fee or interest on the outstanding principal of the loan as allowed under RCW 31.45.073(3).

2.4 Requirement to Disclose APR: Based on the Factual Allegations set forth in Section I above, Respondent PFH is in apparent violation of RCW 31.45.088(3) and WAC 208-630-080(3) for disclosing understated APR's to the borrowers.

2.5 Requirement to Notify Department of Location Closure: Based on the Factual Allegations set forth in Section I above, Respondent PFH is in apparent violation of RCW 31.45.050(3) for failing to notify the Director in writing no less than thirty days before the licensee's proposed establishing, closing, or moving of a place of business.

2.6 Requirement to Notify Department of Significant Developments: Based on the Factual Allegations set forth in Section I above, Respondent PFH is in apparent violation of WAC 208-630-060(5) for failing to

notify the Director in writing within thirty days of a change of control of the licensee. In the case of a corporation, control is defined in WAC 208-630-060(5) as a change of ownership by a person or group acting in concert to acquire ten percent of the stock, or the ability of a person or group acting in concert to elect a majority of the board directors or otherwise effect a change in policy of the corporation.

2.7 Authority to Issue Statement of Charges: Pursuant to RCW 31.45.110(1)(b), (k), and (l), the Director may issue and serve upon a licensee a statement of charges if, in the opinion of the director, any licensee is violating or has violated the Act or any rules adopted thereunder, commits any act of fraudulent or dishonest dealing, or commits any act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.

2.8 Authority to Impose Sanctions: Pursuant to RCW 31.45.110(2), the Director may impose the following sanctions against any licensee, or any director, officer, controlling person, or employee of a licensee: revoke a license, impose a fine, not to exceed one hundred dollars per day for each day's violation of the Act, order restitution to borrowers damaged by the licensee's violation of this chapter, and remove from office or ban from participation in the conduct of the affairs of any licensee any director, officer, controlling person, or employee of a licensee.

2.9 Authority to Charge Examination Fee: Pursuant to RCW 31.45.050(1), RCW 31.45.100, WAC 208-630-015, WAC 208-630-020, WAC 208-630-023 and WAC 208-630-02303, upon completion of any examination of the books and records of a licensee, the Director shall collect from the licensee the actual cost of the examination. The examination charge will be calculated at the rate of sixty-nine dollars and one cent ($69.01) per hour that each staff person devoted to the examination.

III. NOTICE OF INTENTION TO ENTER ORDER

Respondents' violations of the provisions of chapter 31.45 RCW and chapter 208-630 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 31.45.110 and RCW 31.45.200. Therefore, it is the Director's intention to ORDER that:

3.1 Respondent PFH, Inc.'s license to conduct the business of a Check Casher with a Small Loan Endorsement be revoked; and

3.2 Respondent PFH, Inc. and Respondent J. Blake Goldberg jointly and severally pay a fine totaling $67,500 for:

a. Seven (7) violations of RCW 31.45.082 and RCW 31.45.110(1)(b), (k) and (l) pertaining to collection of delinquent small loans, calculated at $100.00 per day for 10 days ($7,000);
b. Twenty (20) violations of RCW 31.45.073(3), calculated at $100.00 per day for 30 days ($60,000); and
c. Five (5) violations of RCW 31.45.088, calculated at $100 per day for 1 day ($500).

3.3 Respondent PFH, Inc., Respondent J. Blake Goldberg, and Respondent Michael D. Frye jointly and severally pay a fine of $22,000 for twenty-two (22) violations of RCW 31.45.082 and RCW 31.45.110(1)(b), (k) and (l) pertaining to collection of delinquent small loans, calculated at $100.00 per day for 10 days; and

3.4 Respondent PFH, Inc., Respondent J. Blake Goldberg, and Respondent Margaret Cook pay a fine of $4,000 for four (4) violations of RCW 31.45.082 and RCW 31.45.110(1)(b), (k) and (l) pertaining to collection of delinquent small loans, calculated at $100.00 per day for 10 days; and

3.5 Respondent PFH, Inc. pay restitution to all affected borrowers for any interest or fees charged on small loans in excess of statutory limits, including $100 in restitution to the borrowers referenced in paragraph 1.6; and

3.6 Respondent PFH, Inc. pay restitution to all affected borrowers for any fees charged related to small loan payment plans in excess of statutory limits; and

3.7 Respondent PFH, Inc. pay restitution to all affected borrowers for any refunds due resulting from disclosure of understated APR's, including $19.14 in restitution to the borrowers referenced in paragraph 1.9; and

3.8 Respondent J. Blake Goldberg be removed as President and Chief Executive Officer of Respondent PFH, Inc. and banned from participation in the conduct of the affairs of any check casher or seller subject to licensure by the Director, in any manner, for a period of five (5) years; and

3.9 Respondent Steve H. Selvar be banned from participation in the conduct of the affairs of any check casher or seller subject to licensure by the Director, in any manner, for a period of five (5) years; and

3.10 Respondent Michael D. Frye be banned from participation in the conduct of the affairs of any check casher or seller subject to licensure by the Director, in any manner, for a period of five (5) years; and

3.11 Respondent Margaret Cook be banned from participation in the conduct of the affairs of any check casher or seller subject to licensure by the Director, in any manner, for a period of five (5) years; and

3.12 Respondent PFH, Inc. pay an examination fee in the amount of $21,255.08 calculated at $69.01 per hour for three hundred eight (308) staff hours devoted to the examination.

IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Order Restitution, Remove and Ban from Industry, and Collect Examination Fee is entered pursuant to the provisions of RCW 31.45.110 and RCW 31.45.200, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Order Restitution, Remove and Ban from Industry, and Collect Examination Fee.

Dated this 24th day of September, 2004.

CHUCK CROSS
Director and Enforcement Chief
Division of Consumer Services
Department of Financial Institutions

Presented by:

James R. Brusselback, Supervisor, for
Mark T. Olson
Financial Examiner

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RCW 31.45.050 Investigation or examination fee and annual assessment fee required -- Amounts determined by rule -- Failure to pay -- Notice requirements of licensee.

(1) Each applicant and licensee shall pay to the director an investigation or examination fee as established in rule and an annual assessment fee for the coming year in an amount determined by rule as necessary to cover the operation of the program. The annual assessment fee is due upon the annual assessment fee due date as established in rule. Nonpayment of the annual assessment fee may result in expiration of the license as provided in subsection (2) of this section. In establishing the fees, the director shall differentiate between check cashing and check selling and making small loans, and consider at least the volume of business, level of risk, and potential harm to the public related to each activity. The fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

...

(3) If a licensee intends to do business at a new location, to close an existing place of business, or to relocate an existing place of business, the licensee shall provide written notification of that intention to the director no less than thirty days before the proposed establishing, closing, or moving of a place of business.

[2003 c 86 § 5; 2001 c 177 § 12; 1996 c 13 § 2; 1995 c 18 § 6; 1994 c 92 § 278; 1991 c 355 § 5.]

RCW 31.45.073 Making small loans -- Endorsement required -- Termination date -- Maximum amount -- Interest -- Fees -- Postdated check or draft as security.

(1) No licensee may engage in the business of making small loans without first obtaining a small loan endorsement to its license from the director in accordance with this chapter. An endorsement will be required for each location where a licensee engages in the business of making small loans, but a small loan endorsement may authorize a licensee to make small loans at a location different than the licensed locations where it cashes or sells checks. A licensee may have more than one endorsement.

...

(3) A licensee that has obtained the required small loan endorsement may charge interest or fees for small loans not to exceed in the aggregate fifteen percent of the first five hundred dollars of principal. If the principal exceeds five hundred dollars, a licensee may charge interest or fees not to exceed in the aggregate ten percent of that portion of the principal in excess of five hundred dollars. If a licensee makes more than one loan to a single borrower, and the aggregated principal of all loans made to that borrower exceeds five hundred dollars at any one time, the licensee may charge interest or fees not to exceed in the aggregate ten percent on that portion of the aggregated principal of all loans at any one time that is in excess of five hundred dollars. The director may determine by rule which fees, if any, are not subject to the interest or fee limitations described in this section. It is a violation of this chapter for any licensee to knowingly loan to a single borrower at any one time, in a single loan or in the aggregate, more than the maximum principal amount described in this section.

...

[2003 c 86 § 8; 1995 c 18 § 2.]

RCW 31.45.082 Delinquent small loan -- Collection by licensee or third party.

A licensee shall comply with all applicable state and federal laws when collecting a delinquent small loan. A licensee may charge a one-time fee as determined in rule by the director to any borrower in default on any loan or loans where the borrower's check has been returned unpaid by the financial institution upon which it was drawn. A licensee may take civil action under Title 62A RCW to collect upon a check that has been dishonored. If the licensee takes civil action, a licensee may charge the borrower the cost of collection as allowed under RCW62A.3-515, but may not collect attorneys' fees or any other interest or damages as allowed under RCW 62A.3-515. A licensee may not threaten criminal prosecution as a method of collecting a delinquent small loan. If a dishonored check is assigned to any third party for collection, this section applies to the third party for the collection of the dishonored check.

[2003 c 86 § 11.]

RCW 31.45.084 Small loan payment plan -- Terms -- Restrictions.

(1) A licensee and borrower may agree to a payment plan for a small loan at any time. After four successive loans and prior to default upon the last loan, each borrower may convert their small loan to a payment plan. Each agreement for a loan payment plan must be in writing and acknowledged by both the borrower and the licensee. The licensee may charge the borrower, at the time both parties enter into the payment plan, a one-time fee for the payment plan in an amount up to the fee or interest on the outstanding principal of the loan as allowed under RCW 31.45.073(3). The licensee may not assess

any other fee, interest charge, or other charge on the borrower as a result of converting the small loan into a payment plan. This payment plan must provide for the payment of the total of payments due on the small loan over a period not less than sixty days in three or more payments, unless the borrower and licensee agree to a shorter payment period. The borrower may pay the total of payments at any time. The licensee may not charge any penalty, fee, or charge to the borrower for prepayment of the loan payment plan by the borrower. Each licensee shall conspicuously disclose to each borrower in the small loan agreement or small loan note that the borrower has access to such a payment plan after four successive loans. A licensee's violation of such a payment plan constitutes a violation of this chapter.

...

[2003 c 86 § 12.]

RCW 31.45.088 Small loans -- Disclosure requirements -- Advertising -- Making loan.

(1) When advertising the availability of small loans, if a licensee includes in an advertisement the fee or interest rate charged by the licensee for a small loan, then the licensee shall also disclose the annual percentage rate resulting from this fee or interest rate.

(2) When advertising the availability of small loans, compliance with all applicable state and federal laws and regulations, including the truth in lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226 constitutes compliance with subsection (1) of this section.

(3) When making a small loan, each licensee shall disclose to the borrower the terms of the small loan, including the principal amount of the small loan, the total of payments of the small loan, the fee or interest rate charged by the licensee on the small loan, and the annual percentage rate resulting from this fee or interest rate.

(4) When making a small loan, disclosure of the terms of the small loan in compliance with all applicable state and federal laws and regulations, including the truth in lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226 constitutes compliance with subsection (3) of this section.

[2003 c 86 § 14.]

RCW 31.45.100 Examination or investigation -- Director's authority -- Costs.

The director or the director's designee may at any time examine and investigate the business and examine the books, accounts, records, and files, or other information, wherever located, of any licensee or person who the director has reason to believe is engaging in the business governed by this chapter. For these purposes, the director or the director's designee may require the attendance of and examine under oath all persons whose testimony may be required about the business or the subject matter of the investigation. The director or the director's designee may require the production of original books, accounts, records, files, or other information, or may make copies of such original books, accounts, records, files, or other information. The director or the director's designee may issue a subpoena or subpoena duces tecum requiring attendance and testimony, or the production of the books, accounts, records, files, or other information. The director shall collect from the licensee the actual cost of the examination or investigation.

[2003 c 86 § 16; 1994 c 92 § 283; 1991 c 355 § 10.]

RCW 31.45.110 Violations or unsound financial practices -- Statement of charges -- Hearing -- Sanctions -- Director's authority.

(1) The director may issue and serve upon a licensee or applicant a statement of charges if, in the opinion of the director, any licensee or applicant:

(a) Is engaging or has engaged in an unsafe or unsound financial practice in conducting the business of a check seller governed by this chapter;

(b) Is violating or has violated this chapter, including rules, orders, or subpoenas, any rule adopted under chapter 86, Laws of 2003, any order issued under chapter 86, Laws of 2003, any subpoena issued under chapter 86, Laws of 2003, or any condition imposed in writing by the director or the director's designee in connection with the granting of any application or other request by the licensee or any written agreement made with the director;

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause;

(d) Obtains a license by means of fraud, misrepresentation, concealment, or through mistake or inadvertence of the director;

(e) Provides false statements or omissions of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(f) Fails to pay a fee required by the director or maintain the required bond;

(g) Commits a crime against the laws of the state of Washington or any other state or government involving moral turpitude, financial misconduct, or dishonest dealings;

(h) Knowingly commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person relying upon the word, representation, or conduct acts to his or her injury or damage;

(i) Converts any money or its equivalent to his or her own use or to the use of his or her principal or of any other person;

(j) Fails, upon demand by the director or the director's designee, to disclose any information within his or her knowledge to, or to produce any document, book, or record in his or her possession for inspection of, the director or the director's designee;

(k) Commits any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court, tribunal, agency, or administrative body of competent jurisdiction regarding that act is conclusive evidence in any hearing under this chapter; or

(l) Commits an act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury and loss to the public.

(2) The statement of charges shall be issued under chapter 34.05 RCW. The director or the director's designee may impose the following sanctions against any licensee or applicant, or any director, officer, sole proprietor, partner, controlling person, or employee of a licensee or applicant:

(a) Deny, revoke, suspend, or condition the license;

(b) Order the licensee to cease and desist from practices in violation of this chapter or practices that constitute unsafe and unsound financial practices in the sale of checks;

(c) Impose a fine not to exceed one hundred dollars per day for each day's violation of this chapter;

(d) Order restitution to borrowers or other parties damaged by the licensee's violation of this chapter or take other affirmative action as necessary to comply with this chapter; and

(e) Remove from office or ban from participation in the affairs of any licensee any director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

(3) The proceedings to impose the sanctions described in subsection (2) of this section, including any hearing or appeal of the statement of charges, are governed by chapter 34.05 RCW.

Unless the licensee personally appears at the hearing or is represented by a duly authorized representative, the licensee is deemed to have consented to the statement of charges and the sanctions imposed in the statement of charges.

[2003 c 86 § 17; 1994 c 92 § 284; 1991 c 355 § 11.]

RCW 31.45.200 Director -- Broad administrative discretion.
The director has the power, and broad administrative discretion, to administer and interpret the provisions of this chapter to ensure the protection of the public.

[1994 c 92 § 291; 1991 c 355 § 20.]

RCW 19.16.100
Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

. . .

(2) "Collection agency" means and includes:

(a) Any person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person;

(b) Any person who directly or indirectly furnishes or attempts to furnish, sells, or offers to sell forms represented to be a collection system or scheme intended or calculated to be used to collect claims even though the forms direct the debtor to make payment to the creditor and even though the forms may be or are actually used by the creditor himself or herself in his or her own name;

(c) Any person who in attempting to collect or in collecting his or her own claim uses a fictitious name or any name other than his or her own which would indicate to the debtor that a third person is collecting or attempting to collect such claim.

[2003 c 203 § 1. Prior: 2001 c 47 § 1; 2001 c 43 § 1; 1994 c 195 § 1; 1990 c 190 § 1; 1979 c 158 § 81; 1971 ex.s. c 253 § 1.]

WAC 208-630-015 Examinations.
(1) The director or his or her designee shall examine the business and records of any licensee or licensee's agent at least every twenty-four months. Every licensee so examined shall pay to the director the actual cost of examining and supervising each licensed place of business at the examination hourly rate established in WAC 208-630-023. The director may accept an audit report prepared by an independent certified public accountant or an examination prepared by another state in lieu of, in whole or in part, an examination performed by the director.

(2) The director may examine the business and records of any agent or person who the director has reason to believe is engaging in business which requires a licensee under chapter 31.45 RCW.

[Statutory Authority: RCW 43.320.040, 31.45.090 and 31.45.200. 99-22-048, § 208-630-015, filed 10/29/99, effective 11/29/99. Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, codified as § 208-630-015, filed 1/12/96, effective 2/12/96.]

WAC 208-630-020 Schedule of fees paid by licensees and applicants.
(1) The director shall collect the following fees:
(a) Charges for costs incurred by the division for review and investigation of applications;
(b) An annual assessment charge; and
(c) Charges for examinations described in WAC 208-630-015.
(2) Fees must be paid promptly when due but no later than thirty days after receipt of any billing from the division.

[Statutory Authority: RCW 42.320.040 and 31.45.200. 97-09-035, § 208-630-020, filed 4/11/97, effective 5/12/97. Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, recodified as § 208-630-020, filed 1/12/96, effective 2/12/96. Statutory Authority: 1991 c 355 § 24. 92-02-105, § 50-30-020, filed 1/2/92, effective 2/2/92.]

WAC 208-630-023 Examination fees.
The fee for examinations described in WAC 208-630-015 shall be $66.81 per employee hour expended.

[Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-029, § 208-630-023, filed 5/29/01, effective 7/1/01. Statutory Authority: RCW 42.320.040 and 31.45.200. 97-09-035, § 208-630-023, filed 4/11/97, effective 5/12/97.]

WAC 208-630-02303 Fee increase.
The division intends to increase its fee and assessment rates each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an 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 208-630-021, 208-630-022, and 208-630-023, 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. However, there will be no rate increase under this subsection (1) for assessments described in WAC 208-630-022 (2)(a)(i), (b)(i) and (c)(i).

(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, § 208-630-02303, filed 5/29/01, effective 7/1/01.]

WAC 208-630-060 Disclosure of significant developments.
A licensee shall notify the director in writing within thirty days of the occurrence of any of the following significant developments:

(1) Licensee filing for bankruptcy or reorganization.

(2) Notification of the institution of license revocation procedures in any state against the licensee.

(3) The filing of a criminal indictment any way related to check cashing and/or selling activities of licensee, key officer, board director, or principal, including, but not limited to, the handling and/or reporting of moneys received and/or instruments sold.

(4) A licensee, key officer, board director, or principal being convicted of a crime.

(5) A change of control. In the case of a corporation, control is defined as a change of ownership by a person or group acting in concert to acquire ten percent of the stock, or the ability of a person or group acting in concert to elect a majority of the board directors or otherwise effect a change in policy of the corporation. The director may require such information as deemed necessary to determine whether a new application is required. In the case of entities other than corporations, change in control shall mean any change in principals of the organization either active or passive. Change of control investigation fees shall be billed to the persons or group at the rate billed for applications.

[Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, recodified as § 208-630-060, filed 1/12/96, effective 2/12/96. Statutory Authority: 1991 c 355 § 24. 92-02-105, § 50-30-060, filed 1/2/92, effective 2/2/92.]

WAC 208-630-080 Licensees are required to comply with federal and state laws including but not limited to the following.

(1) Each licensee shall comply with section 103.29 of the Code of Federal Regulations and maintain detailed records to satisfy currency transaction reporting requirements of the United States Treasury Department.

(2) Each licensee must comply with chapter 63.29 RCW, the Uniform Unclaimed Property Act.

(3) Each licensee with a small loan endorsement must comply with the federal Truth in Lending Act.

[Statutory Authority: RCW 43.320.040 and 31.45.200. 96-03-059, recodified as § 208-630-080, filed 1/12/96, effective 2/12/96. Statutory Authority: 1991 c 355 § 24. 92-02-105, § 50-30-080, filed 1/2/92, effective 2/2/92.]