

be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language: PROVIDED FURTHER, That a juvenile determined to be eligible by a diversionary unit for such release shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(12) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(13) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community service. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(14) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.

~~((15) The authority to impose and collect fines under this section shall terminate on June 30, 1985.))~~

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985.

Passed the Senate March 12, 1985.

Passed the House April 8, 1985.

Approved by the Governor April 17, 1985.

Filed in Office of Secretary of State April 17, 1985.

CHAPTER 74

[Substitute House Bill No. 520]

INDUSTRIAL LOAN COMPANIES—INTEREST RATES—OPEN-END LOANS

AN ACT Relating to industrial loan companies; amending RCW 31.04.090 and 31.04.100; and adding a new section to chapter 31.04 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 172, Laws of 1923 as last amended by section 2, chapter 312, Laws of 1981 and RCW 31.04.090 are each amended to read as follows:

Every corporation under the provisions of this chapter shall have power:

(1) To lend money and to deduct interest therefor in advance at the rate of ten percent per annum, or less; however, for any loan with a term in excess of two years, interest may be calculated by the simple interest method at a rate which does not exceed twenty-five percent per annum.

(2) To agree with the borrower for the payment of an aggregate amount for expenses incurred and services rendered in connection with the investigation of the character and circumstances of the borrower and the security offered in connection with his loan, and for servicing and maintaining the said loan and security, which amount shall not in any event exceed an initial charge of two dollars on a loan under one hundred dollars or a maximum of two percent of any loan of one hundred dollars or more, and which initial charge may be deducted from said loan in advance, and a charge of fifty cents per month to be collected monthly during the actual period that said loan or any part thereof remain unpaid(;-).

(3) To require the borrower to purchase simultaneously with the loan transaction, or otherwise, and pledge as security therefor, an investment certificate of the character described in ~~((subdivision (2)))~~ subsection (4) of this section, in an amount equal to the amount of the note. Upon maturity of the note, the borrower may, at his option, surrender the investment certificate. No additional charge shall be made except to reimburse the corporation for money actually expended to any public officer for filing and recording any instrument securing such loan or in connection therewith. No charge shall be collected unless a loan shall have been made, except for reasonable fees properly incurred in connection with appraisal of security offered by a potential borrower. In connection with appraisal of property, the borrower may select a qualified appraiser subject to approval of lender. The borrower shall not be obligated to pay the appraisal fee if the loan application is rejected.

~~((2))~~ (4) Except in connection with an open-end loan, and subject to the limitations provided in this chapter, to sell or negotiate written evidences of debt, to be known as "investment certificates," for the payment of money by the corporation at any time, and bearing interest, as therein designated, and to receive payment therefor in full or in installments; to charge a penalty of five cents or less on each dollar of such installment payments delinquent one full week or more. No interest shall be collected on delinquent installments. No certificate or securities of any nature shall be sold at a price in excess of the actual book value of the certificate or securities sold. The issuance of written evidences of debt authorized by this subdivision shall be subject to the provisions of RCW 31.04.230.

(5) To make open-end loans as provided in this chapter.

~~((3))~~ (6) To borrow money. Nothing contained in this subdivision or in ~~((subdivision-2))~~ subsection (4) of this section shall be construed as authorizing the corporation to receive deposits or to issue certificates of deposit or to create any liability due on demand.

~~((4))~~ (7) To establish branches subject to the approval and authority of the supervisor of banking.

~~((5))~~ (8) Conferred upon corporations by RCW 31.04.120.

Sec. 2. Section 9, chapter 172, Laws of 1923 as last amended by section 3, chapter 312, Laws of 1981 and RCW 31.04.100 are each amended to read as follows:

No corporation under the provisions of this chapter shall:

(1) Make any loan, other than an open-end loan, on the security of makers, comakers, endorsers, sureties or guarantors, for a longer period than ~~((two))~~ five years from the date thereof.

(2) Hold at any one time the primary obligation, or obligations of any person, firm or corporation, for more than fifteen percent of the amount of the paid-up capital and surplus of such industrial loan company.

(3) Hold at any one time the obligation or obligations of persons, firms, or corporations purchased from any person, firm or corporation in excess of twenty percent of the aggregate paid-up capital and surplus of such industrial loan company.

(4) Make any loans, other than open-end loans, or loans secured by real estate or personal property used as a residence, secured by chattel mortgage for a longer period than ((two)) five years from the date thereof.

(5) Make any loan or discount on the security of its own capital stock, or be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith. Stock so purchased or acquired shall be sold at public or private sale or otherwise disposed of within ninety days from the time of its purchase or acquisition.

(6) Invest any of its funds, otherwise than as herein authorized, except in such investments as are by law legal investments for commercial banks.

(7) Make any loan or discount, nor shall any officer or employee thereof on behalf of such corporation, make any loan or discount directly or indirectly to any director, officer or employee of such corporation.

(8) Have outstanding at any time its promissory notes or other evidences of debt in an aggregate sum in excess of three times the aggregate amount of its paid-up capital and surplus, exclusive of investment certificates hypothecated with the corporation issuing them.

(9) Exact a surrender charge on investment certificates issued by the corporation.

(10) Deposit any of its funds with any other moneyed corporation, unless such corporation has been designated as such depository by a vote of

the majority of the directors or the executive committee, exclusive of any director who is an officer, director or trustee of the depository so designated.

(11) Make any loan or discount secured by real estate with a total note, less interest and investigation fee in an amount in excess of ninety percent of the value of such real estate and improvements, including all prior liens against the same: PROVIDED, That for any such loan with a term in excess of two years, the interest rate charged shall not exceed twenty-five percent per annum.

(12) Have outstanding at any time investment certificates issued in the name of any one person, firm or corporation for an amount in excess of fifteen percent of its paid-up capital and surplus.

(13) Pledge or hypothecate any of its securities to any creditor except that it may borrow and rediscount an amount not to exceed in the aggregate three times the amount of the paid-up capital and surplus thereof, and may pledge as security for amounts borrowed assets of the corporation not exceeding one and one-half times the amount borrowed and may pledge as security for amounts rediscounted assets of the corporation not exceeding one-half the amount rediscounted.

NEW SECTION. Sec. 3. A new section is added to chapter 31.04 RCW to read as follows:

(1) As used in this section, "open-end loan" means an agreement between an industrial loan company and a borrower which expressly states that the loan is made in accordance with this chapter and which provides that:

(a) The company may permit the borrower to obtain advances of money from the company from time to time, or the company may advance money on behalf of the borrower from time to time as directed by the borrower;

(b) The amount of each advance and permitted charges and costs are debited to the borrower's account, and payments and other credits are credited to the same account;

(c) The charges are computed on the unpaid principal balance, or balances, of the account from time to time; and

(d) The borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

(2) Interest charges on any open-end loan shall not exceed twenty-five percent per annum. Such charges are computed in each billing cycle by any of the following methods:

(a) By converting the annual rate to a daily rate, and multiplying the daily rate by the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing the annual rate by three hundred sixty-five;

(b) By multiplying a monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the monthly rate is one-twelfth of the annual rate, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(c) By converting the annual rate to a daily rate, and multiplying the daily rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the daily rate is determined by dividing the annual rate by three hundred sixty-five, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

For all of the above methods of computation, the billing cycle shall be monthly, and the unpaid principal balance on any day shall be determined by adding to the balance unpaid, as of the beginning of that day, all advances and other permissible amounts charged to the borrower, and deducting all payments and other credits made or received that day. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month, or does not vary by more than four days from such date.

(3) In addition to the charges permitted under subsection (2) of this section, the industrial loan company may contract for and receive an annual fee, payable each year in advance, for the privilege of opening and maintaining an open-end loan account. The corporation may also contract for and receive on an open-end loan any additional charge permitted by this chapter on other loans, subject to the conditions and restrictions otherwise pertaining to those charges, with the following variations:

(a) If credit life or disability insurance is provided, and if the insured dies or becomes disabled when there is an outstanding open-end loan indebtedness, the insurance shall be sufficient to pay the total balance of the loan due on the date of the borrower's death in the case of credit life insurance, or all minimum payments which become due on the loan during the covered period of disability in the case of credit disability insurance. The additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as such rate may be determined by the insurance commissioner, to the unpaid balances in the borrower's account, using either of the methods specified in subsection (2) of this section for the calculation of interest;

(b) No credit life or disability insurance written in connection with an open-end loan shall be canceled by the lender because of delinquency of the borrower in the making of the required minimum payments on the loan, unless one or more of such payments is past due for a period of ninety days or more; and the lender shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account.

(4) A security interest in real or personal property may be taken to secure an open-end loan. Any such security interest may be retained until the open-end account is terminated, provided that it shall be promptly released if there has been no outstanding balance in the account for twelve months, and the borrower either does not have, or surrenders, the unilateral right to create a new outstanding balance, or if the account is terminated at the borrower's request and paid in full.

(5) The industrial loan company may from time to time increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans, if the industrial loan company mails or delivers written notice of the change to the borrower at least thirty days prior to the effective date of the increase, unless the increase has been earlier agreed to by the borrower; however, the borrower may choose to terminate the open-end loan account, and the industrial loan company will allow the borrower to repay, under the existing open-end loan account terms, the unpaid balance incurred prior to the effective date of the increase, unless the borrower incurs additional debt on or after that date or otherwise agrees to the increase.

(6) A copy of the open-end loan agreement shall be delivered by the industrial loan company to the borrower at the time the open-end account is opened. The agreement shall contain the name and address of the industrial loan company, and of the principal borrower, and shall contain such specific disclosures as may be required by Regulation Z promulgated by the board of governors of the federal reserve system under the Federal Consumer Credit Protection Act.

(7) Except in the case of an account which the industrial loan company deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the company shall deliver to the borrower, or any one thereof, at the end of each billing cycle in which there is an outstanding balance of more than one dollar in the account, or with respect to which interest is imposed, a periodic statement in the form required by Regulation Z promulgated by the board of governors of the federal reserve system under the Federal Consumer Credit Protection Act.

(8) The supervisor of banking may adopt such rules as are necessary to conform with changes in Regulation Z.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 11, 1985.

Passed the Senate April 8, 1985.

Approved by the Governor April 18, 1985.

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