

CHAPTER 212.

[S. B. 218.]

SMALL LOAN COMPANIES.

AN ACT relating to the business of making loans in the amount of one thousand dollars or less; providing for precomputation and rebate of charges; fixing the maturity of loan contracts; regulating property and life insurance requirements by licensees from borrowers; and prohibiting extra charges; amending sections 2, 3, 10, and 12 through 17 of chapter 208, Laws of 1941 and RCW 31.08.020, 31.08.030, 31.08.130, and 31.08.150 through 31.08.200; and adding three new sections to chapter 31.08 RCW.

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

RCW 31.08.020 amended.

SECTION 1. Section 2, chapter 208, Laws of 1941 and RCW 31.08.020 are each amended to read as follows:

License required.

No person shall engage in the business of making secured or unsecured loans of money, credit, goods, or things in action in the amount or of the value of one thousand dollars or less and charge, contract for, or receive a greater rate of interest, discount, or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this chapter and without first obtaining a license from the supervisor.

RCW 31.08.030 amended.

SEC. 2. Section 3, chapter 208, Laws of 1941 and RCW 31.08.030 are each amended to read as follows:

Application for license— Fees—Assets—Bonds.

Application for such license shall be in writing, under oath, and in the form, if any, prescribed by the supervisor, and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality with street and number, if any, where the business is to be conducted and such further relevant information as the supervisor may require. Such applicant at the time of

making such application shall pay to the supervisor the sum of one hundred dollars as a fee for investigating the application and the additional sum of fifty dollars as an annual license fee for a period terminating on the last day of the current calendar year: *Provided*, That if the application is filed after June 30th in any year such additional sum shall be only twenty-five dollars.

Every applicant shall also prove, in form satisfactory to the supervisor, that he or it has available for the operation of such business at the location specified in the application, liquid assets of at least ten thousand dollars.

At the time of filing of the application, the applicant shall also file with the supervisor a bond to be approved by the supervisor in the penal sum of one thousand dollars, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as such surety shall not exceed the said sum in the aggregate. Such bond shall 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 cause of action against the obligor of said bond under the provisions of this chapter. Such bond shall be conditioned that said obligor as licensee hereunder will faithfully conform to and abide by the provisions of this chapter and of all general rules and regulations lawfully made by the supervisor hereunder and will pay to the state and any such person or persons any and all moneys that may become due and owing to the state from such obligor under and by virtue of the provisions of this chapter.

SEC. 3. Section 10, chapter 208, Laws of 1941 and RCW 31.08.130 are each amended to read as follows:

For the purpose of discovering violations of this chapter or securing information lawfully required by him hereunder, the supervisor may at any time,

RCW 31.08.130
amended.

Examinations
—Cost.

either personally or by a person or persons duly designated by him, investigate the loans and business and examine the books, accounts, records, and files used therein, of every licensee and of every person who shall be engaged in the business described in RCW 31.08.020, whether such person shall act or claim to act as principal or agent, or under or without the authority of this chapter. For that purpose the supervisor and his duly designated representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all such persons. The supervisor and all persons duly designated by him shall have authority to require the attendance of and to examine under oath all persons whomsoever whose testimony he may require relative to such loans or such business or to the subject matter of any examination, investigation or hearing. The supervisor shall make such an examination of the affairs, business, office, and records of each licensee at least once each year. The actual cost of every examination shall be paid to the supervisor by every licensee so examined: *Provided, however,* That the actual cost of examining each licensed place of business shall not exceed the sum of two hundred fifty dollars annually.

RCW 31.08.150
amended.

Prohibited
acts.

SEC. 4. Section 12, chapter 208, Laws of 1941 and RCW 31.08.150 are each amended to read as follows:

No licensee or other person shall advertise, print, display, publish, distribute, broadcast, or televise or cause or permit to be advertised, printed, displayed, published, distributed, broadcast, or televised in any manner whatsoever any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of one thousand dollars or less. The supervisor may order any licensee to desist from any

conduct which he shall find to be a violation of the foregoing provisions.

The supervisor may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers.

No licensee shall conduct the business of making loans under this chapter within any office, room, or place of business in which any other business is solicited or transacted, or in association or conjunction therewith, if the supervisor shall find, after five days' written notice and after a hearing that the solicitation or transaction of such other business conceals evasion of this chapter by the licensee or is of such nature that such solicitation or transaction would facilitate evasion of this chapter or of the general rules and regulations lawfully made hereunder, and shall order such licensee in writing to desist from such conduct.

No licensee shall conduct, or advertise such business or make any loan provided for by this chapter under any other name or at any other place of business than that named in a license issued under this chapter.

No licensee shall take any confession of judgment or any power of attorney to confess judgment. No licensee shall take any note, promise to pay, or other obligation signed by the borrower that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, nor any instrument in which blanks are left to be filled in after the proceeds of the loan are delivered. When charges are precomputed, as permitted by subsection (3) of RCW 31.08.160, the note shall disclose the amount of the precomputed charge.

SEC. 5. Section 13, chapter 208, Laws of 1941 and RCW 31.08.160 are each amended to read as follows:

RCW 31.08.160
amended.

Rates and
charges—
Splitting loans
prohibited.

(1) Every licensee hereunder may lend any sum of money not to exceed one thousand dollars in amount and may charge, contract for, and receive thereon charges at a rate not exceeding three percent per month on that part of the unpaid principal balance of any loan not in excess of three hundred dollars, one and one-half percent per month on that part of the unpaid principal balance of any loan in excess of three hundred dollars and not in excess of five hundred dollars, and one percent per month on any remainder of such unpaid principal balance: *Provided, however,* That in lieu of said charges a licensee may charge one dollar per month, or fraction thereof, when said charges computed at the said rate amount to less than one dollar: *And provided further,* That such charge of one dollar shall not be collected on more than one loan nor more than once from any one borrower during any period of one month.

(2) Charges on loans made under this chapter shall not be paid, deducted, discounted, or received in advance, or compounded, but the rate of charge authorized by this section may be precomputed as provided in subsection 3 of this section. Charges on loans made under this chapter, excepting the minimum charge of one dollar provided in this section and excepting as permitted by subsection 3 hereof, (a) shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and (b) shall be so expressed in every obligation signed by the borrower. For the purpose of this section a month shall be that period of time from any date in a month to the corresponding date in the next month and if there is no such corresponding date then to the last day of the next month; and a day shall be considered one-thirtieth of a month when computation is made for a fraction of a month.

(3) When the loan contract requires repayment in substantially equal and consecutive monthly installments of principal and charges combined, the charges may be precomputed at the monthly rate on scheduled unpaid principal balances according to the terms of the contract and added to the principal of the loan. Every payment may be applied to the combined total of principal and precomputed charge until the contract is fully paid. The acceptance or payment of charges on loans made under the provisions of this subsection shall not be deemed to constitute payment, deduction, or receipt thereof in advance nor compounding under subsection (2) above. Such precomputed charge shall be subject to the following adjustments:

(a) The portion of the precomputed charge applicable to any particular monthly installment period shall bear the same ratio to the total precomputed charge, excluding any adjustment made under paragraph (f) of this subsection, as the balance scheduled to be outstanding during that monthly period bears to the sum of all monthly balances scheduled originally by the contract of loan.

(b) If the loan contract is prepaid in full by cash, a new loan, refinancing, or otherwise before the final installment date, the portion of the precomputed charge applicable to the full installment periods following the installment date nearest the date of such prepayment shall be rebated. In computing any required rebate, any prepayment made on or before the fifteenth day following an installment date shall be deemed to have been made on the installment date preceding such prepayment. If prepayment in full occurs before the first installment date an additional rebate of one-thirtieth of the portion of the precomputed charge applicable to a first installment period of one month shall be made for each day from the date of such prepayment

Rates and
charges—
Splitting
loans pro-
hibited.

to the first scheduled installment date. If judgment is obtained before the final installment date, the contract balance shall be reduced by the rebate of precomputed charge which would be required for prepayment in full as of the date judgment is obtained.

(c) If the payment date of all wholly unpaid installments on which no default charge has been collected is deferred one or more full months and the contract so provides, the licensee may charge and collect a deferment charge. Such deferment charge shall not exceed the portion of the precomputed charge applicable under the original contract of loan to the first month of the deferment period multiplied by the number of months in said period. The deferment period is the month or months in which no scheduled payment has been made or in which no payment is to be required by reason of the deferment. In computing any default charge, or required rebate, the portion of the precomputed charge applicable to each deferred balance and installment period following the deferment period and prior to the deferred maturity shall remain the same as that applicable to such balances and periods under the original contract of loan. Such charge may be collected at the time of deferment or at any time thereafter. If a loan is prepaid in full during a deferment period, the borrower shall receive, in addition to the rebate required under paragraph (b) of this subsection, a rebate of that portion of the deferment charge applicable to any unexpired months of the deferment period.

(d) If the payment in full of any scheduled installment is in default more than seven days and the contract so provides, the licensee may charge and collect a default charge not exceeding an amount equal to the portion of the precomputed charge applicable to the final installment period. Said charge

may not be collected more than once for the same default and may be collected when such default occurs or any time thereafter. If such default charge is deducted from any payment received after default occurs and such deduction results in the default of a subsequent installment, no charge may be made for the resulting default.

(e) If two or more full installments are in default for one full month or more at any installment date and if the contract so provides, the licensee may reduce the contract balance by the rebate which would be required for prepayment in full on such installment date. Thereafter, charges may be received at the agreed rate computed on actual unpaid balances on the contract for the time outstanding until the contract is fully paid. Charges so collected shall be in lieu of any deferment or default charges which otherwise would accrue on the contract after such installment date.

(f) A licensee and borrower may agree that the first installment due date may be not more than fifteen days more than one month and the amount of such installment may be increased by one-thirtieth of the portion of the precomputed charge applicable to a first installment of one month for each extra day.

(4) No licensee shall induce or permit any borrower to split up or divide any loan, nor induce or permit any person, nor any husband or wife jointly or severally, to become obligated, directly or contingently or both, under more than one contract of loan at the same time, for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this section. If part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan with the same licensee, then the principal amount payable under such loan contract shall not include any

unpaid charges on the prior loan, except charges which have accrued within sixty (60) days before the making of such loan contract and may include the balance of a precomputed contract which remains after giving the rebate required by subsection (3) hereof.

(5) No licensee shall directly or indirectly charge, contract for, or receive any charges or fees except charges authorized by this chapter and the lawful fees, if any, actually and necessarily paid out by the licensee to any public officer for the transferring of title or for filing, recording, or releasing in any public office, any instrument securing the loan, which fees may be collected when the loan is made, or at any time thereafter. A bona fide error in the calculation of charges or in the recording of such charges in any statement or receipt delivered to the borrower or in the licensee's records shall not be deemed to be a violation of this chapter if the licensee corrects the error.

RCW 31.08.170 amended.

SEC. 6. Section 14, chapter 208, Laws of 1941 and RCW 31.08.170 are each amended to read as follows:

Licensee duties as to borrower.

It shall be the duty of every licensee to:

(1) Deliver to the borrower or anyone thereof, if several, at the time any loan is made under this chapter, a statement, upon which there shall be printed in the English language a copy of subsections (1) and (5) of RCW 31.08.160, showing in clear and distinct terms the principal amount of the loan excluding charges, the date of the loan, the agreed schedule of payments, the nature of the security, if any, for the loan, the name and address of the licensee, and the agreed rate of charges. When charges are precomputed, the statement shall show the amount of the precomputed charge and shall contain a copy of paragraphs (a) and (b) of subsection (3) of RCW 31.08.160.

(2) Give to the party making any payment a plain and complete receipt for each payment made on account of any such loan at the time such payment is made, specifying the amount applied to charges and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of such loan: *Provided*, That if the charges were precomputed the receipt need not be itemized, and no receipt shall be required where payment is made by check or money order and the full amount of such check or money order is applied to the loan: *Provided further*, That when a default or deferment charge is collected, a receipt shall be given showing the amount applied to the loan and the amount applied to the default or deferment charge;

(3) Permit payment to be made in advance in any amount on any such loan at any time during regular business hours, but the licensee may apply such payment first to all charges at the agreed rate up to the date of such payment: *Provided*, That when charges are precomputed such payment shall be equal to one or more full scheduled installments;

(4) Upon payment of the loan in full, mark indelibly every obligation signed by the borrower with the word "paid" or "cancelled" and release any mortgage and restore all notes and collateral which no longer secures a loan and to which the borrower may be lawfully entitled: *Provided, however*, That in case any such document or obligation is in custodia legis these requirements shall not be applicable; and

(5) Obtain from the borrower prior to making the loan a statement signed by the borrower setting forth the borrower's then current financial condition and containing a statement that the borrower recognizes the penalties and defenses resulting from giving false statement of financial condition, all on a form approved by the supervisor. The statement required to be delivered to the borrower when the

loan is made shall be acknowledged in writing by the licensee and the borrower, and a copy thereof shall be retained by the licensee.

RCW 31.08.180 amended.

SEC. 7. Section 15, chapter 208, Laws of 1941 and RCW 31.08.180 are each amended to read as follows:

Restrictions on loans in excess of one thousand dollars.

No licensee shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit, of the amount or value of more than one thousand dollars, exclusive of charges permitted by RCW 31.08.160.

RCW 31.08.190 amended.

SEC. 8. Section 16, chapter 208, Laws of 1941 and RCW 31.08.190 are each amended to read as follows:

Assignment of earnings as loan.

The payment of one thousand dollars or less in money, credit, goods, or things in action, as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions, or other compensation for services, whether earned or to be earned, shall for the purpose of regulation under this chapter be deemed a loan secured by such assignment, and the amount by which such assigned compensation retained by the assignee at the completion of the transaction exceeds the total amount of such consideration actually paid by the assignee to the assignor shall for the purpose of regulation under this chapter be deemed interest or charges upon such loan. Such transaction shall be governed by and subject to the provisions of this chapter.

RCW 31.08.200 amended.

SEC. 9. Section 17, chapter 208, Laws of 1941 and RCW 31.08.200 are each amended to read as follows:

Chapter governs interest rates.

No person except as authorized by this chapter shall directly or indirectly charge, contract for, or receive any interest, discount, or consideration

greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon the loan, use, or forbearance of money, goods, or things in action, or upon the loan, use, or sale of credit of the amount or value of one thousand dollars or less.

The foregoing prohibition shall apply to any person who by any device, subterfuge, or pretense whatsoever shall charge, contract for, or receive greater interest, consideration, or charges than is authorized by this chapter for any such loan, use, or forbearance of money, goods, or things in action or for any such loan, use, or sale of credit.

No loan of the amount or value of one thousand dollars or less for which a greater rate of interest, consideration, or charges than is permitted by RCW 31.08.160 has been charged, contracted for, or received, wherever made, shall be enforced in this state, and every person in anywise participating therein in this state shall be subject to the provisions of this chapter: *Provided*, That the foregoing shall not apply to loans legally made in any other state, territory, or country.

SEC. 10. There is added to chapter 31.08 RCW a new section to read as follows: New section.

No contract made by a licensee under this chapter shall provide for a final maturity more than twenty-five and one-half months from the date of making such contract. Limit on final maturity.

SEC. 11. There is added to chapter 31.08 RCW a new section to read as follows: New section

(1) No licensee shall require the purchasing of property insurance from the licensee or any employee, affiliate, or associate of the licensee or from any agent, broker, or insurance company designated by the licensee as a condition precedent to the making of a loan nor shall any licensee decline ex- Insurance as security for loan.

Insurance
as security
for loan.

isting insurance which meets or exceeds the standards set forth in this section.

The licensee may require a borrower to insure tangible property offered as security for a loan hereunder against any substantial risk of loss, damage, or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan and for the customary term approximating the term of the loan contract: *Provided*, That no licensee hereunder may require such insurance on loans in an amount less than three hundred dollars. It shall be optional with the borrower to obtain such insurance in an amount greater than the amount of the loan or for a longer term. The premium for such insurance shall not exceed that fixed by current applicable manual of a recognized standard insurance rating bureau and such insurance shall be written by or through a duly licensed insurance agent or broker.

(2) A licensee may insure the life of one borrower, but only one of them if there are two or more obligors, for the unpaid principal balance scheduled to be outstanding; and regardless of the premium paid by the licensee, the licensee may charge not more than sixty cents per one hundred dollars per year computed on the original principal amount of the loan, excluding charges for the loan, when the loan contract requires substantially equal and consecutive monthly installments of principal and charges combined, and such charge may be in the same proportions for different payment schedules, maturities, and principal amounts. Such charge may be deducted from the principal of the loan when the loan is made. Only one such charge may be made in connection with any loan contract irrespective of the number of obligors, and only one obligor need be insured. If the insured obligor dies during the term of the loan contract, the insurance must pay

the principal balance of the loan outstanding on the day of his death without any exception or reservation. The insurance shall be in force as soon as the loan is made. If the loan contract is prepaid in full by cash, a new loan, renewal, refinancing, or otherwise, a portion of such life insurance charge shall be rebated according to the method established in paragraphs (a) and (b) of subsection (3) of RCW 31.08.160. When charges for the loan are precomputed in accordance with subsection (3) of RCW 31.08.160, any required rebate and any permitted deferment charge may be computed on the combined total of the precomputed charge and the life insurance charge.

(3) If a borrower procures any insurance by or through a licensee, the statement required by RCW 31.08.170 shall disclose the cost to the borrower and the type of insurance, and the licensee shall cause to be delivered to the borrower a copy of the policy, certificate, or other evidence thereof within a reasonable time.

Notwithstanding any other provision of this chapter, any gain or advantage in any form whatsoever to the licensee or to any employee, affiliate, or associate of the licensee from any insurance or its sale or provision shall not be deemed to be additional or further interest, consideration, charges, or fee in connection with such loan.

Nothing in this section shall be deemed to alter, amend or repeal any provision of the insurance code.

No insurance shall be required, requested, sold, or offered for sale in connection with any loan made under this chapter, except as and to the extent authorized by this section.

SEC. 12. If any clause, sentence, section, provision, or part of this amendatory act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the Severability

remainder of this amendatory act, which shall remain in full force and effect.

Passed the Senate March 6, 1959.

Passed the House March 5, 1959.

Approved by the Governor March 20, 1959.

CHAPTER 213.

[Sub. S. B. 58.]

DEVELOPMENT CREDIT CORPORATIONS.

AN ACT authorizing the creation of development credit corporations in the state of Washington; prescribing their purposes, powers, supervision and control; and declaring an emergency.

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

Development credit corporations authorized.

SECTION 1. Organizations to provide development credit are authorized to be created under the general corporation laws of the state, with all of the powers, privileges and immunities conferred on corporations by such laws.

Purpose.

SEC. 2. The purposes of development credit corporations as authorized herein shall be: (1) To promote, aid, and, through the united efforts of the institutions and corporations which shall from time to time become members thereof, develop and advance the industrial and business prosperity and welfare of the state of Washington; (2) to encourage new industries; (3) to stimulate and help to expand all kinds of business ventures which tend to promote the growth of the state; (4) to act whenever and wherever deemed by it advisable in conjunction with other organizations, the objects of which are the promotion of industrial, agricultural or recreational developments within the state; and (5) to furnish for approved and deserving applicants ready and required money for the carrying on and development