

CHAPTER 7

[House Bill No. 1760]

INDUSTRIAL LOAN COMPANIES

AN ACT Relating to industrial loan companies; and amending RCW 31.04.090 and 31.04.100.

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 1, chapter 74, Laws of 1985 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))~~ the 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 the loan amount advanced to or for the direct benefit of the borrower on 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 agree with the borrower for the payment of fees for title insurance, appraisals, recording, reconveyance and releasing fees when those fees are actually paid by the licensee to a third party for those services or purposes, and to include those fees in the amount of the loan. No charge shall be collected unless a loan is made, except for reasonable fees properly incurred in connection with the appraisal of security offered by a potential borrower. In connection with appraisal of property, the borrower may select a qualified, independent, professional, third party appraiser subject to approval by the lender. If the lender selects the appraiser, the appraiser shall be a qualified, independent, third party appraiser.

(4) 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 subsection ~~((4))~~ (5) of this section, in an amount equal to the amount of the note. Upon maturity of the

note, the borrower may, at his or her 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.~~

~~(4))~~ (5) 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))~~ (6) To make open-end loans as provided in this chapter.

~~((6))~~ (7) To borrow money. Nothing contained in this subdivision or in subsection ~~((4))~~ (5) 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.

~~((7))~~ (8) To establish branches subject to the approval and authority of the supervisor of banking.

~~((8))~~ (9) Conferred upon corporations by RCW 31.04.120.

Sec. 2. Section 9, chapter 172, Laws of 1923 as last amended by section 2, chapter 74, Laws of 1985 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 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 five years from the date thereof.

(5) Make any loan secured by real property using the discount method.

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

~~((7))~~ (8) 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))~~ (9) 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))~~ (10) Exact a surrender charge on investment certificates issued by the corporation.

~~((10))~~ (11) 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))~~ (12) 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))~~ (13) 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))~~ (14) 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.

(15) Make any loan secured by an investment certificate that does not provide for a refund to the borrower or a credit to the borrower's account of the unearned portion of the interest when the note is prepaid in full by cash, a new loan, refinancing, or otherwise before the final due date. If the originally scheduled term of the loan is less than thirty-seven months, unearned interest may be refunded or credited using the sum of the digits method commonly known as the "rule of seventy-eights". If the originally scheduled term of the loan is thirty-seven months or more, the refund of the unearned portion of the interest shall be computed as follows:

Interest shall be considered earned at the single nominal annual percentage rate which, if applied to the unpaid amounts of principal outstanding from time to time, would produce the same total of interest paid at maturity as originally contracted for, based upon the assumption that all payments were made on the loan according to the schedule of payments due on the certificate and calculations were made according to the actuarial method. Interest earned so calculated up to the scheduled due date nearest the date of prepayment shall be subtracted from the original amount of interest included in the note and the balance of such interest shall be refunded. For purposes of this calculation only, the original principal amount of the loan shall be deemed to be the amount of the total note less the interest deducted in advance. Actuarial method means the method of allocating payments made between principal and interest whereby a payment is applied first to the interest accumulated to date, and the remainder then applied to the unpaid principal amount. In computing an actuarial refund, the lender may round the single annual percentage rate used to the nearest quarter of one percent. In computing any required refund, any prepayment made on or before the fifteenth day following the scheduled payment date on the investment certificate shall be deemed to have been made on the payment date preceding such prepayment. In the case of prepayment prior to the first installment date, the company may retain an amount not to exceed one-thirtieth of the first month's interest charge for each date between the origination date of the loan and the actual date of prepayment.

Passed the House February 10, 1988.

Passed the Senate March 1, 1988.

Approved by the Governor March 9, 1988.

Filed in Office of Secretary of State March 9, 1988.

CHAPTER 8

[House Bill No. 280]

MOTOR VEHICLE ACCIDENT REPORTING OBLIGATIONS—FAILURE TO COMPLY

AN ACT Relating to suspension of driving privileges; and amending RCW 46.52.035.

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