



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

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CONSUMER LOAN ACT

Interim Guidance, CLA-24-02

DATE: June 6, 2024

TO: Any Person that may be Subject to the Consumer Loan Act

FROM: Ali Higgs, Director of the Division of Consumer Services

RE: Interim Guidance on SSB 6025 and Grace Period for Licensure and Enforcement of Unlicensed Activity

Purpose

The [Predatory Loan Prevention Act](#)¹ (“SSB 6025”) is effective on June 6, 2024. The Department of Financial Institutions (“Department”) is providing this Interim Guidance to: (1) provide additional information on the Consumer Loan Act; (2) describe changes to the Consumer Loan Act as set forth in SSB 6025; and (3) grant a grace period for licensure and enforcement of unlicensed activity. The Department anticipates rulemaking on this matter in Fall 2024.

This Interim Guidance does not amend the Consumer Loan Act, chapter 31.04 RCW, or its rules, chapter 208-620 WAC. This Interim Guidance is subject to change or withdrawal.

The Consumer Loan Act

Any person that wishes to engage in any activity subject to the Consumer Loan Act (“CLA”) must first obtain and maintain a license in accordance with the CLA.² Additionally, each loan made to a Washington State resident or person physically located in Washington State by a licensee or person subject to the CLA must comply with the authority and restrictions of the CLA.³ Note that “licensee” includes any person who fails to obtain a license required by the CLA.⁴

¹ 2024 Wash. Sess. Laws 249.

² RCW 31.04.035(1).

³ RCW 31.04.025(1).

⁴ RCW 31.04.015(13).

Licensees are permitted to make a loan “at a rate that does not exceed twenty-five percent per annum as determined by the simple interest method of calculating interest owed.”⁵ Licensees are not, and have never been, precluded from making loans at interest rates lower than 25 percent.

The interest rate does not determine whether a person is subject to the CLA, but rather, the activity the person is engaging in, or offering to engage in, determines the need for licensure.⁶ As such, any person determining whether they are subject to the CLA should first consider whether they are offering a product or service that is subject to the CLA. For example, a person should first determine whether the product offering is a “loan” as defined under RCW 31.04.015(14).⁷

Presuming that product offering is a loan made to a Washington State resident or a person physically located in Washington, the next question to consider is whether the person may be exempt from the CLA as set forth in RCW 31.04.025(4).⁸ Any person claiming an exemption, exception, or preemption from the CLA must prove that any such exemption, exception, or preemption should apply to them.⁹

Changes to the Consumer Loan Act

One of the changes to the exemption language is that by asserting an exemption pursuant to RCW 31.04.025(4),¹⁰ a person must ensure they are not engaging in “any device, subterfuge, or pretense to evade the requirements of” the CLA.¹¹

Further, SSB 6025 Section 2(3) adds the following new section to RCW 31.04.025 of the CLA:¹²

If a loan exceeds the rate permitted under this chapter, a person is a lender making a loan subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent, service provider, or in another capacity for another person that is exempt from this chapter, if, among other things:

- (a) The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest in the loan; or
- (b) The totality of the circumstances indicate that the person is the lender, and the transaction is structured to evade the requirements of this chapter.

⁵ RCW 31.04.105(1).

⁶ See WAC 208-620-230.

⁷ Activity that requires a license under the CLA is not limited to making a loan, but also includes servicing or modifying residential mortgage loans or student education loans.

⁸ Citation effective June 6, 2024. Previous citation is RCW 31.04.025(2).

⁹ RCW 31.04.025(6) (effective June 6, 2024); previous citation is RCW 31.04.025(4).

¹⁰ *Id.*

¹¹ 2024 Wash. Sess. Laws 249, §2(2), and §3.

¹² 2024 Wash. Sess. Laws 249, §2(3).

Any person asserting that they are an agent, service provider, or in some other capacity acting on behalf of an exempt person should consider whether they are subject to licensure pursuant to section 2(3).

For example, if Person A asserts that they are acting on behalf of an exempt Person B, but Person A holds the “predominant economic interest” or “the totality of the circumstances” indicate Person A is the lender and is structuring their involvement to evade the requirements of the CLA, this would constitute a violation of the CLA. Pursuant to section 4(2)(b) of SSB 6025, any such loan shall be null, void, uncollectable, and unenforceable.

Grace Period to Obtain Licensure

The Department is granting a grace period for any person requiring licensure under section 2(3) of SSB 6025. Please note that this grace period is only available to persons that did not require a license **prior** to the enactment of SSB 6025.

In order to allow those that may be subject to section 2(3) of SSB 6025 time to comply with the licensing requirements of the CLA, **the Department hereby grants a grace period for licensure and enforcement of unlicensed activity until December 31, 2024, subject to the conditions below:**

1. A person who newly requires a license due to the enactment section 2(3) of SSB 6025 must submit a consumer loan company license application to the Department by December 31, 2024. Upon submission of the license application, the person must reasonably work toward completing the license application process in a timely manner. Information on obtaining a consumer loan company license is available on the Department’s website at <https://dfi.wa.gov/consumer-loan-companies/licensing>.
2. Except for the modified licensing requirement noted in the previous item, all persons must comply with all other requirements of the CLA.
3. During the grace period, any person who newly requires a license due to the enactment of section 2(3) of SSB 6025 may make loans in accordance with the requirements of the CLA. Any loan made in violation of the CLA, except for the licensing requirement, shall be null, void, uncollectable, and unenforceable.

The Department may require any person to prove they are eligible for this grace period. Any person that is ineligible for this grace period may be in violation of the Consumer Loan Act and subject to formal enforcement action.

The Department may amend or withdraw this Interim Guidance and grace period for licensure and enforcement of unlicensed activity at any time.

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