

TERMS COMPLETE

CONSENT ORDER SUMMARY – Case Number: C-04-073

Name(s) C. Palmieri Enterprises, Inc. d/b/a Sierra Funding
C.J. Palmieri
Constance Palmieri

Order Number C-04-073-CO01

Effective Date August 30, 2004

License Number DFI: 17037

License Effect License surrendered voluntarily for ten years

Not Apply until August 30, 2014

Prohibition/Ban until August 30, 2014

Investigation Costs	\$	Due	Paid		Date
			Y	N	

Assessment(s)	\$	Due	Paid		Date
			Y	N	

Monetary Penalty	\$	Due	Paid		Date
			Y	N	

Other

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

NO. C-04-073-04-CO01

C. PALMIERI ENTERPRISES, INC. dba SIERRA
FUNDING AND C.J. PALMIERI, PRESIDENT,
CONSTANCE PALMIERI,
SECRETARY/DIRECTOR

CONSENT ORDER

Respondents

9 COMES NOW the Director of the Department of Financial Institutions (Director), through her designee Chuck
10 Cross, Division Director, Division of Consumer Services, and Carmen John Palmieri, President and Director of C
11 Palmieri Enterprises, Inc. dba Sierra Funding and finding that the issues raised in the captioned matter may be
12 economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to
13 chapter 31.04 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act,
14 based on the following:

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AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have
agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-04-073-04-SC01, entered
August 16, 2004, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act) and RCW
34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent
Order and further agree that the issues raised in the above captioned matter may be economically and efficiently settled
by entry of this Consent Order. The parties intend this Consent Order to fully resolve Statement of Charges No. C-04-
073-04-SC01, entered August 16, 2004.

23 Based upon the foregoing:
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25 CONSENT ORDER

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
210 11th Ave SW, Room 300
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities
2 discussed herein.

3 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a hearing before
4 an administrative law judge, and that they have waived their right to a hearing and any and all administrative and
5 judicial review of the issues raised in this matter, or of the resolution reached herein.

6 C. **Consumer Loan License.** It is AGREED that Respondents shall immediately surrender their consumer
7 loan license by completing the Consumer Loan closure form. It is further AGREED that Respondents shall not apply to
8 the Department for any license for a period of ten years from the entry of this Consent Order.

9 D. **Prohibition from Industry.** It is AGREED that Respondents shall be prohibited from participation in the
10 conduct of the affairs of any licensed consumer lender, in any manner, for a period of ten years.

11 E. **Compliance with the Law.** It is AGREED that Respondents shall comply with the Consumer Loan Act
12 and the rules adopted thereunder.

13 F. **Non-Compliance with Order.** It is AGREED that Respondents understand that failure to abide by
14 the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of
15 such legal action, Respondents may be responsible to reimburse the Director for the cost incurred in pursuing
16 such action, including but not limited to, attorney fees.

17 G. **Authority to Execute Order.** It is AGREED that the undersigned have represented and warranted that
18 they have the full power and right to execute this Consent Order on behalf of the parties represented.

19 H. **Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily entered into this
20 Consent Order, which is effective when signed by the Director's designee.

21 I. **Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read this Consent
22 Order in its entirety and fully understand and agree to all of the same.

23 **RESPONDENTS:**

24 **C Palmieri Enterprises, Inc. dba Sierra Funding**

25 CONSENT ORDER

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
210 11th Ave SW, Room 300
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

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By:

Carmen John Palmieri
President

Date

Carmen John Palmieri, Individually

Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 30th DAY OF August, 2004.

/s/ _____
Chuck Cross, Division Director
Division of Consumer Services
Department of Financial Institutions

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

C. PALMIERI ENTERPRISES, INC. dba
SIERRA FUNDING AND C.J. PALMIERI,
PRESIDENT, CONSTANCE PALMIERI,
SECRETARY/DIRECTOR

Respondents.

NO. C-04-073-04-SC01

STATEMENT OF CHARGES AND
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE CONSUMER LOAN
LICENSE, REQUIRE FILINGS AND
ASSESSMENTS, AND IMPOSE
LATE FEES.

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of July 30, 2004 the Director institutes this proceeding and finds as follows:

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I. TENTATIVE FINDINGS OF FACT

1.1 Respondents:

A. **C. PALMIERI ENTERPRISES, INC.** (Respondent Palmieri Enterprises) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on November 12, 1999, and has continued to be licensed to date.

B. **CARMEN JOHN PALMIERI** (Respondent C.J. Palmieri) is President of Respondent Palmieri Enterprises.

C. **CONSTANCE PALMIERI** (Respondent C. Palmieri) is Secretary and Director of Respondent Palmieri Enterprises.

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1.2 Licensed Location: Respondent Palmieri Enterprises is licensed to conduct the business of a Consumer Loan Company at:

35 Camino Del Rio South, STE 302
San Diego, CA 92108.

1.3 Records Location: Respondent Palmieri Enterprises has received approval from the Department to maintain the records relating to its Consumer Loan license at the following location outside the State of Washington:

2635 Camino Del Rio South, Suite 302
San Diego, CA 92108

1.4 Registered Agent: The Registered Agent for Respondent Palmieri Enterprises is listed in the application as:

Paracorp Inc.
101 Capital Way N. #1-2
Olympia, WA 98501

1.5 Annual Report: An annual report is due to the Department on or before the first day of March of each year, concerning the business and operations of each licensed place of business conducted during the preceding calendar year. The annual report must be made under oath and must be in the form prescribed by the Director. To date, Respondents have not provided the annual reports relating to 2002 due March 1, 2003.

1.6 Annual Assessment: A calculation worksheet and an annual assessment fee are due to the Department on or before the first day of March of each year, relating to the previous calendar year. To date, Respondents have not provided the calculation worksheets or paid the annual assessment fees for 2002 due March 1, 2003.

1.7 Surety Bond: On November 15, 2002, the Department received notice from Old Republic Surety Company that Respondent Palmieri Enterprises' surety bond was going to be cancelled as of December 23, 2002 for non-receipt of financial statements. To date, Respondents have not provided a reinstatement of the cancelled surety bond, or a replacement surety bond or approved alternative.

1.8 Issuance of Demand : On November 27, 2002, the Department successfully faxed a Directive to Respondents notifying Respondent Palmieri Enterprises that it must replace its surety bond that was to be cancelled on December 29, 2002. Respondents failed to respond to that directive in any way. In a certified letter dated January 19, 2004, the Department notified Respondents of their failure to file the required reports and

1 worksheets and pay the assessments due on March 1, 2003. It also directed the Respondents to replace their
2 surety bond that had been cancelled in December of 2002. The letter was returned “unclaimed.”

3 II. TENTATIVE CONCLUSIONS OF LAW

4 **2.1 Requirement to File Annual Report:** Based on the Tentative Findings of Fact set forth in Section I
5 above, Respondents are in apparent violation of RCW 31.04.155 and WAC 208-620-220(1) for failing to
6 provide annual reports to the Director, under oath and in the form prescribed by the Director, on or before the
7 first day of March, concerning the business and operations of each licensed place of business conducted during
8 the preceding calendar year.

9 **2.2 Requirement to Calculate and Pay Annual Assessment:** Based on the Tentative Findings of Fact set
10 forth in Section I above, Respondents are in apparent violation of RCW 31.04.085, WAC 208-620-190(3) and
11 WAC 208-620-220(1) for failing to provide to the Director a completed annual assessment calculation
12 worksheet and failing to pay to the Director annual assessment fees on or before the first day of March, relating
13 to the previous calendar year.

14 **2.3 Requirement to Maintain Surety Bond:** Based on the Tentative Findings of Fact set forth in Section
15 I above, Respondents are in apparent violation of RCW 31.04.045(3), RCW 31.04.085, and WAC 208-620-
16 030(1) for failing to file and maintain a surety bond or approved alternative with the Director.

17 **2.4 Authority to Charge Examination and Investigation Fees:** Pursuant to RCW 31.04.145(3), WAC
18 208-620-180(1), WAC 208-620-190(2) and WAC 208-620-191, every licensee examined or investigated by the
19 Director or the Director’s designee shall pay for the cost of the examination or investigation, calculated at the
20 rate of sixty-six dollars and eighty-one cents (\$66.81) per staff hour for time incurred from July 1, 2001 through
21 June 30, 2002, and sixty-nine dollars and one cent (\$69.01) per staff hour for time incurred after June 30, 2002..

22 **2.5 Authority to Revoke License:** Pursuant to RCW 31.04.093(3)(a) and (b), the Director may revoke a
23 license if a licensee fails to pay any fee due the state of Washington, fails to maintain in effect the required bond
24 or permitted substitute, fails to comply with any specific order or demand of the Director, or violates any
25 provision of the Act or any rule adopted under the Act.

1 **2.6 Authority to Issue Orders Directing Action:** Pursuant to RCW 31.04.093(5)(b), the Director may issue
2 an order directing a licensee to take such affirmative action as is necessary to comply with the Act.

3 **2.7 Recordkeeping Requirements:** Based on the Tentative Findings of Fact set forth in Section I above,
4 Respondents are in apparent violation of RCW 31.04.155 for failing to make accurate and current books and
5 records readily available to the Department until at least twenty-five months have elapsed following the
6 effective period to which the books and records relate.

7 **III. NOTICE OF INTENTION TO ENTER ORDER**

8 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
9 the above Tentative Findings of Fact and Conclusions of Law, constitute a basis for the entry of an Order under
10 RCW 31.04.093, RCW 31.04.165 and RCW 31.04.205. Therefore, it is the Director's intention to ORDER that:

- 11 3.1 Respondent C. Palmieri Enterprise, Inc.'s license to conduct the business of a Consumer Loan
12 Company be revoked; and
- 13 3.2 Respondent C. Palmieri Enterprises, Inc. maintain records in compliance with the Act and provide the
14 Director with the location of the books, records and other information relating to Respondent C.
15 Palmieri's consumer loan business, and the name, address and telephone number of the individual
16 responsible for maintenance of such records in compliance with the Act; and
- 17 3.3 Respondents provide to the Director completed Consolidated Annual Reports and Annual Assessment
18 Worksheets (blank forms and instructions for 2002 attached hereto), including all required supporting
19 documentation, for the year ending December 31, 2002; and
- 20 3.4 Respondents jointly and severally pay the delinquent Annual Assessments due for the years ended
21 December 31, 2002, as calculated in accordance with the instructions for the Annual Assessment
22 Worksheets for that year; and
- 23 3.5 Respondents jointly and severally pay a late penalty of \$3000 for failure to file Consolidated Annual
24 Reports and Annual Assessment Worksheets by March 1, 2003, relating to Respondent C. Palmieri
25 Enterprise, Inc. consumer lending activity during the year ended December 31, 2002, calculated at \$50
per day for each report, for thirty (30) days;

26 **IV. AUTHORITY AND PROCEDURE**

27 This Statement of Charges and Notice of Intention to Enter an Order to Revoke Consumer Loan License,
28 Require Filings and Assessments and Impose Late Fees, and is entered pursuant to the provisions of RCW
29 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205, and is subject to the provisions of chapter

1 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set
2 forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
3 accompanying this Statement of Charges.

4 Dated this 16th day of August, 2004.

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/s/

CHUCK CROSS

Director and Enforcement Chief

Division of Consumer Services

Department of Financial Institutions

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8 Presented by:
9 Deborah Bortner
10 Financial Legal Examiner

Applicable Consumer Loan Statutes and Rules

RCW 31.04.045 License -- Application -- Fee -- Surety bond.

(1) Application for a license under this chapter must be in writing and in the form prescribed by the director. The application must contain at least the following information:

(a) The name and the business addresses of the applicant;

(b) If the applicant is a partnership or association, the name of every member;

(c) If the applicant is a corporation, the name, residence address, and telephone number of each officer and director;

(d) The street address, county, and municipality from which business is to be conducted; and

(e) Such other information as the director may require by rule.

(2) At the time of filing an application for a license under this chapter, each applicant shall pay to the director an investigation fee and the license fee in an amount determined by rule of the director to be sufficient to cover the director's costs in administering this chapter.

(3) Each applicant shall file and maintain a surety bond, approved by the director, 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 in the aggregate the penal sum of the bond. The penal sum of the bond shall be one hundred thousand dollars for each licensed location up to and including five licensed locations, and an additional ten thousand dollars for each licensed location in excess of five licensed locations, except that a licensee who makes a loan secured by real property shall maintain at a minimum a surety bond with a penal sum of not less than four hundred thousand dollars. The 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 a cause of action against the obligor under this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter. In lieu of a surety bond, if the applicant is a Washington business corporation, the applicant may maintain unimpaired capital, surplus, and long-term subordinated debt in an amount that at any time its outstanding promissory notes or other evidences of debt (other than long-term subordinated debt) in an aggregate sum do not exceed three times the aggregate amount of its unimpaired capital, surplus, and long-term subordinated debt. The director may define qualifying "long-term subordinated debt" for purposes of this section.

[2001 c 81 § 4; 1994 c 92 § 162; 1991 c 208 § 5.]

RCW 31.04.075 Licensee -- Place of business.

The licensee may not maintain more than one place of business under the same license, but the director may issue more than one license to the same licensee upon application by the licensee in a form and manner established by the director.

Whenever a licensee wishes to change the place of business to a street address other than that designated in the license, the licensee shall give written notice to the director as required by rule, pay the license fee, and obtain the director's approval.

[2001 c 81 § 6; 1994 c 92 § 164; 1991 c 208 § 8.]

Applicable Consumer Loan Statutes and Rules

RCW 31.04.085 Licensee -- Assessment -- Bond -- Time of payment.

A licensee shall, for each license held by any person, on or before the first day of each March, pay to the director an annual assessment as determined by rule by the director. The licensee shall be responsible for payment of the annual assessment for the previous calendar year if the licensee had a license for any time during the preceding calendar year, regardless of whether they surrendered their license during the calendar year or whether their license was suspended or revoked. At the same time the licensee shall file with the director the required bond or otherwise demonstrate compliance with RCW [31.04.045](#).

[2001 c 81 § 7; 1994 c 92 § 165; 1991 c 208 § 9.]

RCW 31.04.093 Licensing -- Applications -- Regulation of licensees--Director's duties -- Fines -- Orders.

(1) The director shall enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter.

(2) The director may deny applications for licenses for:

(a) Failure of the applicant to demonstrate within its application for a license that it meets the requirements for licensing in RCW [31.04.045](#) and [31.04.055](#);

(b) Violation of an order issued by the director under this chapter or another chapter administered by the director, including but not limited to cease and desist orders and temporary cease and desist orders;

(c) Revocation or suspension of a license to conduct lending, or to provide settlement services associated with lending, by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license; or

(d) Filing an incomplete application when that incomplete application has been filed with the department for sixty or more days, provided that the director has given notice to the licensee that the application is incomplete, informed the applicant why the application is incomplete, and allowed at least twenty days for the applicant to complete the application.

(3) The director may suspend or revoke a license issued under this chapter if the director finds that:

(a) The licensee has failed to pay any fee due the state of Washington, has failed to maintain in effect the bond or permitted substitute required under this chapter, or has failed to comply with any specific order or demand of the director lawfully made and directed to the licensee in accordance with this chapter;

(b) The licensee, either knowingly or without the exercise of due care, has violated any provision of this chapter or any rule adopted under this chapter; or

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, clearly would have allowed the director to deny the application for the original license. The director may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist unless the director finds that the grounds for revocation or suspension are of general application to all offices or to more than one office operated by the licensee, in which case, the director may revoke or suspend all of the licenses issued to the licensee.

(4) The director may impose fines of up to one hundred dollars per day upon the licensee, its employee or loan originator, or other person subject to this chapter for:

Applicable Consumer Loan Statutes and Rules

- 1 (a) Any violation of this chapter; or
- 2 (b) Failure to comply with any order or subpoena issued by the director under this chapter.
- 3 (5) The director may issue an order directing the licensee, its employee or loan originator, or other person subject to this chapter to:
- 4 (a) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter;
- 5 (b) Take such affirmative action as is necessary to comply with this chapter; or
- 6 (c) Make restitution to a borrower or other person who is damaged as a result of a violation of this chapter.
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- 8 (6) The director may issue an order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer, principal, employee or loan originator, or any person subject to this chapter for:
- 9 (a) False statements or omission of material information from an application for a license that, if known, would have allowed the director to deny the original application for a license;
- 10 (b) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony;
- 11 (c) Suspension or revocation of a license to engage in lending, or perform a settlement service related to lending, in this state or another state;
- 12 (d) Failure to comply with any order or subpoena issued under this chapter; or
- 13 (e) A violation of RCW [31.04.027](#).
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- 15 (7) Whenever the director determines that the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue a temporary cease and desist order. The order may direct the licensee to discontinue any violation of this chapter, to take such affirmative action as is necessary to comply with this chapter, and may include a summary suspension of the licensee's license and may order the licensee to immediately cease the conduct of business under this chapter. The order shall become effective at the time specified in the order. Every temporary cease and desist order shall include a provision that a hearing will be held upon request to determine whether the order will become permanent. Such hearing shall be held within fourteen days of receipt of a request for a hearing unless otherwise specified in chapter 34.05 RCW.
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- 19 (8) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability, if any, for acts committed before the surrender, including any administrative action initiated by the director to suspend or revoke a license, impose fines, compel the payment of restitution to borrowers or other persons, or exercise any other authority under this chapter.
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- 22 (9) The revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and a borrower.

Applicable Consumer Loan Statutes and Rules

1 (10) Every license issued under this chapter remains in force and effect until it has been surrendered,
2 revoked, or suspended in accordance with this chapter. However, the director may on his or her own
initiative reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have
been revoked if the director finds that the licensee meets all the requirements of this chapter.

3 [2001 c 81 § 8; 1994 c 92 § 166; 1991 c 208 § 10.]

4 **RCW 31.04.145 Investigations and examinations -- Director's duties -- Production of information -- Costs.**

5 (1) For the purpose of discovering violations of this chapter or securing information lawfully required
6 under this chapter, the director may at any time, either personally or by designees, investigate or examine
the loans and business and, wherever located, the books, accounts, records, papers, documents, files, and
7 other information used in the business of every licensee and of every person who is engaged in the business
making or assisting in the making of loans at interest rates authorized by this chapter, whether the person
8 acts or claims to act as principal or agent, or under or without the authority of this chapter. For these
purposes, the director or designated representatives shall have free access to the offices and places of
9 business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such
persons. The director or persons designated by the director may require the attendance of and examine
10 under oath all persons whose testimony may be required about the loans or the business or the subject
matter of any investigation, examination, or hearing and may require such person to produce books,
11 accounts, papers, records, files, and any other information the director or designated persons deem relevant
to the inquiry. The director may require the production of original books, accounts, papers, records, files,
and other information; may require that such original books, accounts, papers, records, files, and other
12 information be copied; or may make copies himself or herself or by designee of such original books,
accounts, papers, records, files, or other information. If a licensee or person does not attend and testify, or
does not produce the requested books, accounts, papers, records, files, or other information, then the
director or designated persons may issue a subpoena or subpoena duces tecum requiring attendance or
compelling production of the books, accounts, papers, records, files, or other information.

13 (2) The director shall make such periodic examinations of the affairs, business, office, and records of each
14 licensee as determined by rule.

15 (3) Every licensee examined or investigated by the director or the director's designee shall pay to the
16 director the cost of the examination or investigation of each licensed place of business as determined by
rule by the director.

17 [2001 c 81 § 11; 1995 c 9 § 2; 1994 c 92 § 169; 1991 c 208 § 15.]

18 **RCW 31.04.155 Licensee -- Recordkeeping -- Director's access -- Report requirement -- Failure to report.**

19 The licensee shall keep and use in the business such books, accounts, records, papers, documents, files, and
20 other information as will enable the director to determine whether the licensee is complying with this
chapter and with the rules adopted by the director under this chapter. The director shall have free access to
such books, accounts, records, papers, documents, files, and other information wherever located. Every
21 licensee shall preserve the books, accounts, records, papers, documents, files, and other information
relevant to a loan for at least twenty-five months after making the final entry on any loan. No licensee or
22 person subject to examination or investigation under this chapter shall withhold, abstract, remove, mutilate,
destroy, or secrete any books, accounts, records, papers, documents, files, or other information.

Applicable Consumer Loan Statutes and Rules

1 Each licensee shall, on or before the first day of March of each year, file a report with the director giving
2 such relevant information as the director may reasonably require concerning the business and operations of
3 each licensed place of business conducted during the preceding calendar year. The report must be made
4 under oath and must be in the form prescribed by the director, who shall make and publish annually an
analysis and recapitulation of the reports. Every licensee that fails to file a report that is required to be filed
by this chapter within the time required under this chapter is subject to a penalty of fifty dollars per day for
each day's delay. The attorney general may bring a civil action in the name of the state for recovery of any
such penalty.

5 [2001 c 81 § 12; 1994 c 92 § 170; 1991 c 208 § 16.]

6 **RCW 31.04.165 Director -- Broad administrative discretion -- Rule making--Actions in superior court.**

7 (1) The director has the power, and broad administrative discretion, to administer and interpret this chapter
8 to facilitate the delivery of financial services to the citizens of this state by loan companies subject to this
chapter. The director shall adopt all rules necessary to administer this chapter and to ensure complete and
full disclosure by licensees of lending transactions governed by this chapter.

9 (2) If it appears to the director that a licensee is conducting business in an injurious manner or is violating
10 any provision of this chapter, the director may order or direct the discontinuance of any such injurious or
illegal practice.

11 (3) For purposes of this section, "conducting business in an injurious manner" means conducting business
12 in a manner that violates any provision of this chapter, or that creates the reasonable likelihood of a
violation of any provision of this chapter.

13 (4) The director or designated persons, with or without prior administrative action, may bring an action in
14 superior court to enjoin the acts or practices that constitute violations of this chapter and to enforce
compliance with this chapter or any rule or order made under this chapter. Upon proper showing, injunctive
relief or a temporary restraining order shall be granted. The director shall not be required to post a bond in
any court proceedings.

15 [2001 c 81 § 13; 1994 c 92 § 171; 1991 c 208 § 17.]

16 **RCW 31.04.202 Application of administrative procedure act.**

17 The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking
licenses, and imposing civil penalties or other remedies under this chapter, and any review or appeal of
such action, shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

18 [2001 c 81 § 15.]

19 **RCW 31.04.205 Enforcement of chapter -- Director's discretion -- Hearing -- Sanctions.**

20 The director or designated persons may, at his or her discretion, take such action as provided for in this
chapter to enforce this chapter. If the person subject to such action does not appear in person or by counsel
21 at the time and place designated for any administrative hearing that may be held on the action, then the
person shall be deemed to consent to the action. If the person subject to the action consents, or if after
hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this
chapter exist, then the director may impose any sanction authorized by this chapter.

22 [2001 c 81 § 16.]

Applicable Consumer Loan Statutes and Rules

WAC 208-620-030 Surety bond.

(1) **Bond required.** Each licensee shall file and maintain a surety bond, approved by the director, and executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety. The surety company may not be a wholly owned subsidiary or an affiliate of the licensee.

(2) **Amount of bond.** The penal sum of the bond is one hundred thousand dollars for each branch office up to five branch offices. The amount of the bond is increased by ten thousand dollars for each additional branch office. For example:

Number of Branch Offices	Penal Sum of the Bond
1	\$100,000
2	\$200,000
3	\$300,000
4	\$400,000
5	\$500,000
6	\$510,000

(3) **Conditions on bond.** The bond shall run to the state as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under the act. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by the act and all the rules adopted under the act. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of the act.

[Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105,[31.04].145 , [31.04].155 and [31.04].165. 96-04-013, § 208-620-030, filed 1/26/96, effective 2/26/96.]

WAC 208-620-180 Examinations.

(1) For the purpose of discovering violations of the act or this chapter or securing information lawfully required, the director or designee may investigate the loans and business of every licensee and of every person engaged in the business described in RCW 31.04.035. The director or designee may examine, wherever located, the records used in the business of every licensee and of every person who is engaged in the business described in RCW 31.04.035, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For that purpose the director or designee shall have access, at reasonable times during business hours, to the offices and places of business, records, safes, and vaults of all such persons. A licensee so examined shall pay to the director the cost of examining and supervising each licensed place of business at the rate specified in WAC [208-620-190](#)(2).

(2) The director or designee shall examine the affairs, business, office, and records of each licensee at least once each twenty-four months.

[Statutory Authority: RCW 43.320.040 and 31.04.165. 99-22-047, § 208-620-180, filed 10/29/99, effective 11/29/99. Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145,[31.04].155 and [31.04].165. 96-04-013, § 208-620-180, filed 1/26/96, effective 2/26/96.]

Applicable Consumer Loan Statutes and Rules

1 **WAC 208-620-190 Schedule of fees.**

The director shall collect fees for services as specified below:

2 (1) **Applications and certificates.**

3 (a) A charge of \$92.51 per hour for services plus actual expenses for review of application and attendant investigation for:

4 (i) New consumer loan company certificate of authority or licensed location certificate;

5 (ii) Branch licensed locations certificate;

6 (iii) Relocation of main office or branch;

7 (iv) Notice of change of control;

8 (v) Opinions rendered regarding interpretations of statutes and rules.

9 (b) A fee of \$102.79 for issuing the following certificates:

10 (i) Certificate of authority;

11 (ii) Licensed location certificate;

(iii) Certificate of good standing.

12 (2) **Examinations.** A charge of \$66.81 per hour for regular and special examinations of the licensee's records. The director will submit a statement for the charges following the completion of any applicable examination. The charges must be paid within thirty days after the statement is submitted to the licensee.

13 (3) **Annual assessment fee.**

14 (a) An annual assessment fee based on adjusted total loan value as defined in (b) of this subsection. The amount of the annual assessment fee is 0.000174529 multiplied by the adjusted total loan value as calculated from the consolidated annual report for the previous calendar year.

15 (b) The "adjusted total loan value" is the sum of:

16 (i) The total unpaid balance of loans originated subject to the act that were retained or purchased by the licensee; and

17 (ii) The total unpaid balance of loans originated subject to the act that were sold by the licensee with servicing retained (if any); and

18 (iii) The total amount of loans originated subject to the act that were sold by the licensee during the previous calendar year with servicing released (if any).

19 [Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-
20 029, § 208-620-190, filed 5/29/01, effective 7/1/01. Statutory Authority: RCW 43.320.040, 31.04.045,
21 [31.04].105, [31.04].145, [31.04].155 and [31.04].165 . 96-04-013, recodified as § 208-620-190, filed
22 1/26/96, effective 2/26/96. Statutory Authority: 1991 c 208 § 17. 91-22-035, § 50-20-190, filed 10/30/91,
23 effective 1/1/92.]

Applicable Consumer Loan Statutes and Rules

1 **WAC 208-620-191 Fee increase.**

2 The division intends to increase its fee and assessment rates each year for several bienniums. The division
3 intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual
4 increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

5 (1) On July 1, 2002, the fee and assessment rates under WAC [208-620-190](#), as increased in the prior
6 fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal
7 year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW
8 43.135.025.

9 (2) The director may round off a rate increase under subsection (1) of this section. However, no rate
10 increase may exceed the applicable fiscal growth factor.

11 (3) By June 1 of each year, the director will make available a chart of the new rates that will take effect
12 on the immediately following July 1.

13 [Statutory Authority: RCW 18.44.410, 19.146.223, 19.146.225, 19.146.265, 31.04.165, 31.45.200. 01-12-
14 029, § 208-620-191, filed 5/29/01, effective 7/1/01.]

15 **WAC 208-620-200 Change of place of business.** A licensee may do business under the act only from
16 the location named on the license. This is not intended to prohibit loans by mail or the closing of real
17 estate-secured loans in an escrow company, a title insurance company or an attorney's office.

18 A licensee shall not change its place of business to another location until the director has approved the
19 change.

20 [Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145, [31.04].155 and [31.04].165.
21 96-04-013, § 208-620-200, filed 1/26/96, effective 2/26/96.]

22 **WAC 208-620-220 Annual report and annual fee -- Due date -- Late penalties.**

23 (1) **Due date.** The director will mail a notice to each licensee showing the way to calculate the annual fee
24 due along with a worksheet for such purposes and the consolidated annual report form. The licensee will
25 calculate the annual fee on the worksheet. The licensee must submit its completed consolidated annual
report, worksheet and annual fee to the office of the director by March 1 of each year.

(2) **Late penalties.** A licensee that fails to submit the required annual report by the March 1 due date is
subject to a penalty of fifty dollars for each day of delay.

[Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145, [31.04].155 and [31.04].165.
96-04-013, § 208-620-220, filed 1/26/96, effective 2/26/96.]