

RCW 31.04.025 Application of chapter. (1) Each loan made to a resident of or a person physically located in this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter.

(2) A person may not engage in any device, subterfuge, or pretense to evade the requirements of this chapter including, but not limited to: Making loans disguised as personal property sale and leaseback transactions; disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services; or making, offering, assisting, or arranging a debtor to obtain a loan with a greater rate of interest, consideration, or charge than permitted by this chapter through any method, including mail, telephone, internet, or any electronic means regardless of whether the person has a physical location in the state.

(3) 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.

(4) This chapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions;

(b) Any person making loans under chapter 19.60 RCW (pawnbroking);

(c) Any person conducting transactions under chapter 63.14 RCW (retail installment sales of goods and services), unless credit is extended to purchase merchandise certificates, coupons, open or closed loop stored value, or other similar items issued and redeemable by a retail seller other than the retail seller extending the credit;

(d) Any person making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary dwelling;

(f) Any person selling property owned by that person who provides financing for the sale when the property does not contain a dwelling and when the property serves as security for the financing. This exemption is available for five or fewer transactions in a calendar year. This exemption is not available to individuals subject to the federal S.A.F.E. act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings;

(g) Any person making loans made to government or government agencies or instrumentalities or making loans to organizations as defined in the federal truth in lending act;

(h) Any person making loans under chapter 43.185A RCW (housing trust fund);

(i) Any person making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants

to low-income individuals for the purchase or repair of single-family housing;

(j) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents;

(k) Any person making loans which are not residential mortgage loans under a credit card plan;

(l) Individuals employed by a licensed residential mortgage loan servicing company engaging in activities related to servicing, unless licensing is required by federal law or regulation; and

(m) Any person licensed under chapter 18.44 RCW that process[es] payments on seller-financed loans secured by liens on real or personal property; and

(n) Any person that extends money or credit to another person on a nonrecourse basis in exchange for a contingent right to receive an amount of the potential proceeds of any award, judgment, settlement, verdict, or other resolution from a pending legal action. This exemption does not apply to any person that requires repayment in the event the person does not prevail in their civil proceeding.

(5) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers.

(6) The burden of proving the application for an exemption or exception from a definition, or a preemption of a provision of this chapter, is upon the person claiming the exemption, exception, or preemption.

(7) The director may adopt rules interpreting this section.
[2024 c 249 s 2; 2023 c 275 s 15; 2015 c 229 s 20. Prior: 2013 c 64 s 2; 2013 c 29 s 2; 2012 c 17 s 1; prior: 2011 c 191 s 1; prior: 2009 c 311 s 1; 2009 c 120 s 3; 2008 c 78 s 1; 2001 c 81 s 2; 1991 c 208 s 4.]

Short title—2024 c 249: "This act may be known and cited as the predatory loan prevention act." [2024 c 249 s 1.]

Application—2024 c 249: "This act shall apply prospectively only. The changes made to chapter 31.04 RCW by this act shall not be construed to apply to any loan issued prior to June 6, 2024, unless the loan is renegotiated or modified after June 6, 2024." [2024 c 249 s 5.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

Severability—2008 c 78: "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." [2008 c 78 s 5.]