

WAC 208-630-110 What definitions are required to understand these rules? The definitions in RCW 31.45.010 and this section apply throughout this chapter unless the context clearly requires otherwise.

"ACH" means automated clearing house, an electronic network for financial transactions that processes credit and debit transactions.

"Act" means chapter 31.45 RCW.

"Advertise, advertising, and advertising material" means any form of sales or promotional materials used in connection with the business. Advertising material includes, but is not limited to, newspapers, magazines, leaflets, flyers, direct mail, indoor or outdoor signs or displays, point-of-sale literature or educational materials, other printed materials; radio, television, public address system, or other audio broadcasts; internet pages, social media, instant messages, or electronic bulletin boards.

"Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is in common control with another person.

"Agent" for purposes of RCW 31.45.079 means a person who engages in the business of making small loans by performing small loan agent services.

"Annual percentage rate" or "APR" means the cost of credit expressed as a yearly rate, determined in accordance with the federal Truth in Lending Act (15 U.S.C. Sec. 1601 et seq.), and Regulation Z (12 C.F.R. Part 1026 et seq.), as amended.

The Office of the Comptroller of the Currency (OCC) has developed an APR calculator (APRWIN) that licensees may download and use without charge. APRWIN is available on the OCC's web site at <http://www.occ.treas.gov/aprwin.htm>.

"Board director" means a director of a corporation or a person occupying a similar status and performing a similar function with respect to an organization, whether incorporated or unincorporated.

"Check" means the same as defined in RCW 62A.3-104(f) and, for purposes of conducting the business of making small loans, includes other electronic forms of payment, including stored value cards, internet transfers, and automated clearing house transactions.

"Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

"Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose.

"Close of business" for the purposes of RCW 31.45.86 and these regulations means the actual time a licensee closes for business at the location from which a small loan was originated or 11:59 p.m. Pacific Time, whichever is earlier.

"Default" means:

(a) The borrower's failure to repay a small loan in compliance with the terms contained in the small loan agreement or note; or

(b) Failure to pay any installment plan payment within ten days after the date upon which the installment was scheduled to be paid. See WAC 208-630-556 (12)(b).

"Department" means the department of financial institutions.

"Exempt entity" means a person described in RCW 31.45.020 that is engaged in the business of making small loans.

"Gross monthly income" means an individual's total personal income earned during a month prior to any taxes or deductions.

"Installment plan" is a contract between a licensee and borrower that provides that the loaned amount will be repaid in substantially equal installments scheduled on or after a borrower's pay dates and no less than fourteen days apart.

"Investigation" means an examination undertaken for the purpose of detecting violations of chapter 31.45 RCW or these rules or obtaining information lawfully required under chapter 31.45 RCW or these rules.

"License" means a license issued by the director to engage in the business of check cashing or check selling under the provision of chapter 31.45 RCW.

"Loaned amount" means the outstanding principal balance and any fees authorized under RCW 31.45.073 that have not been paid by the borrower.

"Monetary instrument" means a check, draft, money order or other commercial paper serving the same purpose.

"Paid" means that moment in time when the licensee deposits the borrower's check, accepts cash, or initiates an ACH withdrawal from the borrower's account for the full amount owed on a valid small loan. If the borrower's check is dishonored and returned unpaid by the borrower's bank, the loan is not paid. If an ACH authorization is denied, the loan is not paid.

"Payday advance lender" or "payday lender" means a licensee under this chapter who has obtained a small loan endorsement under RCW 31.45.073.

"Payday advance loan," "payday loan" or "deferred deposit loan" means the same as a small loan.

"Postdated check" means a check delivered prior to its date, generally payable at sight or on presentation on or after the day of its date. "Postdated check" does not include any promise or order made or submitted electronically by a borrower to a licensee.

"RCW" means the *Revised Code of Washington*.

"Small loan" or "loan" means a loan of up to the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.

"Small loan agent services" include, but are not limited to:

- (a) Marketing and advertising small loans;
- (b) Collecting nonpublic personal information from consumers in anticipation of selling the information to potential licensed lenders or other entities providing small loan agent services;
- (c) Assisting consumers in completing small loan documentation;
- (d) Providing required applicable state and federal disclosures in connection with small loans; and
- (e) Collecting on small loans.

Small loan agent services do not include (a) services performed by any person holding a small loan endorsement or (b) collection of small loans by a person licensed under chapter 19.16 RCW or exempt from that chapter or otherwise authorized under Washington law to act as a collection agent.

"State" means the state of Washington.

"Unsafe or unsound financial practice" means any action, or lack of action, the likely consequences of which, if continued, would materially impair the net worth of a licensee or create an abnormal risk of loss to its customers.

[Statutory Authority: Chapter 43.320 RCW, RCW 31.45.200. WSR 16-10-046, § 208-630-110, filed 4/29/16, effective 6/1/16; WSR 14-24-048, § 208-630-110, filed 11/25/14, effective 1/1/15; WSR 13-05-005, § 208-630-110, filed 2/6/13, effective 3/9/13. Statutory Authority: RCW 43.320.040, 31.45.200, and 2009 c 510. WSR 09-24-089, § 208-630-110, filed 12/1/09, effective 1/1/10. Statutory Authority: RCW 43.320.040. WSR 07-23-094, § 208-630-110, filed 11/20/07, effective 12/21/07. Statutory Authority: RCW 31.04.165, 43.320.040, 31.45.030, 31.45.050, 31.45.200. WSR 05-22-009, § 208-630-110, filed 10/21/05, effective 11/21/05.]