



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

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**INTERPRETIVE STATEMENT AS AMENDED 12/30/09**  
**CHECK CASHERS AND SELLERS ACT** (CSSA IS-2009-01)

**DATE:** December 30, 2009

**FROM:** Deborah Bortner, Director, Division of Consumer Services

**RE:** Installment Plans Effective 1/1/2010

**QUESTION PRESENTED:** What are the required payment terms for a statutory installment plan under RCW 31.45.084 have?

**BRIEF ANSWER:** The payment terms must provide for substantially equal payment amounts due on or after each of the borrower's pay dates during the statutorily defined payment period. The scheduled payment dates must not be less than fourteen days apart.

**DISCUSSION:** The Division has recently been informed that some installment plans proposed under the new Check Cashier and Seller provisions that take effect on January 1, 2010, would heavily front-load payments rather than spreading the payments over the installment period. This Interpretive Statement is a clarification of the DFI's interpretation of the payment terms of the new installment plan under RCW 31.45.084.

Effective January 1, 2010, a borrower is eligible for an installment plan if he or she informs the lender, on or before the due date of the loan, that he or she is unable to pay the loan on time. The lender must then inform the borrower of his or her installment plan option. If the borrower opts to enter the installment plan, he or she then has a statutorily defined period to make payments, for no additional fees or interest. The installment plan must provide for payments over an installment period not less than ninety days for a loan amount of up to and including \$400, or a period not less than one hundred eighty days for a loan amount over \$400. The length of the installment plan is determined by the loaned amount (principle plus fee).

An installment plan must be paid in "substantially equal installments scheduled on or after a borrower's pay dates and no less than fourteen days apart." RCW 31.45.010(12). It is the Director's position that installment payments must be both substantially equal in payment amount and substantially equally distributed over the installment plan payment period. The definition of installment plan in RCW 31.45.010(12) provides that the payments of an installment plan must occur on or after the borrower's pay dates. If a

borrower is paid more than once during the payment period, the borrower will make more than one installment payment. However, to provide maximum flexibility to allow borrowers to manage their finances, it is the Director's position that an installment plan for 90 or 180 days is in compliance if there is at least one payment in each 30-day period, payments are evenly spread throughout the installment plan period, and no two payments are within fourteen days of each other.

A licensee must initially offer the borrower an installment plan that includes one payment on or after each of the borrower's pay dates during the installment plan period. This may require installment plans to exceed the minimum 90- or 180-day length in order to adequately spread the payments. However, the borrower and licensee may mutually agree to fewer payments as long as they are substantially equal in amount and substantially equally distributed over the installment plan payment period. If a borrower is paid less often than once a month, equal payments must be scheduled after each of the borrower's pay dates during the installment plan period. Additionally, if the borrower wants to make an additional payment during the month or pay the balance in full early, he or she may with no penalty or additional fee.

For the purposes of installment plans, "pay date" includes days when the borrower receives compensation from employment, government benefits, or any other regular and predictable source of income or the date the borrower's account is credited with any direct deposit or other electronic transfer of funds into their bank account, whichever is later.

In summary:

- Borrowers must be initially offered an installment plan with one payment occurring on or after each of his or her pay dates. The lender and borrower may mutually agree to fewer payments as long as the following requirements are met (regardless of installment plan length):
  - o At least one payment occurs in each 30-day period (1-30 days, 31-60 days, 61-90 days, etc.), unless the borrower is paid less frequently.
  - o Payments are substantially equal in amount.
  - o Payments are substantially evenly spread throughout the payment period
  - o No two payments are required within fourteen days of each another.
- A borrower may prepay part or all of a payment plan with no penalty or additional fees.

Some examples:

Example 1: A borrower converts a \$400 small loan (counting finance charges) into an installment plan, and is paid twice a month with the pay dates at least fourteen days apart. The borrower must be offered a 90-day installment plan with a payment on or after each of his or her pay dates. Depending on pay dates and the date when the borrower enters the installment plan, this would require approximately six payments, each an equal share of the installment plan amount. The borrower and lender may mutually agree to reduce payments to two payments of \$133.33 and one of \$133.34 (one in each of the 30 days periods), all substantially equally spaced.

Example 2: A borrower converts a \$600 small loan (counting finance charges) into an installment plan, and is paid twice a month with the pay dates at least fourteen days apart. The borrower must be offered a 180-day payment plan with payments after each of his or her pay dates. Depending on pay dates and the date when the borrower enters the installment plan, this would require approximately twelve payments, each an equal share of the installment plan amount. The borrower and lender may mutually agree to reduce the number of payments to six (one in each 30-day period) equally spaced payments of \$100.

Example 3: A borrower converts a \$300 small loan into an installment plan, and is paid only once every three months. The borrower would have a 90-day installment plan and would make a total of one payment of \$300, on or after his or her next pay date.

Example 4: A borrower converts a \$300 small loan into an installment plan, and is paid every two weeks. He or she must be offered an installment plan that requires a payment on each of his or her pay days. This may involve up to seven substantially equal payments, due every two weeks on his or her pay dates. However, the borrower and lender may mutually agree to reduce the number of payments to no fewer than three evenly spaced payments of \$100.

Prepared by: Phil Brady, Staff Attorney CSSA IS-2009-01 12/28/2009

**STATUTES AND RULES RELIED UPON:** Chapter 31.45 RCW and WAC 208-630 (effective 1/1/2010)