



From: Anthony Desir
Subject: "Intermediary charges for foreign domestic helpers"
Date: 10 June, 2013 7:21:37 PM GMT+08:00
To: kyyeung@legco.gov.hk
Bcc:

Sirs,

I have just received information that LEGCO is addressing this matter. Our helper has unknowingly borrowed about HK\$55,000 from 3 different lenders.

This is summarized as follows:

27 Apr, 2013		(Roll over)				
Company	Date	Loan	Installment s	Cash received	Total repaid	Outstanding monthly ?
Heisei	26 Oct, 2012	\$25,000.00	11	\$4,435.00	\$11,563.00	\$19,978.00
First Credit	11 Oct, 2012	\$15,000.00	10	\$6,552.00	\$7,738.00	\$15,698.00
Max Surplus	20 Jan, 2013	\$15,000.00	8	\$6,000.00	\$2,292.00	\$19,000.00
		\$55,000.00		\$16,987.00	\$21,593.00	\$54,676.00

You will note that she had only received \$17K in cash, has repaid \$21.6K but still owes \$55K! Clearly there is something wrong with this process.

1. The current laws governing lending to domestic helpers are simply not strong enough to prevent abuse by both lenders and by helpers.
2. The borrowers often have no idea what they are getting themselves into as the lenders abuse the process by getting them to sign documents that even a well trained lawyer cannot easily decipher.
3. I attach an example of a loan document where you can see the complexity.
4. Most lenders are forcing the helpers to reload their loan accounts (calling it a "reloan") at the most insignificant default and they use this process to get around the law fixing the interest rate.
5. In cases where the helpers cannot repay employers are being chased by the lenders who hope that their intimidation tactics (appearing at our homes late at night shouting and demanding payment) will force us to bail out the helpers. (I attach a copy of our complaint to the police department for reference, and a copy of an intimidation letter received by us, despite the fact that our helper is one who borrowed without our permission.
6. One lender (Heisei Credit) does not even appear to have a lender's license but are operating through a subsidiary that does.
7. Max Surplus openly threatens to send triads to homes of employers and have sent men acting like thugs to our home and that of the co guarantor.

Here are changes that you should consider:

1. Helpers should not be allowed to borrow with any reference to any employer

(employment contact, home number, etc) *unless the employer directly signs the loan document confining that they are aware of the loan.* The signature from the employer is not a loan guarantee but an acknowledgement that we are aware of the helper's borrowing activities. There should be no reference to an employer if the employer is not aware of the helper's actions and has not approved. This is the same as if the helper committed a crime-- the employer is only held responsible if the employer is aware of the helper's activities. *Why should employers be threatened if they did not approve of the helper's borrowings?*

2. Lenders who are known to have broken the law should be subject to *immediate referral for a license review.* *Any lender with more than 3 referrals in one period can immediately have their license suspended.* (Currently there is only a renewal review).
3. Any lender that threatens or contacts a party that did not borrow from them or who is not a co-guarantor (i.e. employers) can immediately have their license suspended.
4. The panel should be aware that helpers routinely care for young children who are defenseless. There must be a special section of the law that severely punishes the lender *and the registered manager* of the lender if there is any intimidation while the helpers are managing or caring for children.
5. One provision is should be that lenders that have their license suspended should have to forfeit all loans made during the license period and cannot transfer these loans to any other party.

The main point is that the present laws are soft on lenders and does nothing to discourage abuse by lenders, and by helpers who are unaware of how their borrowing can escalate into unmanageable and never ending loans. Employers like us are being inconvenienced and threatened because of mistakes made by helpers and by unscrupulous lenders and the Police is often powerless to act only until long after the fact, if they can ever identify the culprits.

Anthony Desir
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