
**Insurance, Financial Services &
Consumer Protection Committee**

HB 1270

Brief Description: Modifying provisions of the consumer loan act with respect to loan restrictions.

Sponsors: Representatives Kirby, Roach and Moeller.

Brief Summary of Bill

- Removes the maximum repayment time cap on certain loans under the Consumer Loan Act.

Hearing Date: 2/1/07

Staff: Jon Hedegard (786-7127).

Background:

Consumer loan companies are lenders authorized to make loans for more than the usury rate. They are authorized and regulated because the Legislature has recognized the need for lenders to serve the credit needs of borrowers who represent a higher than average credit risk. Consumer loan companies may charge up to 25 percent simple interest as well as certain prescribed loan origination fees. Consumer loan companies are regulated by the Department of Financial Institutions (DFI) under the Consumer Loan Act.

Licensees

No person may make a loan under the Consumer Loan Act unless they are licensed in accordance with the Consumer Loan Act. Licensees must maintain a surety bond; the amount of the bond may vary depending on the number of licensed locations and the type of security used to secure a loan. Licensees must pay an annual assessment. Assessments are determined by rule by the Director of the DFI.

Open-end loans

An "open-end loan" is a loan that provides that:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- the borrower may take advances;
- the amount of an advance and permitted charges are debited to the borrower's account;
- charges are computed on the unpaid balance periodically;
- the borrower can pay in monthly installments that are fixed or determinable; and
- the borrower can pay the full amount at any time without a prepayment penalty.

Loan restrictions

No licensee may make a loan with a repayment period greater than six years and 15 days after the loan is originated unless the loan is an open-end loan or a loan secured by real estate or personal property used as a residence.

Disclosure

Within three days of the receipt of a loan application, a licensee must provide the borrower with a written disclosure and explanation of all costs and fees imposed in connection with obtaining the loan. Compliance with the Federal Truth in Lending Act and Real Estate Settlement Procedures Act constitutes compliance with the Consumer Loan Act.

Unfair practices

Consumer loan companies are prohibited from engaging in specified practices, including fraud, deception, failure to disclose, unfair business practices, and other acts that might adversely affect consumers or thwart the regulatory process. The Director of the DFI has authority to adopt rules to implement the Consumer Loan Act.

Violations of the chapter that constitute an unfair or deceptive act or practice are violations of the Consumer Protection Act.

Enforcement

The Director of the Department of Financial Institutions may:

- impose fines and take other steps necessary for enforcement;
- remove from office of any officer, principal or employee of a licensee, under certain specified conditions;
- issue cease and desist orders; and
- deny, suspend, or revoke licenses.

Summary of Bill:

The repayment time cap on certain loans is removed. A licensee may make a loan with a prepayment period greater than six years and 15 days after the loan for all types of loans under the Consumer Loan Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.