

HOUSE BILL REPORT

HB 1205

As Passed House:

February 20, 2001

Title: An act relating to licensing and regulation of consumer loan companies.

Brief Description: Licensing and regulation of consumer loan companies.

Sponsors: Representatives Keiser, DeBolt, Barlean, Simpson and Santos; by request of Department of Financial Institutions.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/30/01 [DP].

Floor Activity:

Passed House: 2/20/01, 97-0.

Brief Summary of Bill

- Amends and augments the Consumer Loan Act to define prohibited practices, add consumer protection provisions, tighten licensing regulations, expand enforcement powers, impose disclosure requirements, and clarify rule making authority.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 11 members: Representatives Benson, Republican Co-Chair; Hatfield, Democratic Co-Chair; Bush, Republican Vice Chair; McIntire, Democratic Vice Chair; Barlean, DeBolt, Keiser, Miloscia, Roach, Santos and Simpson.

Staff: Thamas Osborn (786-7129).

Background:

Consumer loan companies are lenders that are authorized to make loans at higher interest rates than other financial institutions and credit card issuers. 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. They are authorized to charge up to 25 percent simple interest, and certain prescribed loan origination fees.

Consumer loan companies are regulated by the Department of Financial Institutions, as prescribed by the Consumer Loan Act.

The bill proposed by the Department of Financial Institutions (the department) endeavors to make key provisions of the Consumer Loan Act consistent with those of the Mortgage Brokers Practices Act with respect to consumer protection, licensing requirements, the authority granted to the director, and various enforcement provisions.

Summary of Bill:

A list of prohibited practices is created encompassing fraud, deception, failure to disclose, unfair business practices, and other acts that might adversely affect consumers or thwart the regulatory process. Violations of the chapter that constitute an unfair or deceptive act or practice are declared to be violations of the Consumer Protection Act and are thus subject to the remedies provided by that act.

The authority of the director of the department is both broadened and defined with respect to: 1) the promulgation and enforcement of administrative regulations; 2) the issuance, suspension and revocation of licenses; 3) the imposition of fines and other steps necessary for enforcement; 4) the removal from office of any officer, principal or employee of a licensee, under certain specified conditions; 5) the issuance of cease and desist orders; and 6) the general power to enforce the requirements of the act and to impose sanctions.

Licensing requirements are made more stringent under the act, and include provisions requiring that the applicant has not had a license suspended or revoked in this state or any other state, and that no officer or principal has been convicted within seven years of a gross misdemeanor involving dishonesty or financial misconduct, or any felony, or any violation of banking laws.

Within three days of the receipt of a loan application, a lender must provide 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 constitute compliance with the terms of this act.

The director's authority is clarified with respect to requiring persons subject to the act to provide records, files, documents, and other evidence relevant to the investigation of a licensee. The director is empowered to compel the appearance of a witness and/or the production of records.

The regulations regarding interactions with mortgage brokers are clarified. A borrower may be required to pay a fee to a mortgage broker with respect to a loan secured by real estate, provided the broker is not owned by, or under common ownership with the

lender. The borrower must actually obtain a loan before a fee may be paid to a mortgage broker. The lender may not collect any fee as a mortgage broker with respect to any loan made by the lender.

The director is given express authority to define injurious business practices by rule, and to seek injunctive relief in superior court with respect to violations of the act.

Administrative proceedings for denying, suspending or revoking a license, or imposing civil penalties are to be conducted under the Administrative Procedures Act.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Recipients of consumer loans are vulnerable to predatory lending practices by consumer loan companies, particularly as to loans secured by real estate. Current law does not provide borrowers with sufficient protection from fraudulent, unfair or misleading business practices, and does not require lenders to immediately make full disclosure of the costs and fees that may be associated with a loan. The proposed bill will remedy these problems by creating consumer protection provisions, as well as remedies that are currently unavailable to borrowers.

The bill is intended to provide consumer protection measures and enforcement provisions that are consistent with, and similar to, those found in the Mortgage Brokers Practices Act. Its consumer protection provisions are intended to be used against lenders who exhibit a systematic pattern of deception. It provides borrowers with a private cause of legal action, a right to restitution, and imposes disclosure requirements on lenders. The disclosure requirement is significant since it allows borrowers to make informed decisions.

Testimony Against: None

Testified: Mark Thompson, Assistant Director, Division of Consumer Services and Administration, Department of Financial Institutions; and Pete Gomes, Seattle/King County Realtor Association.