

SENATE BILL REPORT

HB 1205

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, March 27, 2001

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

Brief Description: Licensing and regulation of consumer loan companies.

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

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 3/22/01, 3/27/01 [DP].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Gardner, Vice Chair; Franklin, Hochstatter, Honeyford, Rasmussen, Regala, West and Winsley.

Staff: Dave Cheal (786-7576)

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 sub-prime 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.

Summary of Bill: Changes and additions are made to the Consumer Loan Act to strengthen and clarify certain regulatory powers and further define prohibited practices. License requirements are strengthened. Disclosure requirements are enhanced.

Several definitions are added: applicant, borrower, loan, loan originator, and others. Limited liability companies and partnerships are added to the definition of person.

Coverage of the act is amended to include all loans that cannot be made under another law of this state or another state.

The list of prohibited practices is expanded to include fraud, unfair and deceptive acts and practices, and other acts damaging to consumers and the regulatory process.

License application requirements are clarified. Bond requirements for real estate loans are established. A license may not be issued to anyone who has had a license revoked or suspended in this or any other state during the last five years, or to any entity with an officer

who has been convicted of a gross misdemeanor involving dishonesty or financial misconduct, any felony, or a violation of the banking laws.

Loan disclosures must be made within three days of receiving an application. Compliance with the federal Truth in Lending and Real Estate Settlement Procedures Act constitute compliance with this act.

Interaction with mortgage brokers is clarified. The consumer must actually obtain a loan before a fee can be paid to a mortgage broker. The mortgage broker cannot be under common ownership with the consumer loan company.

Records retention requirements and access by the director pursuant to an investigation are clarified.

The director is given express authority to define injurious business practices by rule, and to seek injunctive relief against violations of the act in Superior Court.

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

Violations of the act are made violations of the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Through recent regulatory enforcement action against consumer loan companies believed to be engaging in predatory lending practices, several weak points in the consumer loan act were discovered. This bill remedies those deficiencies. It also brings this act into conformity with the mortgage brokers practices act, which will enhance enforceability of both acts.

Testimony Against: None.

Testified: Mark Thomson, DFI (pro); Bob Mitchell, WA Assn. of Realtors (pro); Jim Boldt, WA State Fin. Services Assn. (pro).