

SENATE BILL REPORT

SB 6134

As of January 22, 2014

Title: An act relating to clarifying the statute of limitations for enforcement actions, sharing of information with federal and state regulatory authorities, and requiring call reports for nondepository institutions regulated by the department of financial institutions.

Brief Description: Addressing nondepository institutions regulated by the department of financial institutions.

Sponsors: Senators Hobbs, Benton, Hatfield, Mullet and Fain; by request of Department of Financial Institutions.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/21/14.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Alison Mendiola (786-7483)

Background: The Department of Financial Institutions (DFI) has the authority to enforce laws and rules related to the licensing and regulation of escrow agents, mortgage brokers, consumer loan companies, check cashers and sellers, and payday lenders.

Statute of Limitations. When DFI seeks to enforce laws and regulations within its jurisdiction, there is no statute of limitation as to when the agency can bring an action. RCW 4.16.160 specifies that there is no statute of limitations to actions brought in the name or for the benefit of the state, except for construction-related claims for which the statute of limitations is six years.

Nationwide Registry. The Nationwide Mortgage Licensing System (NMLS) was created in 2004 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. On July 30, 2008, President Bush signed House Resolution 3221 (P.L. 110-289) into law. Title V of House Resolution 3221 is referred to as the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). Under the SAFE Act, all states must have a system of licensing in place for residential mortgage loan originators. Currently, all consumer loan companies and mortgage brokers that do business in several states must use the NMLS and Registry.

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.

For consumer loan companies and mortgage brokers, information may be shared by the Director of DFI with other governmental agencies and regulatory associations without a loss of any privilege or confidentiality under the law.

Summary of Bill: For actions brought by DFI other than those brought in the name of the state or to benefit the state, the statute of limitations is five years.

Payday lenders and money transmitters that are multistate businesses must provide financial reports electronically.

Information that DFI receives from other regulators under the Check Cashers and Sellers Act is considered confidential under state and federal law.

Language regarding fingerprinting that DFI does for the Federal Bureau of Information and the Washington State Patrol is clarified.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: There are two statutes of limitations that apply to DFI and this bill clarifies that for penalties the statute of limitations is five years, which is reasonable given that many actions are the result of exams which take place every two years. There is already a national database for mortgage brokers and consumer loan companies. Adding money transmitters and payday lenders is a good thing and will provide good data. The fingerprinting language is cleaned up to ensure DFI can do fingerprinting for officers and directors. Lastly, DFI can accept exams from other states for those with a low-risk rating. Adding confidentiality language allows DFI to get this information.

Persons Testifying: PRO: Deb Bortner, DFI.