

HOUSE BILL REPORT

HB 2019

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to small loans.

Brief Description: Offering a small loan borrower a repayment option.

Sponsors: Representatives Green, Schual-Berke, Kenney, Darneille, Cody, Dickerson, Kagi, Hasegawa, McCoy, McDermott, Lantz, Lovick, Hudgins, Conway, Kessler, P. Sullivan, Hunt, Flannigan, Morrell, O'Brien, B. Sullivan, Moeller, Chase, Quall, McIntire, Williams, Kirby, Ericks, Ormsby and Upthegrove.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/22/05, 3/1/05 [DPS].

Brief Summary of Substitute Bill

- Requires payday lenders to conspicuously disclose to the borrower that if the origination date of the loan is within 10 days of the borrower's next payday, the borrower has the option of skipping a payday and having the loan repaid out of the subsequent paycheck.
- Requires each payday lender to keep and maintain books, accounts, and records, and to submit financial statements as required in rule. Payday lenders must provide the Department of Financial Institutions (DFI) with any data required in rule to monitor the business and its participation in furthering the financial literacy program.
- Requires the investigation conducted by the DFI of the payday loan business to include a review of the business in meeting the needs of the entire community and creates a list of factors to consider in assessing the record of performance of the business.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, Santos, Schual-Berke, Serben, Simpson, Strow and Williams.

Staff: Sonja Hallum (786-7092).

Background:

The business of check cashing and selling is regulated by the Department of Financial Institutions (DFI) pursuant to the Check Cashers and Sellers Act (Act). One of the common practices of such businesses is the issuance of what have become known as "payday loans." The term "payday loan" refers to a type of short-term, high interest, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services.

In a typical payday loan transaction, the consumer writes the lender a post dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

Payday lending practices are subject to regulation under the Check Cashers and Sellers Act, Chapter 31.45 RCW. The Act contains provisions for the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper. The Act regulates payday lending practices and provides for regulation of licensees who are specially authorized to issue small loans.

One of the regulations permits a borrower and lender to agree to a payment plan for payday loans. After four successive loans, and prior to default on the last loan, a borrower is entitled to convert his or her loans into a payment plan with the lender. Such payment plans are subject to the following conditions:

- a written agreement is required;
- the lender may charge the borrower a one-time fee in an amount up to the fee or interest on the outstanding principal;
- the agreement must allow the buyer not less than 60 days to pay off the loans; and
- the borrower must be allowed to pay off the loan in at least three payments.

Summary of Substitute Bill:

A small loan lender is required to conspicuously disclose to the borrower that if the origination date of the loan is within 10 days of the borrower's next payday, the borrower has the option of skipping a payday and having the loan repaid out of the subsequent paycheck within 45 days at no additional fees or interest.

Small loan lenders are required to keep and maintain books, accounts, and records, as the director may require in rule and requires the lender to provide the director with any data required in rule by the DFI for monitoring the check cashing and selling business and its participation in furthering the financial literacy program.

The lender is required to submit financial statements as defined by rule to the director and requires the lender to file any additional relevant information as the director may require by rule.

The investigation conducted by the DFI of the check cashing and selling business must include a review of the business in meeting the needs of the entire community and creates a list of factors to consider in assessing the record of performance of the business.

Substitute Bill Compared to Original Bill:

The substitute deletes all of section 1 of the original bill that made changes to the definition section of the chapter pertaining to check cashers and sellers.

The substitute changes the ability of a borrower to skip a payday loan to require the lender to conspicuously disclose to the borrower that if the origination date of the loan is within 10 days of the borrower's next payday, the borrower has the option of skipping a payday and having the loan repaid out of the subsequent paycheck.

Changes in the original bill relating to payment plans for small loans are deleted in the substitute bill.

New requirements are added that each payday lender must keep and maintain books, accounts, and records, as the director may require in rule and requires the lender must provide the director with any data required in rule by the DFI for monitoring the business and its participation in furthering the financial literacy program. Additionally, the lender must submit financial statements as defined by rule to the director and requires the licensee to file any additional relevant information as the director may require by rule.

The substitute requires the investigation conducted by the DFI of the check cashing and selling business to include a review of the business in meeting the needs of the entire community and creates a list of factors to consider in assessing the record of performance of the business.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (In support) This bill is part of an effort to help people who need short-term loans get them without creating a cycle of debt. The bill helps prevent the cycle of borrowing from ever even starting. The borrower can get into a payment plan. The annual percentage rate on these types of small loans is extremely high. These loans usually start out as one loan and end up in a series of loans with the borrower deep in debt. Borrowing multiple loans is a symptom of poverty. These companies have a big presence in low-income neighborhoods. It is clear they are focusing on the people who can least afford it. Payday lenders seem to customize their services to target communities of low-income, minorities, and some senior

citizens. The bill is designed to protect not the unemployed, but the working poor. Personal responsibility is important, but that doesn't give payday lenders the right to gouge a person who has ended up in this situation.

(With concerns) The current regulations are sufficient. This would set a bad precedent.

Testimony Against: Payday lenders are not predatory. They disclose the terms and borrowers have the right to rescind. The industry does not give loans to people who haven't repaid their past loans. The industry does not target. How can you target such diverse groups as minorities, low-income, and senior citizens at once. Washington consumers have many tools to relieve themselves of debt. This bill changes Governor request legislation from two years ago. Let this law develop. This bill will affect the market by significantly decreasing the revenue to the industry. Borrowers want to make their own choices.

Persons Testifying: (In support) Representative Green, prime sponsor; Judy Postin and Kellie Port, Fremont Public Association; Lauren Moughon, American Association of Retired Persons; Liz Kosse, Navy Marine Corps Relief Society; Captain T. J. Dargan, Kitsap Naval Base; Gene Forrester, Washington Senior Citizens Lobby; Charlie Harris, Skills Incorporated; Robert Pregulman, Washington State Public Interest Research Group; and Tony Orange, National Associations for the Advancement of Colored People.

(With concerns) Gary Gardner, Boeing Employees Credit Union; and Yolanda McGill, Chapter 11 Corporate Attorney.

(Opposed) Dennis Bassford, Money Tree Incorporated; Caroll Stewart, Advance America; and John Bley, Integra Advisors.

Persons Signed In To Testify But Not Testifying: None.