

HOUSE BILL REPORT

HB 2497

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to assistance for business owners who are active duty national guard members.

Brief Description: Authorizing a suspension of business loan payments and interest accrual for active duty national guard members.

Sponsors: Representatives Kilmer, Buri, Hudgins, Skinner, Green, Morrell, Linville, Ormsby, Lantz, Williams, McCoy, Appleton, Moeller, Chase, Conway, P. Sullivan, Haler, Wallace, Sells, Morris, Ericks, Upthegrove and Woods.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/17/06, 1/26/06 [DPS].

Brief Summary of Substitute Bill

- Allows a qualified person serving in the National Guard to request to suspend payments and stop the accrual of interest on a business loan or extension of credit until after the end of their active service.
- Allows a person serving in the National Guard to request to seek a reduction in the interest on a qualified business loan or extension of credit.
- Allows a person serving in the National Guard to request to seek a reduction in the interest on a qualified business loan or extension of credit.

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, O'Brien, Santos, Serben, Simpson, Strow and Williams.

Staff: Jon Hedegard (786-7127).

Background:

The Department of Financial Institutions regulates financial institutions chartered in Washington. These institutions include banks, credit unions, mutual savings banks, and

savings and loan associations. Federally chartered financial institutions are regulated by one of several different federal agencies.

The Servicemembers Civil Relief Act of 2003 (SCRA) provides financial protections for servicemembers. "Servicemember" includes:

- (1) a member of the United States military called to active duty; and
- (2) a member of the National Guard under a call of active service:
 - authorized by the President of the United States or the Secretary of Defense for a period of more than 30 consecutive days; or
 - responding to a national emergency declared by the President and supported by federal funds.

The SCRA covers issues including rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings, and income tax payments.

Impact of the SCRA on loans.

If the ability of a servicemember to repay a loan is materially affected by his or her service then the loan incurred by a servicemember or by a servicemember and his or her spouse may not accrue interest at over 6 percent during the time of military service. There is a presumption that the service does materially affect the ability to repay the loan that may be rebutted by the lender. The SCRA only applies to loans made prior to the time of active service.

Summary of Substitute Bill:

If a service member is called to military service, the interest rate on a business loan must be conformed to the interest rate in the federal Servicemembers Civil Relief Act (this interest rate is 6 percent). This applies to business loans to entities where a service member is either the sole proprietor or owns at least 50 percent of the entity. To qualify, the loans must have an outstanding balance of less than \$100,000 at the time the service member is called to military service. The business must experience a material reduction in revenue due to the service member's military service. The service member must notify the lender five days prior to military service. The Act applies only to business loans executed on or after January 1, 2007.

Substitute Bill Compared to Original Bill:

The requirements were moved into Chapter 38.42 RCW, the Washington Service Members' Civil Relief Act. The provisions requiring a cessation of payments or accrual of interest were removed. A provision linking to the interest rate in the federal law was created. The limit on employees was removed. A cap of \$100,000 was created. The requirement that the business must experience a material reduction in revenue due to the service member's military service was added. The notification provision was added. The delay in the application of the provisions was added.

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: I am very proud to have a strong National Guard presence in my district. The bill is intended to aid National Guard members whose businesses suffer during their deployment. The concern was brought to my attention by a constituent who lost their small business when he was deployed. The Servicemembers Civil Relief Act (SCRA) provides some assistance but it is not enough. A servicemember (Member) may not lose their home until they return but when they return and have lost their business, they can't afford their home. I am willing to work with all interested parties to resolve any technical or policy concerns.

The bill should be expanded to include all reservists. We know that many veterans owned businesses that suffered mightily during their deployment. The SCRA can cap interest and does apply to members of the National Guard (Guard). The SCRA does not stop the required payments. There are programs to help veterans and programs to help small businesses but no program that can help if the deployment will cause a person to be unable to keep their business going. The bill is very important to our community, particularly the young members of our community. They are patriotic and they are entrepreneurs. This problem is serious and growing. The Guard is deployed more than ever due to security concerns and disaster relief. We need the National Guard to be healthy and strong. One issue that may need to be addressed at some point is the requirement for active duty. The order of the President or the Secretary of Defense may not be clear or may not be imminent. The Guard may be mobilized slowly. They may know they are going abroad but not know when. This does not need to be addressed at this time but it is an area that should be watched. Shortly after the deployment of Guard units, many members began to find themselves in financial trouble. Members are generally young and often married. The financial strains added to the stress of deployment lead to a significant increase in the divorce rate of members. The bill goes a long way to help people who are in need of help. Members bring unique skills to a community. They are usually older and more mature than members of the general military. Local banks in the community have supported efforts to assist members. Community efforts are important but they often redirect aid that ordinarily would be directed to the poor in the community. Many reservists were called back to duty in Iraq on five days notices. That is not enough time to prepare for deployment. Business affairs and personal affairs can't be addressed in five days. Consequently many businesses went bankrupt and members lost their homes. The bill should be expanded to include all reservists.

(With concerns) Last year, financial institutions worked on issues related to the SCRA. Washington has the best and broadest provisions in the United States. The SCRA addresses personal loans. The bill addresses business loans. We could support the business loan

concept in certain circumstances, but we can't support the bill as written. The bill could have the unintended consequence of restricting access to credit or raising the cost of credit for the National Guard. If the loan may not be repaid for an indeterminate time and no interest can be charged, the institution may not want to lend. Business loans are based on different interest and collateral.

Testimony Against: None.

Persons Testifying: Bryan Petro and John Forster, Military Affairs Port Orchard Chamber; Tom Riggs, Washington Department of Veteran Affairs; Harvey Brooks, National Association of Black Veterans; and Larry Sequist.

(With concerns) Gary Gardner, Boeing Employee Credit Union and Brad Tower, Washington Community Bankers Association.

Persons Signed In To Testify But Not Testifying: None.