

SENATE BILL REPORT

ESSB 5208

As Passed Senate, March 11, 2013

Title: An act relating to banks, trust companies, savings banks, and savings associations, and making technical amendments to the laws governing the department of financial institutions.

Brief Description: Concerning banks, trust companies, savings banks, and savings associations, and making technical amendments to the laws governing the department of financial institutions.

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Benton, Hobbs, Nelson, Hatfield, Mullet and Shin; by request of Department of Financial Institutions).

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/31/13, 2/05/13 [DPS].
Passed Senate: 3/11/13, 49-0.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 5208 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hobbs, Chair; Mullet, Vice Chair; Benton, Ranking Member; Fain, Hatfield and Nelson.

Staff: Edward Redmond (786-7471)

Background: A trust is a form of ownership of property that separates responsibility or control of the property from the benefits of ownership. Washington law defines a trust company as a corporation organized under the laws of the state engaged in trust business. In general terms, Washington law defines trust business as executing trusts of every description not inconsistent with the law. Trust companies also have powers and privileges conferred on banks.

The Department of Financial Institutions (DFI) is the regulator of state-chartered banks and trust companies. In order to legally engage in trust business in the state, a corporation must obtain a trust company charter. DFI, as the primary state regulator, is responsible for oversight of the safety and soundness of such state-chartered financial institutions.

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.

In 2010, the Dodd-Frank Wall Street Recovery and Consumer Protection Act (Dodd-Frank Act) established new lending limit restrictions for state-chartered banks engaged in certain investment transactions. As of January 21, 2013, state-chartered banks are prohibited from engaging in derivative transactions unless the lending limit laws governing its state charter address credit exposure to derivative transactions.

In response to the Dodd-Frank Act, DFI has utilized its rulemaking authority to comply with the new federal requirements.

Summary of Engrossed Substitute Bill: Assessment and Fees. Amendments are made concerning assessments and fees to trust companies and financial institutions. Trust companies are assessed semiannually based on the amount of their respective fiduciary assessments. An equalization of hourly examination rates is also prescribed. The fee for IT and Trust examinations are lowered from \$116.64 to \$83.00, while the fee for Safety and Soundness examinations are increased from \$80.60 to \$83.00.

New Chartering Requirements for Limited Liability Companies (LLCs) and other Persons Engaged in Trust Business. New chartering requirements are established for certain persons engaged in trust business. Any LLC engaged in trust business must obtain a trust company charter in order to perform such services in the state. As a general exemption, individuals, sole proprietors, attorneys, law firms, and trusts are exempt from the charter requirement. DFI may, however, issue a cease and desist order to persons exempt from the charter requirement if their actions harm, or are likely to harm, the general public or the business of trust companies in the state.

Credit Limits and Conformity with Federal Regulations. Additional risk-management authority is provided to DFI to manage a diversity of credit limit circumstances. Consistent with rules established under the United States Treasury's Office of the Comptroller of the Currency (OCC), loans that are currently considered in violation of state law due to declining capital after the loan is made, will now be classified as non-conforming. DFI is authorized to provide a grace period to institutions that have non-conforming loans so that the institutions may remedy the situation and avoid any adverse actions or penalties for such non-conformance. DFI is additionally authorized to make an exception for a specific loan or general lending limit if there is a market emergency due to declining capital levels of banks and savings banks or unanticipated circumstances based on criteria determined by DFI.

Dodd-Frank Act. Amendments are made in statute to conform to the Dodd-Frank Act lending-limit provisions for state-chartered banks that engage in derivative transactions. DFI may set standards for computation of time relating to limits on loans and the extension of credit in order to conform to federal law and other authorized rules. New reciprocity rules for interstate branching are established to conform to the Dodd-Frank Act. National banks and out-of-state state-chartered banks may establish a new branch or acquire a branch in Washington State according to the same rules applicable to a bank chartered in Washington State if such transaction is so authorized.

Additional technical amendments including new definitions are added to the banks and trust companies chapter of the RCW.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: DFI worked with the industry and trade groups on this bill. The bill does a number of things to help improve the supervision of our state-chartered banks and the ongoing business of our state banking system. The fee component in the bill is actually an equalization in fees between banks and trust companies. The bill also equalizes the definition of capital and surplus with our federal counterparts for the purpose of determining an institution's legal lending limits. Additionally, there is a component to address nonconforming loans that were in compliance when made but fell out of compliance sometime thereafter. Dodd-Frank issues concerning interstate banking were also addressed. DFI did excellent work in responding to new regulations from the federal government, providing outreach to the industry before bringing forward legislation, and managing their budget efficiently so when they do come with legislation concerning fees we feel comfortable supporting that request. This is how government should work. DFI reached out to the industry early regarding this bill. The bill brings important clarity to our statutes and modernizes the code in many different ways.

Persons Testifying: PRO: Rick Riccobono, DFI; Brad Tower, Community Bankers of WA; Denny Eliason, WA Bankers Assn.