
**Consumer Protection & Business
Committee**

HB 2081

Brief Description: Regulating home equity sharing agreements under the consumer loan act.

Sponsors: Representatives Hackney, Walen, Taylor, Reeves, Leavitt, Gregerson, Orwall, Reed, Berry, Callan, Macri and Chopp.

Brief Summary of Bill

- Regulates home equity sharing agreements as residential mortgage loans under the Consumer Loan Act.
- Prohibits home equity sharing agreements from containing certain restrictions.
- Limits the amount due under a home equity sharing agreement to the lesser of: (1) the amount paid to the borrower plus interest; or (2) 200 percent of the amount paid to the borrower.

Hearing Date: 1/17/24

Staff: Megan Mulvihill (786-7304).

Background:

Consumer Loan Act.

The Consumer Loan Act (Act) authorizes the Department of Financial Institutions to regulate consumer loan companies who conduct business in Washington. Consumer loan companies include mortgage lenders and consumer finance companies. Under the Act, no person may engage in the business of making a secured or unsecured loan without a license, except for exempt entities. Residential mortgage loans are regulated under the Act and are considered loans

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primarily for personal, family, or household use that are secured by a mortgage, deed of trust, or other consensual security interest on a dwelling, as defined in the truth in lending act, or residential real estate upon which is constructed or intended to be constructed a dwelling. The Act limits the rates and fees lenders may charge on loans, restricts certain loan provisions such as prepayment penalties, requires lenders to fully disclose loan terms, and prohibits lenders from engaging in unfair and deceptive acts and practices.

Under the Act, loan means a sum of money lent at interest or for a fee or other charge and includes both open-end and closed-end loan transactions. A lender may charge:

- interest up to 25 percent per annum as determined by the simple interest method of calculating interest owed; and
- a nonrefundable, prepaid loan origination fee, not to exceed 4 percent of the first \$20,000 and 2 percent of the sum above \$20,000. The fee may be included in the principal balance of the loan.

Licenses are prohibited from engaging in specified practices, including fraud, deception, failure to disclose, unfair business practices, and other acts that might adversely affect consumers or thwart the regulatory process. Violations of the Act constitute unfair or deceptive acts or practices and are violations of the Consumer Protection Act.

Summary of Bill:

Home equity sharing agreement is defined as any obligation in which an advance sum of money or other thing of value is extended to a borrower in exchange for an interest or future share of equity in the borrower's residential real estate or a future obligation to pay a sum upon the occurrence of an agreed-upon event. Home equity sharing agreements are added as a residential mortgage loan under the Consumer Loan Act.

Home equity sharing agreements may not:

- be used as a lien against the real property;
- run with title to real property and are not binding or enforceable by law or in equity against any subsequent owner, purchaser, or mortgagee or holder of any interest in real property as an equitable servitude;
- prevent the property owner from: (1) refinancing a mortgage or lien on the real property; or (2) renting or using the real property as the property owner chooses.

The total amount due under a home equity sharing agreement must not exceed the lesser of: (1) any amount paid to the borrower, plus interest in accordance with the Act; or (2) 200 percent of the amount paid to the borrower.

Appropriation: None.

Fiscal Note: Available.

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