
Consumer Protection & Business Committee

SSB 6025

Brief Description: Protecting consumers from predatory loans.

Sponsors: Senate Committee on Business, Financial Services, Gaming & Trade (originally sponsored by Senators Stanford, Dhingra, Frame, Hasegawa, Kuderer, Nguyen, Saldaña, Trudeau, Valdez and Wilson, C.).

Brief Summary of Substitute Bill

- Makes any attempt to evade the Consumer Loan Act (Act) a violation of the Act.
- Makes nonresidential mortgage loans made by an unlicensed person who is subject to the Act null, void, uncollectable, and unenforceable.

Hearing Date: 2/14/24

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. 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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

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. In addition, if an unlicensed person makes a loan, any fees or interest charged must be refunded to the borrower.

Summary of Bill:

The Act applies to loans made to persons physically located in the state, not just residents.

A person is prohibited from engaging in any device, subterfuge, or pretense to evade the Act, including:

- making loans disguised as personal property sale and leaseback transactions;
- disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services; or
- making, offering, assisting, or arranging a debtor to obtain a loan with a greater rate of interest, consideration, or charge than permitted through any method, including mail, telephone, internet, or any electronic means regardless of whether the person has a physical location in the state.

If a loan exceeds the rate permitted under the Act, a person making a loan is subject to the Act even if the person is acting as an agent, service provider, or in another capacity that is exempt from the Act, if:

- the person holds, acquires, or maintains, directly or indirectly, the predominant economic interest in the loan; or
- the totality of the circumstances indicate that the person is the lender, and the transaction is structured to evade the Act.

It is a violation of the Act to engage in any device, subterfuge, or pretense to evade the requirements of the Act, including making, offering, or assisting a borrower to obtain a loan with a greater rate of interest, consideration, or charge than is permitted.

Except for residential mortgage loans, a loan made by a person violating the licensing requirement of the Act is null, void, uncollectable, and unenforceable.

A person that extends money or credit to another person while representing that individual in a legal proceeding where the person stands to receive a portion of an award or settlement from the legal action is exempt from the Act. However, the exemption does not apply if the person requires repayment in the event the person does not prevail in the civil proceeding.

Appropriation: None.

Fiscal Note: Available.

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