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SENATE BILL 5540

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State of Washington

59th Legislature

2005 Regular Session

By Senators Fairley and Kline

Read first time 01/27/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to extortionate extension of credit; and amending  
2 RCW 9A.82.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.82.020 and 2001 c 222 s 4 are each amended to read  
5 as follows:

6 (1) A person who knowingly makes an extortionate extension of  
7 credit is guilty of a class B felony.

8 (2) In a prosecution under this section, if it is shown that all of  
9 the (~~following~~) factors in either (a) or (b) of this subsection are  
10 present in connection with the extension of credit, there is prima  
11 facie evidence that the extension of credit was extortionate:

12 (a)(i) The repayment of the extension of credit, or the performance  
13 of any promise given in consideration thereof, would be unenforceable  
14 at the time the extension of credit was made through civil judicial  
15 processes against the debtor in the county in which the debtor, if a  
16 natural person, resided or in every county in which the debtor, if  
17 other than a natural person, was incorporated or qualified to do  
18 business(~~(-)~~);

1        ~~((b))~~ (ii) The extension of credit was made at a rate of interest  
2 in excess of an annual rate of forty-five percent calculated according  
3 to the actuarial method of allocating payments made on a debt between  
4 principal and interest, pursuant to which a payment is applied first to  
5 the accumulated interest and the balance is applied to the unpaid  
6 principal~~((c))~~;

7        ~~((e))~~ (iii) The creditor intended the debtor to believe that  
8 failure to comply with the terms of the extension of credit would be  
9 enforced by extortionate means~~((f))~~; and

10        ~~((d))~~ (iv) Upon the making of the extension of credit, the total  
11 of the extensions of credit by the creditor to the debtor then  
12 outstanding, including any unpaid interest or similar charges, exceeded  
13 one hundred dollars; or

14        (b) The extension of credit was made by a licensee under chapter  
15 31.45 RCW or an unlicensed person required to be licensed by chapter  
16 31.45 RCW, when the following factors are present:

17        (i) The extension of credit violated the military best practices  
18 set forth in RCW 31.45.--- (section 1, chapter ... (Senate Bill No.  
19 5415), Laws of 2005; and

20        (ii) The extension of credit was an act in a pattern of violations  
21 of the statutory requirements of chapter 31.45 RCW. "A pattern of  
22 violations" means ten or more of the same type of violation within one  
23 year or any violations of chapter 31.45 RCW victimizing or affecting  
24 ten or more borrowers within one year.

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