

# HOUSE BILL REPORT

## SB 6338

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**As Passed House:**

March 6, 2002

**Title:** An act relating to the consumer loan act.

**Brief Description:** Modifying the consumer loan act.

**Sponsors:** By Senators Keiser, Winsley, Gardner and Kohl-Welles.

**Brief History:**

**Committee Activity:**

Financial Institutions & Insurance: 2/26/02 [DP].

**Floor Activity:**

Passed House: 3/6/02, 93-0.

**Brief Summary of Bill**

- Requires that financial disclosures on a loan not secured by a real property lien be made in compliance with pertinent federal laws and regulations.
- Requires that financial disclosures on a loan secured by a real property lien be made within three business days of the borrower's receipt of the loan application.
- Requires that secured loans be accompanied by disclosures that include an estimate of the annual percentage rate and whether or not the loan includes a prepayment penalty.

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**HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE**

**Majority Report:** Do pass. Signed by 11 members: Representatives Cooper, Chair; McIntire, Vice Chair; Benson, Ranking Minority Member; Barlean, Cairnes, Hatfield, Mielke, Miloscia, Roach, Santos and Simpson.

**Staff:** Thamas Osborn (786-7129).

**Background:**

Consumer loan companies are regulated by the Department of Financial Institutions

(department) under the Consumer Loan Act (act). Licensed companies are authorized to make loans at higher interest rates than other financial institutions or credit card issuers. They are authorized and regulated because the Legislature has recognized the need for lenders to serve the credit needs of borrowers who represent a higher than average credit risk. Consumer loan companies may charge up to 25 percent simple interest as well as certain prescribed loan origination fees.

The act was amended in 2001 to make licensing requirements more stringent, enhance the regulatory authority of the department, and create disclosure requirements. Under current law, a licensee must provide a written disclosure to each borrower within three business days after receiving the borrower's loan application. The disclosure statement must contain an itemized estimation and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a loan from the licensee.

The act specifically references the disclosure requirements set forth in the various federal statutes and regulations pertinent to the regulation of consumer loan companies. Specifically referenced are the Truth in Lending Act (prescribing the disclosure requirements that must be met by lenders offering or extending consumer credit), Federal Reserve Board Regulation Z (prescribing the specific disclosure requirements for both open-end and installment credit transactions), and the Real Estate Settlement Procedures Act. Lenders that are in compliance with applicable federal laws and regulations regarding disclosure requirements are deemed to be in compliance with state law.

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**Summary of Bill:**

When making a loan that is not secured by a real property lien, a licensee must make disclosures to the borrower in accordance with the Truth in Lending Act, Federal Reserve Board Regulation Z, and other applicable federal laws and regulations. The three-day disclosure requirement applies only to loans that are secured by a real property lien.

Additional disclosure requirements are prescribed for all loans made by the licensee that are secured by a real property lien. First, a licensee must disclose whether or not the loan contains a prepayment penalty. Second, a licensee must provide to the borrower an estimate of the loan's annual percentage rate which is calculated in compliance with the Truth in Lending Act and Federal Reserve Board Regulation Z. In both cases, the licensee must make the disclosure within three business days after receiving the borrower's loan application.

The director of the Department of Financial Institutions may make a determination by rule that compliance with federal disclosure requirements constitutes compliance with the act.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** The bill will help to reduce predatory lending practices and is supported by the industry. There have been many complaints about lenders failing to disclose pre-payment penalties and the bill will help to remedy the problem. It addresses issues that have surfaced since the passage of the amendments last year. The references to federal disclosure laws will help to create uniformity between the states regarding disclosure requirements.

**Testimony Against:** None.

**Testified:** Mark Thomson, Department of Financial Institutions; and Jim Boldt, Washington Financial Services Association.