

FINAL BILL REPORT

HB 1205

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Synopsis as Enacted

Brief Description: Licensing and regulation of consumer loan companies.

Sponsors: Representatives Keiser, DeBolt, Barlean, Simpson and Santos; by request of Department of Financial Institutions.

House Committee on Financial Institutions & Insurance

Senate Committee on Labor, Commerce & Financial Institutions

Background:

Consumer loan companies are lenders 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. Consumer loan companies are regulated by the Department of Financial Institutions under the Consumer Loan Act.

Summary:

Consumer loan companies 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 chapter that constitute an unfair or deceptive act or practice are declared to be violations of the Consumer Protection Act and are thus subject to the remedies provided by that act.

The authority of the director of the Department of Financial Institutions is both broadened and defined with respect to: 1) the promulgation and enforcement of administrative regulations; 2) the issuance, suspension and revocation of licenses; 3) the imposition of fines and other steps necessary for enforcement; 4) the removal from office of any officer, principal or employee of a licensee, under certain specified conditions; 5) the issuance of cease and desist orders; and 6) the general power to enforce the requirements of the Consumer Loan Act and to impose sanctions.

Licensing requirements for consumer loan companies are made more stringent and include provisions requiring that the applicant has not had a license suspended or revoked in Washington or any other state, and that no officer or principal has been convicted within seven years of a gross misdemeanor involving dishonesty or financial misconduct,

a felony, or a violation of banking laws.

Within three days of the receipt of a loan application, a licensee must provide the borrower with a written disclosure and explanation of all costs and fees imposed in connection with obtaining the loan. Compliance with the Federal Truth in Lending Act and Real Estate Settlement Procedures Act constitutes compliance with the Consumer Loan Act.

The director's authority is clarified with respect to compelling the production of records, files, documents, and other evidence relevant to the investigation of a licensee. The director is empowered to compel the appearance of a witness and/or the production of records.

The regulations regarding interactions with mortgage brokers are clarified. A borrower may be required to pay a fee to a mortgage broker with respect to a loan secured by real estate, provided the broker is not owned by or under common ownership with the lender. The borrower must actually obtain a loan before a fee may be paid to a mortgage broker. The lender may not collect any fee as a mortgage broker with respect to any loan made by the lender.

The director is given express authority to define injurious business practices by rule and to seek injunctive relief in superior court with respect to violations of the act.

Administrative proceedings for denying, suspending or revoking a license, or imposing civil penalties, are to be conducted under the Administrative Procedures Act.

Votes on Final Passage:

House 97 0
Senate 45 0

Effective: July 22, 2001