
**Financial Institutions &
Insurance Committee**

ESSB 5415

Brief Description: Making loans under chapter 31.45 RCW to military borrowers.

Sponsors: Senate Committee on Financial Institutions, Housing & Consumer Protection
(originally sponsored by Senators Fairley and Kline).

Brief Summary of Engrossed Substitute Bill

- Defines a "military borrower" to include any active duty member of the armed forces of the United States and any member of the national guard or the reserves of the armed forces of the United States who has been called to active duty.
- Prohibits a licensee from garnishing any wages or salary paid for service in the armed forces or contacting the military chain of command of a military borrower in an effort to collect a delinquent small loan.
- Prohibits a licensee from making a loan to a known military borrower if a military base commander has notified the licensee in writing that the lending location is off-limits to military personnel.
- Requires a licensee to defer all collection activity against a military borrower who has been deployed to a combat or combat support posting for the duration of the posting.
- Requires a licensee to honor any repayment agreement between the licensee and any military borrower.

Hearing Date: 3/24/05

Staff: Jon Hedegard (786-7127).

Background:

The business of check cashing and selling is regulated by the Department of Financial Institutions (DFI) pursuant to the Check Cashers and Sellers Act (Act). One of the common practices of such businesses is the issuance of what have become known as "payday loans." The term "payday loan" refers to a type of short-term, high interest, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. The Act contains provisions for

the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper.

In a typical payday loan transaction, the consumer writes the lender a post dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

Under the Act, licensees must maintain business books, accounts, and records as the DFI may require. The books and accounts must be maintained for at least two years after a transaction. The DFI also has statutory authority to examine books, accounts, records, and files, or other information of licensees and persons that the agency has reason to believe is engaging in the business governed by Chapter 31.45 RCW. The Act also contains a provision requiring licensees file financial statements within 105 days of the calendar or fiscal year. The DFI is required to adopt rules prescribing the form and content of the reports. The DFI may require additional reporting "as is necessary for the director to ensure compliance" with Chapter 31.45 RCW.

Summary of Bill:

Defines a "military borrower" to include any active duty member of the armed forces of the United States and any member of the national guard or the reserves of the armed forces of the United States who has been called to active duty.

A licensee shall not:

- garnish any wages or salary paid for service in the armed forces when collecting any delinquent small loan;
- contact the military chain of command of a military borrower in an effort to collect a delinquent small loan; and
- make a loan to a person that the licensee knows is a military borrower from a specific location that a military base commander has notified the licensee in writing is designated off-limits to military personnel.

A licensee must:

- defer all collection activity against a military borrower who has been deployed to a combat or combat support posting for the duration of the posting; and
- honor the terms of any repayment agreement between the licensee and any military borrower, including any repayment agreement negotiated through military counselors or third party credit counselors.

Appropriation: None.

Fiscal Note: Not requested.

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