

HOUSE BILL REPORT

SB 5484

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to monitoring and reporting on check cashers and sellers.

Brief Description: Monitoring and reporting on check cashers and sellers.

Sponsors: Senators Fairley, Kline, Shin and Rasmussen.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 3/29/05 [DPA].

Brief Summary of Bill
(As Amended by House Committee)

- Requires each payday lender to keep and maintain books, accounts, and records, and to submit financial statements as required in rule. Payday lenders must provide the Department of Financial Institutions (DFI) with any data required in rule to monitor the business. The DFI may require additional relevant information in rule.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended. Signed by 7 members: Representatives Kirby, Chair; Ericks, Vice Chair; O'Brien, Santos, Simpson, Strow and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Roach, Ranking Minority Member; Newhouse and Serben.

Staff: Jon Hedegard (786-7127).

Background:

The business of check cashing and selling is regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act). A common practice is the issuance of what have become known as "payday loans." "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 Amended Bill:

The Director of DFI (Director) may adopt rules requiring a licensee to keep and maintain books, accounts, and records, as the Director may require in rule.

The Director may, in rule, require a licensee to provide any data required for monitoring the business and reporting to the Legislature.

The Director may require a licensee to submit financial statements as defined in rule to the Director.

The Director may, in rule, require a licensee to file any additional relevant information.

Amended Bill Compared to Original Bill:

The annual report by the Department of Financial Institutions (DFI) is eliminated. The requirements that each payday lender must keep and maintain books, accounts, and records, as the Director may require must be adopted by rule. The requirement that the lender must provide the director with any data required by the DFI for monitoring the business must be adopted by rule. The requirement that the lender must submit financial statements as to the Director must be defined in rule. The requirement to file any additional relevant information as the Director may require must be adopted by rule.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (In support) The bill as drafted will provide important information. The proposed amendment raises some concerns. It requires rule-making by the Department of Financial Institutions (DFI) to implement and the DFI has yet to complete the rule-making to implement the 2003 legislation.

(With concerns) The members of the industry are concerned about having to provide information that they do not currently retain. The amendment that is in the books addresses the concern of the industry. The amendment requires that the DFI adopt rules specifying the types of information that must be reported. The interested parties will be given an opportunity to comment and participate in the rules process.

Testimony Against: The DFI rule-making to implement the 2003 legislation raises concerns for impacted businesses, particularly the small businesses that have limited resources to collect information. Much of the information is not available and will have to be tracked manually. There will be considerable compliance costs. The proposed rules to implement the 2003 legislation are in addition to the annual report that is currently required.

Persons Testifying: (In Support) Robert Pregulman, Washington State Public Interest Research Group.

(With concerns) Jerry Farley, Financial Service Centers of Washington; and Mark Thompson, Money Tree Incorporated.

(Opposed) Darrel Wells, Paycheck Financial Centers.

Persons Signed In To Testify But Not Testifying: None.