

HOUSE BILL REPORT

2SHB 1273

As Passed Legislature

Title: An act relating to financial fraud.

Brief Description: Authorizing fraud alert networks.

Sponsors: By House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Roach, Ericks, Hurst, Kirby, Strow, Newhouse, Simpson, Williams, Haler, O'Brien, Moeller, Pearson, VanDeWege, McCune, Kenney, Rolfes and Morrell).

Brief History:

Committee Activity:

Insurance, Financial Services & Consumer Protection: 2/6/07, 2/8/07 [DPS].

Floor Activity:

Passed House: 2/13/08, 95-1.

Senate Amended.

Passed Senate: 3/6/08, 48-0.

House Refused to Concur.

Senate Amended.

Passed Senate: 3/12/08, 46-0

House Concurred.

Passed House: 3/12/08, 96-1.

Passed Legislature.

Brief Summary of Second Substitute Bill

- Creates a program to investigate and prosecute financial fraud and identity theft crimes.

HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kirby, Chair; Kelley, Vice Chair; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst, Rodne and Simpson.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 1 member: Representative Santos.

Staff: Jon Hedegard (786-7127).

Background:

The Uniform Commercial Code Program (UCCP) within the Department of Licensing provides lenders a central place for filing notices regarding personal property pledged as collateral for loans. In the event the debtor declares bankruptcy, a filing with UCCP legally establishes the lender as a preferred creditor in relation to other lenders who file against the same collateral.

The UCCP does not provide regulatory functions. It provides services upon request. The UCCP accepts filings of financing statements, agricultural liens, and various federal liens. The UCCP provides certified searches of its records. The duties and responsibilities of the UCCP are ministerial. In accepting for filing or refusing to file a document, the UCCP does not do any of the following:

- determine the legal sufficiency or insufficiency of a document;
- determine that a security interest in collateral exists or does not exist;
- determine that any information in the document is correct or incorrect; or
- create a presumption that any information in the document is correct or incorrect.

The UCCP is fee-supported. The UCCP filing fees are \$15 for paper filings and \$8 for electronic filings.

Summary of Second Substitute Bill:

The Financial Fraud and Identity Theft Crimes Investigation and Prosecution Program (Program) is created in the Department of Community, Trade and Economic Development (DCTED). Two regional financial fraud and identity theft crime task forces are created. One task force includes King and Pierce counties and the second includes Spokane County. A representative of the Attorney General is a member of each task force. The DCTED must appoint members for each task force that represent local law enforcement, county prosecuting attorneys, and financial institutions. The task forces must:

- hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;
- set priorities for the activities of the task forces;
- apply to the DCTED for funding to hire prosecutors and law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes;
- establish outcome-based performance measures; and
- report twice annually to the DCTED on the activities of the task force.

Financial Fraud and Identity Theft Crimes.

"Financial fraud and identity theft crimes" include those crimes that involve:

- check fraud;

- chronic unlawful issuance of bank checks;
- embezzlement;
- credit/debit card fraud;
- identity theft;
- forgery;
- counterfeit instruments such as checks or documents;
- organized counterfeit check rings; and
- organized identification theft rings.

The Account.

The Financial Fraud and Identity Theft Crimes Investigation and Prosecution Program Account (Account) is created in the State Treasury as an appropriated account. The Account may receive funds from appropriations, surcharges on UCCP filings, federal funds, gifts, and grants. Expenditures from the Account may be used only to support the activities of the task forces and program expense of the DCTED. The expenses of DCTED may not exceed 10 percent of the amount appropriated.

Funding the Account.

There are surcharges placed on UCCP filings to fund the Account. The surcharge on paper filings is \$8 for a total filing fee of \$23 for a paper filing. The surcharge on electronic filings is \$3 for a total filing fee of \$11 for an electronic filing.

Expiration Date.

The Act expires on July 1, 2015.

Appropriation: None.

Fiscal Note: There is an appropriation for up to \$488,000 from the Account to DCTED for the Program.

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

Staff Summary of Public Testimony:

(In support) Banks and merchants receive information related to fraud but are not able to share that information due to the fear of liability. This bill will help prevent fraud and also help catch criminals who have already perpetrated fraud. Identity theft is a huge problem today. This bill helps institutions share information with law enforcement. The current system has a number of weak links. This bill addresses some of those weak links. The bill could be strengthened. The network is allowed but it could be required. There is not enough consumer interaction in the bill. Consumers often don't receive much follow-up information from police after submitting information about crimes. Retailers lose about \$36 billion nationwide due to theft. Retailers want to work with law enforcement and help catch and convict criminals. This bill is another tool against organized theft.

(Opposed) None.

Persons Testifying: Representative Roach, prime sponsor; Amy Fortier; and Vicky Marin, Washington Retail Association and Law Enforcement Group Against Identity Theft.

Persons Signed In To Testify But Not Testifying: None.