HOUSE BILL REPORT
HB 2231

As Reported by House Committee On:
Insurance, Financial Services & Consumer Protection

Title: An act relating to funding consumers' financial awareness.

Brief Description: Funding consumers' financial awareness.

Sponsors: Representatives Appleton, Haler, McCoy, Eddy, Seaquist, Moeller, Takko, Williams, Campbell, Hudgins, Pedersen, Rodne, Hunt, Rolfes, Dickerson, B. Sullivan, Cody, Kirby, Conway, Ormsby and Santos.

Brief History:
Committee Activity:
Insurance, Financial Services & Consumer Protection: 2/22/07, 2/27/07 [DPS].

Brief Summary of Substitute Bill

- Places a $0.10 fee on each small loan transaction on or after July 1, 2007. The funds raised must be deposited into a new account in the custody of the Treasurer.
- Limits expenditure authority to the Director of the Department of Financial Institutions or the Director's designee.
- Requires expenditures from the account to be made in the following manner: (1) not more than 10 percent of all funds may be spent to administer the account; (2) not more than 20 percent of all funds may be spent on investigation of licensees; and (3) not less than 70 percent of all funds may be spent on training consumers in the appropriate use of small loans by the Department of Financial Institutions or by grants to accredited consumer credit counseling agencies.

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; Strow, Assistant Ranking Minority Member; Hurst, Rodne, Santos 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: Do not pass. Signed by 1 member: Representative Roach, Ranking Minority Member.

Staff: Jon Hedegard (786-7127).

Background:

Payday lending practices are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act), Chapter 31.45 RCW. The phrase "payday loan" refers to a type of short-term, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. 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.

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. The Act regulates payday lending practices and provides for regulation of licensees who are specifically authorized to issue small loans. No lender may lend more than $700 to a single borrower at any one time. The lender may charge up to 15 percent for the first $500. If the borrower has a loan in excess of $500, the lender can charge up to 10 percent on the amount over $500. For example, a lender could charge up to $30 for a $200 loan or up to $85 for a $600 loan.

Under the Act, licensees must maintain business books, accounts, and records. 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.

Borrowers and lenders may agree to a payment plan for payday loans at any time. After four successive loans, and prior to default on the last loan, a borrower is entitled to convert his or her loans into a payment plan with the lender. Such payment plans are subject to the following conditions:
- a written agreement is required;
- the lender may charge the borrower a one-time fee in an amount up to the fee or interest on the outstanding principal;
- the agreement must allow the buyer not less than 60 days to pay off the loan; and
- the borrower must be allowed to pay off the loan in at least three payments.

The Director of the Department of Financial Institutions (Director) may impose the sanctions against any:
- licensee;
- applicant; or
- director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

Sanctions may include:
- the denial, revocation, suspension, or conditioning of a license;
- an order to cease and desist from specific practices;
- the imposition of a fine not to exceed $100 per day for each day's violation;
- the provision of restitution to borrowers or other injured parties; and
- the removal from office or banning from participation in the affairs of any licensee.

Summary of Substitute Bill:

A fee of $0.10 is placed on each small loan transaction on or after July 1, 2007. The fee is collected at the same time the licensee pays the annual assessment required by the DFI. The funds raised by the fee must be deposited into a new Small Loan Financial Literacy Account (Account). Only the Director or the Director's designee may authorize expenditures from the Account. Expenditures from the Account must be made in the following manner:
- not more than 10 percent of all funds may be spent to administer the Account;
- not more than 20 percent of all funds may be spent on investigation of licensees; and
- not less than 70 percent of all funds may be spent for training consumers in the appropriate use of small loans by the DFI or by grants to accredited consumer credit counseling agencies.

The training program must be jointly developed by the DFI and industry-designated representatives of licensees.

The DFI must provide a statement that explains the work performed in examination or investigation of a payday lender and the associated costs.

Substitute Bill Compared to Original Bill:

The surcharge is reduced from $0.25 per loan to $.10 per loan. Funds in the original bill were divided between the Financial Literacy Public Private Partnership and a new account for consumer education. The funds are divided in a different fashion and for different purposes in the substitute bill. The provision regarding a statement from the DFI after an examination or investigation is added.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) I keep hearing that the DFI has few complaints about payday loans. I don't believe that most of the people taking out the loans have ever heard of the DFI. This bill provides a source of funding for fiscal education and for the DFI to educate the public about available resources and options.

The DFI strongly supports financial literacy. We participate in financial education programs today.

(In support with concerns) The Congress of Racial Equality (CORE) champions self-reliance. We look at finding real solutions for people. We have looked at this industry. There are a variety of actors and many of them are good actors. This product is needed by some people. It is a choice. It is also an option for people that have few choices in lenders. We strongly support this bill. We support financial literacy. We have our own financial literacy campaign and have received support from payday lenders from across the country. There is a question about why other lenders are not required to also support financial literacy. Financial literacy is the next frontier in civil rights. I have been interested in the issues associated with payday loans for quite some time. Washington has progressive payday loan laws. It is a well-regulated industry. Measuring the product by interest rate is inaccurate. It is a short-term loan. Cash advances on a credit card charge a fee and interest. There is no real interest on a payday loan. There is a one-time fee. The repayment plan in SHB 1817 is a better option for people. Payday lenders charge less for many products, like money orders, than banks. This helps low-income people. I support financial literacy. I think the costs of these programs should be shared by all lenders.

(Opposed) We support financial literacy and have privately supported the Financial Literacy Public Private Partnership. Our objection is that only one industry is impacted under the bill. I am a payday lender teller but I was a customer first. I used payday loans to make sure that I had sufficient funds to cover checks. I avoided banks fees and negative entries on my credit report. Payday loans enabled me to make good choices. Eventually, with my good credit, I bought a home. A bill that taxes industry could result in adverse impacts on the industry and consumers. I worked at a payday lender in college and have made my career there. The industry is unfairly maligned. There are a number of misconceptions about the industry. My company is a good employer. It donates tens of thousands of dollars to charity. It pays a living wage. It provides health care. It has high employee retention rates. It provides a cheaper product than other lenders. It should not be singled out for additional taxation. This bill implies that this industry is responsible for consumer financial problems. Our customers usually make smart decisions when they choose our products. I own two payday loan stores. According to the DFI annual report, the average payday lending store does about more than 400 loans a month and has an average monthly total return of around $20,000. The average monthly net profit is probably around $2,000. Financial literacy is good for consumers. Why is the payday lending industry the only one required to pay for financial literacy? There are also tax bills in other committees that only effect this industry. I think the new goal is to tax payday lenders out of business. My company has 22 locations in Washington. We provide health care and a pension plan for employees. We try to give employees a career. We give to charities in the community. The biggest impacts will be on the smaller lenders. I own two small payday loan stores. The payday industry has a higher rate of default than other lending industries. Much of our profit is lost to bad debt. Some companies lose up to 25 percent of their profit to bad debt. I oppose this bill. The cost should be spread across all lenders. I could live with the cost but think it is an unfair tax.

Persons Testifying: (In support) Representative Appleton, prime sponsor; and Deb Bortner, Department of Financial Institutions.

(In support with concerns) Niger Innis, Congress of Racial Equality; and Constance Proctor.

(Opposed) Dennis Bassford, Moneytree and Financial Service Centers of Washington; Suzanne Olsen, Gregorio Canaza, Beth Lambert, and Kevin McCarthy, Check Masters; Darryl Wells, Paycheck, Inc.; and Gary Zacher, Access Cash.

Persons Signed In To Testify But Not Testifying: None.