

HOUSE BILL REPORT

2SHB 2256

As Passed House:

March 12, 2007

Title: An act relating to establishing the family prosperity act.

Brief Description: Establishing the family prosperity act.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Darneille, Haler, Morrell, Walsh, Pettigrew, Dickerson, Kenney, Schual-Berke, Kagi, P. Sullivan, Lantz, Hinkle, Upthegrove, Appleton, Williams, Seaquist, O'Brien, Hasegawa, Green, Linville, Simpson, Ormsby and Santos).

Brief History:

Committee Activity:

Community & Economic Development & Trade: 2/19/07, 2/26/07 [DPS];

Finance: 3/5/07 [DP2S(w/o sub CEDT)].

Floor Activity:

Passed House: 3/12/07, 61-34.

Brief Summary of Second Substitute Bill

- Directs the Department of Community, Trade and Economic Development to work with local and statewide public and private partners to expand programs that help low-income working families build and manage their assets.
- Conditions the procurement and use of consumer reports for employment purposes.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kenney, Chair; Pettigrew, Vice Chair; Chase, Darneille, Rolfes and P. Sullivan.

Minority Report: Do not pass. Signed by 3 members: Representatives Bailey, Ranking Minority Member; McDonald, Assistant Ranking Minority Member and Haler.

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.

Staff: Meg Van Schoorl (786-7105).

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Community & Economic Development & Trade. Signed by 6 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway, Ericks, McIntire and Santos.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member and Roach.

Staff: Rick Peterson (786-7150).

Background:

Department of Community, Trade and Economic Development

The Department of Community, Trade and Economic Development (Department) provides assistance to Washington's communities, businesses and families. The Department is organized into several different divisions, one of which is the Community Services Division. This division works to build community partnerships to provide service and advocacy for individuals and families. The Community Services Division administers federal and state funds for anti-poverty programs including but not limited to the Community Services Block Grant Program, the Low-Income Home Energy Assistance Program, and the federal Department of Energy Weatherization Program.

Asset Building Programs

According to the U.S. Department of Health and Human Services, asset building is an anti-poverty strategy that helps low-income people move toward greater self-sufficiency by accumulating savings and purchasing long-term assets. Examples of long-term assets include a home, higher education and training, and a business.

Asset building strategies incorporate many different approaches and use a variety of methods to help achieve the goal of creating asset wealth for low-income people. Some of the most common tools for asset building include the following:

- Individual Development Accounts (IDAs) - matched savings accounts designed to help low-income and low-wealth families accumulate savings for high return investments in long-term assets.
- Earned Income Tax Credit (EITC) - refundable federal income tax credit for low-income workers. The EITCs enable many low-income tax filers to receive a cash payment from the government regardless of whether they pay income taxes.
- Financial Literacy - skills and knowledge that successfully enable low and moderate income individuals to manage their finances.

During the 2005 and 2006 legislative sessions, bills were enacted and funding allocated to assist low-income families to accumulate assets. As a result, one statewide asset building coalition and local asset building coalitions in 12 regions have emerged along with the Department to promote savings and banking, financial literacy, credit repair, the earned income tax credit and home ownership and business start-ups.

In addition, 200 individual development accounts have been created, with another 100 to be added in the first quarter of 2007. Funded by the state at \$1 million through the 2005-07 budget, the state matches personal savings dollar for dollar, up to a maximum of \$4,000. According to the Department, the state's investment has leveraged \$579,000 in personal savings and \$1.5 million in additional federal and private funds into these accounts. Eligibility is limited to those whose income is 80 percent of the area's median income or 200 percent of the federal poverty rate. The state match is held in trust by a bank until all requirements are met, at which time the match is paid to the entity from whom the asset is being purchased (for example, to a bank for a home mortgage, to a post-secondary institution for education or training, or a car dealer to buy an automobile for school or work).

Consumer Reports - Overview

A consumer report is a written, oral, or other communication of information by a consumer reporting agency (CRA) bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for:

- the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes;
- employment purposes; or
- other authorized purposes

The use of credit reports and consumer reports is regulated under the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.) and the state Fair Credit Reporting Act (Chapter 19.182 RCW). Both the federal and state laws require that consumer reporting agencies establish procedures to ensure that the information is accurate and is provided only for appropriate purposes. State procedures include a requirement that prospective users identify themselves, certify the use of the purpose for which the information will be used, and certify that the information will not be used for other purposes. A CRA must take reasonable effort to verify the identity of a prospective user and the uses certified by the prospective user before providing a report. There are mechanisms in state and federal law to dispute the completeness and accuracy of information on a consumer report. Consumer Reports - Generally Excluded Information Under state law, certain types of information must not generally be included in a consumer report. This information includes:

- bankruptcies that precede the report by more than 10 years;
- suits and judgments that are entered more than seven years earlier or until the governing statute of limitations has expired, whichever is the longer period;
- paid tax liens that precede the report by more than seven years;

- accounts placed for collection, or charged to profit and loss, that precede the report by more than seven years;
- records of arrest, indictment, or conviction of crime that, from date of disposition, release, or parole, precede the report by more than seven years; and
- any other adverse item of information is older than seven years.

The excluded information may be included in a consumer report in the following cases:

- a credit transaction involving, or that may reasonably be expected to involve, a principal amount of \$50,000 or more;
- the underwriting of life insurance involving, or that may reasonably be expected to involve, a face amount of \$50,000 or more; or
- the employment of an individual at an annual salary that equals, or that may reasonably be expected to equal, \$20,000 or more.

Consumer Reports - Use for Employment Purposes Consumer reports may be used for employment purposes. Employment purposes include evaluating applicants for employment, promotion, reassignment, or retention. A person may not obtain a consumer report for employment purposes with respect to any consumer who is not an employee at the time unless either:

- the consumer has received written disclosure that a consumer report may be obtained for purposes of considering the consumer for employment. This disclosure must be made prior to the employer obtaining the report. The disclosure may be contained in a written statement contained in employment application materials; or
- the consumer authorizes the procurement of the report.

A person may not obtain a consumer report for employment purposes with respect to an employee unless the employee was provided with written notice that consumer reports may be used for employment purposes. A written statement in employee guidelines or manuals available is adequate notice. These requirements do not apply with respect to a consumer report of an employee who the employer has reasonable cause to believe has engaged in specific activity that constitutes a violation of law. In using a consumer report for employment purposes, before taking any adverse action based in whole or part on the report, a person must provide to the consumer with:

- the name, address, and telephone number of the consumer reporting agency providing the report;
- a description of the consumer's rights regarding consumer reports obtained for employment purposes; and
- a reasonable opportunity to respond to any information in the report that is disputed by the consumer.

Summary of Second Substitute Bill:

The Washington Asset Building Coalition (Coalition) is created to provide statewide leadership on initiatives that foster financial self-sufficiency and economic security for low-income working families. The Coalition is directed to work with the Department, local asset

building coalitions and other partners to identify and promote approaches that help low-income working families build and manage their assets including:

- creating private and public prosperity products;
- promoting lending policies that encourage asset building;
- marketing savings, smart borrowing and federal tax credit programs;
- expanding financial literacy opportunities; and
- increasing protections from predatory lending, fraud, and consumer scams.

For 2007-09, the Department and other partners are directed to design, implement, and fund a statewide public education and outreach campaign that includes activities such as a website, a telephone-based call-in assistance and referral system, public service announcements and other educational outreach to target groups.

The Department is also directed to:

- provide at least 12 local asset building coalitions with technical assistance or grants to initiate or expand services;
- as funding is appropriated, create an outreach campaign to increase the number of low-income working families who claim federal earned income or child and dependent care tax credits; and
- report to the Legislature by December 1, 2008 and annually thereafter on the status of the asset building and financial literacy programs.

The Department of Social and Health Services is directed to encourage recipients of Temporary Assistance for Need Families to learn about and participate in asset-building programs.

The Family Prosperity Account is created in the State Treasury. Expenditures may only be made, after appropriation, to support initiatives that foster financial self-sufficiency and economic security for low-income working families.

An employer may not procure a consumer report on a job applicant unless the contents of the report are substantially job-related and the employer has disclosed to the applicant in writing the reasons for checking the applicant's credit report. In addition, before taking adverse action based on the consumer report, an employer must provide an applicant or current employee with a description of their rights under this chapter, the reporting agency's contact information, and a reasonable opportunity to dispute information in the report.

This bill is null and void if not provided funding in the biennial budget.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on March 6, 2007.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony: (Community & Economic Development & Trade)

(In support) Low-income working families need more than a paycheck to sustain themselves financially. Any financial crisis can prove dire for people without savings. Services that focus on asset building and financial self-sufficiency help maximize a family's income and teach them how to save a portion of the income for assets such as a higher education or a home. The controversial part of this bill is the funding source-- an additional B&O tax on "payday lenders." Should funding come from general taxpayers? There is a nexus between the services of the payday lenders and the money management needs of low-income working families. The role of the state is crucial in the Family Prosperity Act as a coordinator of the local and state asset-building coalitions; as a funder that can leverage other resources; as a regulator in limiting the procurement and use of credit reporting; and as an Earned Income Tax Credit (EITC) marketer. Last year, Washington residents left between \$70-\$100 million unclaimed in the EITC. I am a former Individual Development Account (IDA) holder whose family was living on \$15,000/year. I opened an IDA initially for a home down payment, but decided to apply it instead to post-secondary education. I now have a Bachelor's degree. I am 19 and live in transitional housing with my 4-year-old son. I am on the wait list for an IDA, as are many of my peers and friends. I am excited to start saving for a down payment on a home or for higher education. We have an IDA wait list of 48 families, without advertising. Twenty-one of our families made first time home purchases within four years of opening an IDA. The cost to the state of \$110,000 will be recouped within three years in taxes paid. We support the consumer report procurement restrictions because often the report does not reveal the full picture or the reasons for poor credit history.

(With concerns) We support the policy objectives of the bill but we oppose the B&O tax increase that appears to be punitively imposed on a single, small industry. We are opposed to the consumer report restrictions imposed in the bill. There are very legitimate reasons why employers need to find out if a prospective employee can be trusted. Embezzlement is rampant in small businesses. Consider exempting auto dealers and consumer loan companies as you have financial institutions and public safety entities from the procurement restrictions. Banks are not the only employers that need consumer report information. Applicants who will be handling money or other assets, or working with vulnerable adults, should be subject to consumer report checks.

(Opposed) I own a payday lending company that employs 600 people at living-wage jobs and with benefits. Our company practices community-based philanthropy including financial self-sufficiency training.

Staff Summary of Public Testimony: (Finance)

(In support) This bill comes to this committee in order to find a nexus in our funding strategy for the work of the asset-building coalitions around the state. The funding for this bill would go to both individual development accounts and the asset-building coalitions. This bill will help low-income families develop assets and stabilize their finances.

(Opposed) None.

Persons Testifying: (Community & Economic Development & Trade) (In support) Representative Darneille, prime sponsor; Dave Sieminski and Fitsum Abraha, United Way of King County; Lindsay Roberts, Voices for Opportunity, Income, Child Care, Education and Support (VOICES); Elizabeth Myntli, Lower Columbia Community Action Program; Bonnie White, Olympic Community Action Programs; Kim Justice, Statewide Poverty Action Network; Linda Malanchuk-Finnan, Thurston County National Organization for Women; Tim Strege, William Factory Small Business Incubator; Paul Benz, Lutheran Public Policy and Washington Association of Churches; and Jeffrey Carrol, VOICES, Martin Luther King Family Outreach and Children's Alliance.

(With concerns) Carolyn Logue, National Federation of Independent Business; Scott Hazelgrove, Washington State Auto Dealers Association and Washington State Consumer Finance Companies; and Cliff Webster, Consumer Data Industry Association.

(Opposed) Dennis Bassford, Money Tree, Incorporated.

Persons Testifying: (Finance) Representative Darneille, prime sponsor; David Sieminski, United Way of King County; and Kim Justice, Statewide Poverty Action Network.

Persons Signed In To Testify But Not Testifying: (Community & Economic Development & Trade) None.

Persons Signed In To Testify But Not Testifying: (Finance) None.