

HOUSE BILL REPORT

SB 6471

As Passed House:

March 6, 2008

Title: An act relating to protecting consumers by regulating loans under the consumer loan act and mortgage broker practices act.

Brief Description: Protecting consumers by regulating loans under the consumer loan act and mortgage broker practices act.

Sponsors: By Senators Weinstein, Kauffman, Tom, Fairley, McAuliffe, Kohl-Welles, Keiser and Kline.

Brief History:

Committee Activity:

Insurance, Financial Services & Consumer Protection: 2/26/08, 2/28/08 [DP];

Appropriations: 3/3/08 [DP].

Floor Activity:

Passed House: 3/6/08, 93-0.

Brief Summary of Bill

- Requires certain mortgage lenders to be licensed under the Consumer Loan Act (CLA).
- Expands the application of the CLA to loans which do not exceed the rate established by the usury law.

HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION

Majority Report: Do pass. Signed by 9 members: Representatives Kirby, Chair; Kelley, Vice Chair; Roach, Ranking Minority Member; Hurst, Loomis, Rodne, Santos, Simpson and Smith.

Staff: Alison Hellberg (786-7152).

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HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Green, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDonald, McIntire, Morrell, Pettigrew, Priest, Ross, Schmick, Schual-Berke, Seaquist, Sullivan and Walsh.

Staff: Wendy Polzin (786-7137).

Background:

The Consumer Loan Act (CLA) authorizes the Department of Financial Institutions (DFI) to regulate consumer loan companies doing business in Washington. Consumer loan companies include mortgage lenders and consumer finance companies. The CLA limits the rates and fees lenders may charge on loans, restricts certain loan provisions such as prepayment penalties, requires that lenders fully disclose the terms of loans, and prohibits lenders from engaging in unfair and deceptive acts and practices.

The Mortgage Broker Practices Act (MBPA) establishes a regulatory and licensing structure for mortgage brokers. Mortgage brokers can either make a residential mortgage loan or assist a person in obtaining a residential mortgage loan. The MBPA requires that mortgage brokers fully disclose the terms of loans, ensures that mortgage brokers place fees collected for third-party service providers into bank trust accounts, and prohibits mortgage brokers from engaging in unfair and deceptive acts and practices.

Summary of Bill:

Mortgage lenders may no longer make mortgage loans with only a Mortgage Broker license. Licensees under the MBPA are not exempt from licensing under the CLA. The CLA applies to all loans made at any interest rate, not just those loans which exceed the rate established by the usury law (currently 12 percent). Retail installment contracts are exempt from the CLA.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony: (Insurance, Financial Services & Consumer Protection)

(In support) This is a simple bill that stems out of all of the work the Legislature has done related to the subprime crisis. About 300 lenders are not regulated by either the federal government or the state. This is because there is an exception under the MBPA for companies offering mortgage loans approved by Fannie Mae or Freddie Mac. Beyond agreeing to buy the loan when the lender agrees to certain parameters, neither Fannie Mae nor Freddie Mac regulate these lenders. This bill would close this loophole and allow the DFI to regulate these lenders.

This bill creates a level playing field for lenders in this state. There is an exemption under the CLA for lenders who lend below the usury rate. The DFI has received many complaints from consumers about these lenders and has investigative authority over them, but not assessment authority. This makes the process slower, which hurts consumers.

The subprime crisis was caused by greed and borrowers not getting full disclosure. It is not a result of people taking on too much debt. Self-regulation of these entities has not worked, there needs to be more regulation.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) The Department of Financial Institutions (DFI) is responsible for regulation under the Consumer Loan Act (CLA). This bill will create a level playing field for non-depository institutions that offer mortgages in Washington. At this time, the CLA offers an exemption for mortgage lenders on mortgages that are 12 percent or greater. If under 12 percent, the mortgage lenders are subject to the Mortgage Brokers Practices Act. Approximately 300 out-of-state companies currently claim an exemption. Many of these lenders are not subject to oversight. Based on the credit and subprime market situation, few would say the lenders should be self regulated. This bill was passed unanimously in Senate and had unanimous support in the House Financial Institutions Committee.

(Opposed) None.

Persons Testifying: (Insurance, Financial Services & Consumer Protection) Senator Weinstein, prime sponsor; Deb Bortner, Department of Financial Institutions; Ari Brown, Brown Sayer Law Group; and Brad Tower, Community Bankers of Washington.

Persons Testifying: (Appropriations) Deborah Bortner, Department of Financial Institutions.

Persons Signed In To Testify But Not Testifying: (Insurance, Financial Services & Consumer Protection) None.

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