

SENATE BILL REPORT

SB 5862

As of February 10, 2009

Title: An act relating to limiting the balance of small loans by a consumer enforced by a database.

Brief Description: Limiting the balance of small loans by a consumer enforced by a database.

Sponsors: Senators Tom, Pridemore and Kline.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/10/09.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Alison Mendiola (786-7483)

Background: Payday lending practices are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act) under Chapter 31.45 RCW. The phrase "payday loan" refers to a type of short-term, unsecured loan, known formally as a "small 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 \$95 for a \$700 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

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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 borrower 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 Bill: DFI may develop a database system, accessible by DFI and small loan licensees in order for the licensee to determine whether a consumer has an outstanding loan and, if so, the number of small loans the consumer has outstanding.

The information in the database is not subject to the Public Records Act, Chapter 42.56 RCW.

A borrower's maximum principal amount of any small loan, or the outstanding principal balances of all combined small loans made by one or more licensees, is capped at \$700 at any one time.

Appropriation: None.

Fiscal Note: Requested on February 4, 2009.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: None.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

Persons Testifying: PRO: Senator Tom

CON: Dennis Bassford, Angela Toussant, Regina Alexander, Pamela Fann, Oscar Eason, Chris Guillen, and Connie Proctor, Moneytree and Financial Service Centers of Washington