HOUSE BILL REPORT
HB 1658

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to the cap on the total number of small loans a borrower may have in a twelve-month period.

Brief Description: Raising the cap on the total number of small loans a borrower may have in a twelve-month period.

Sponsors: Representatives Kirby, Blake, Hurst, Rodne and Clibborn.

Brief History:

Committee Activity:

Business & Financial Services: 2/19/13, 2/20/13 [DP].

Brief Summary of Bill

- Raises the number of small loans a borrower may have in a 12-month period from eight to 12.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 12 members: Representatives Kirby, Chair; Parker, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Chandler, Hawkins, Hudgins, Hurst, Kochmar, MacEwen, O'Ban and Santos.

Minority Report: Do not pass. Signed by 3 members: Representatives Ryu, Vice Chair; Habib and Stanford.

Staff: Jon Hedegard (786-7127).

Background:

Payday Loans.
Small loans (better known as "payday loans") are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act). The Act contains provisions for the licensing and regulation of businesses offering services related to check

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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 by applying for and receiving an endorsement to their check casher or check seller license.

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 borrower 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.

<u>Loan Terms</u>.
A borrower may not take out more than $700 in small loans at any time from all lenders. A borrower may not borrow more than 30 percent of his or her gross monthly income. The lender may charge up to 15 percent for the first $500. If the borrower has a loan in excess of $500, the lender may 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. The minimum term of a loan is the borrower's next paycheck unless it is less than seven days. If it is less than seven days, the minimum term is the date of the next following pay date. There is a statutory maximum loan term of 45 days.

A licensee is prohibited from making a small loan to a borrower that is in default on a previous small loan. This prohibition lasts until the loan is paid in full or for two-years after the small loan was made, whichever is earlier. A licensee is prohibited from making a small loan to a borrower that is in an installment plan. This prohibition lasts until the installment plan is paid in full or for two-years after the origination of the installment plan, whichever is earlier. A licensee is prohibited from making a small loan to a borrower if making that small loan would result in a borrower receiving more than eight small loans from all licensees in any 12-month period.

<u>Enforcement System</u>.
A database system (System) is authorized to enforce the Act. The System allows a licensee to verify if the potential borrower is eligible for a small loan. The System is available in real-time and is secure against unauthorized acquisition or use, tampering, or theft. The System is funded by a fee established by the Director of the DFI (Director) by rule. A lender may not charge an additional sum to recover the fee. Information in the system is exempt from public disclosure.

<u>Agency Enforcement</u>.
The Director may impose 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.

<u>Consumer Protection Act</u>.
A violation of the Act is a violation of the Consumer Protection Act (CPA). Remedies under the CPA do not affect any other remedy available to an injured party. In a suit for a CPA violation, an injured party may sue for:
- the actual damages sustained;
- the costs of the suit;
- reasonable attorney's fees; and
- additional damages in the amount of up to three times the actual damages sustained by the plaintiff. These discretionary treble damages are capped at $25,000.

The Attorney General may also sue to:
- prevent or restrain violations of the CPA; and
- seek restitution for persons injured by violation of the CPA.

Summary of Bill:

The limitation on the number of small loans a borrower may have in a 12-month period is raised from eight to 12.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Many payday loan borrowers do not take out the full amount allowed under law. A borrower may not be aware of the loan cap. When a borrower reaches the cap, the borrower may go to the internet and obtain an illegal loan. The eight loan cap is too low. It has put some lenders out of business. It has removed a financial tool from consumers. Many people get paid once a month. Those people may need or want to get a payday loan each month. Under current law, a borrower cannot get into financial trouble with payday loans. People with credit cards may not need a payday loan. Some people cannot get a credit card. A person may get an illegal loan because they cannot get a legal payday loan. There are no protections related to that illegal loan. Payday lenders are regulated by the DFI and by the federal Consumer Finance Protection Board. A database tracks all legal loans. All legal loans are limited to a total of eight. A lender does not have the ability to tell if the consumer has loans from other lenders or if the borrower is about to be cut off or when it will be restored. The cap does not distinguish by amount. All loans are treated the same whether for $50 or $500. Lenders have gone out of business, jobs have been lost, and tax revenues have been lost. Illegal internet loans have filled the gap. More legal payday lenders should be brought back to the state. Loosening the cap would be good for people in this state. State consumer protections apply to legal payday loans. It is virtually impossible for the state regulator to find and punish an illegal lender.

(Opposed) The state should keep the current, strong protections in place against payday lending. In 2009 legislation was passed to break the cycle of dependency. One of the most important protections is the eight loan limit in the 12-month period. The total number of loans is down. Consumers have saved $137 million in predatory loan fees. These protections provided by state law save people money. The law passed in 2009 is working. The law provides a way for consumers to get out of debt. The 2009 law has components that work together. The limit on the number of loans and the installment loan provisions help break the cycle of poverty. The payday loan industry used to argue that payday loans are used for emergencies. There is no study that supports that contention. Illegal loans are uncollectible and unenforceable. Consumers do not need more access to payday loans. Fewer than 7 percent of borrowers took out eight payday loans. Payday loans are often used to pay previous payday loans. Payday loans can charge an interest rate of almost 400 percent. Many low-income people have taken out payday loans. Low-income people need access to credit but this type of high-cost credit is not a help. The current law has helped people. Payday loans can turn into a financial straightjacket. Payday loans were on the rise until the 2009 law was enacted. The payday reforms need more time to take effect before the law is weakened. The current law is strong. A loan a month is a loan for every paycheck for some people and that creates a cycle of debt.

Persons Testifying: (In support) Representative Kirby, prime sponsor; and Dennis Bassford, Money Tree Incorporated.

(Opposed) Sam Leonard, Washington State Labor Council; Marcy Bowers, Statewide Poverty Action Network; Dave Siemenski, Express Credit Union; and Steve Breaux, Service Employees International Union 775.

Persons Signed In To Testify But Not Testifying: None.