Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Business & Financial Services Committee

SB 6134

Brief Description: Addressing nondepository institutions regulated by the department of financial institutions.

Sponsors: Senators Hobbs, Benton, Hatfield, Mullet and Fain; by request of Department of Financial Institutions.

Brief Summary of Bill

- Imposes a five-year statute of limitations for violations of statutes governing nondepository institutions.
- Ensures continuing privacy of information disclosed to the Department of Financial Institutions.
- Requires reporting by licensees registered with nationwide licensing entities.
- Modifies procedures for fingerprinting and background checks.

Hearing Date: 2/19/14

Staff: David Rubenstein (786-7153).

Background:

The Department of Financial Institutions (DFI) regulates a wide variety of financial institutions. The Director of the DFI (Director) is appointed by the Governor.

There are numerous kinds of nondepository institutions regulated by the DFI, such as escrow agents, mortgage bankers and mortgage brokers, loan originators, currency exchangers, money transmitters, and check cashers and sellers (often called "payday lenders").

<u>Consumer Loan Companies</u>.

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.

Consumer loan companies are regulated and licensed under the Consumer Loan Act (CLA). Individuals who make residential loans under the CLA must be licensed as mortgage loan originators.

The law requires that officers, directors, and owners of licensees under the CLA provide fingerprints to the DFI for submission to the Washington State Patrol (WSP), Federal Bureau of Investigation (FBI), Nationwide Mortgage Licensing System and Registry (NMLS), and other agencies. The DFI is authorized to use the NMLS as a conduit for information in order to reduce the burden on the FBI.

Under federal law, fingerprints of mortgage administrators must be submitted pursuant to the Secure and Fair Enforcement Mortgage Licensing Act of 2008 (SAFE Act), whereas other fingerprints may be submitted pursuant to a generally applicable federal law.

<u>Check Cashers and Check Sellers</u>.
The state regulates check cashers and sellers and payday lenders under the Check Cashers and Check Sellers Act (CCSA). A "check casher" is a person or entity that for compensation engages in the business of cashing checks, drafts, money orders, or other commercial paper. A "check seller" means a person or entity that for compensation engages in the business of selling checks, drafts, money orders, or other commercial paper. A licensed check casher or seller may only make a small loan (also known as a payday loan) if the check casher or seller has a small loan endorsement to their license. Large payday lenders are regulated by the federal Consumer Financial Protection Bureau (CFPB) and by the states such as through the DFI. In some cases the DFI needs to receive regulatory information from the CFPB and other regulatory entities.

<u>Mortgage Brokers</u>.
The DFI licenses mortgage brokers and mortgage loan originators under the Mortgage Broker Practices Act (MBPA). The MBPA has provisions regarding licensing, continuing education, prohibited practices, examinations, investigations, and criminal, civil, and administrative penalties for mortgage brokers and loan originators.

<u>Escrow Agents</u>.
Escrow agents are regulated by the DFI under the Escrow Agent Registration Act (Escrow Act). The Escrow Act has provisions regarding licensing, prohibited practices, examinations, investigations, and penalties.

<u>Money Transmitters</u>.
The DFI regulates money services businesses (money transmitters and currency exchangers) under the Uniform Money Services Act (UMSA). Money transmission is the receipt of money for the purpose of transmitting or delivering the money to another location, whether inside or outside the United States.

<u>Remedies and Penalties for Violations</u>.
Generally, remedies and penalties for violations of the statutes governing nondepository institutions include:
- fines;
- suspension or revocation of licenses;
- cease-and-desist orders;

- orders of restitution to consumers; and
- removal from office of officers, principals, or employees.

In some cases, persons injured by nondepository institutions and the DFI are given a civil cause of action in court.

Summary of Bill:

Actions for violations of the Escrow Act, MBPA, UMSA, CLA, and CCSA carry a five-year statute of limitations.

Licensees under the CCSA and the UMSA, doing business in multiple states and registered with a nationwide licensing system, must submit reports to the DFI.

Fingerprints of officers, directors, and owners of applicants for a license under the CLA may not be submitted to the NMLS. Fingerprints may be submitted to the WSP, the FBI, or another agency or entity entitled to receive such information.

A provision allowing the DFI to collect and distribute information through the NMLS is eliminated.

Under the CCSA, federal or state laws protecting the privacy or confidentiality of information provided to the DFI continue to apply after disclosure to the DFI. Additionally, the DFI may provide such information to state and federal regulators, including the CFPB under a memorandum of understanding, without loss of privilege or confidentiality.

Appropriation: None.

Fiscal Note: Available.

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