
**Consumer Protection & Business
Committee**

SSB 5946

Brief Description: Protecting consumers from the discontinuance of the London interbank offered rate.

Sponsors: Senate Committee on Business, Financial Services & Trade (originally sponsored by Senators Mullet and Nguyen).

Brief Summary of Substitute Bill

- Provides that, upon the London Interbank Offered Rate (LIBOR) replacement date, references to the LIBOR as the benchmark in certain contracts, securities, and instruments without applicable fallback provisions will be replaced by the Secured Overnight Financing Rate.
- Establishes events that constitute the LIBOR replacement date in certain contracts, securities, and instruments.

Hearing Date: 2/21/22

Staff: Corey Patton (786-7388).

Background:

The London Interbank Offered Rate (LIBOR) is a benchmark interest rate that indicates borrowing costs between international banks. Historically, the LIBOR has been determined using data contributed by a panel of banks and is designed to produce an average rate that is representative of the rates at which internationally active banks with access to the wholesale, unsecured funding market could fund themselves in that market in particular currencies for certain tenors.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

As of January 1, 2022, certain United States dollar (USD) LIBOR tenors, as well as all non-USD LIBOR tenors, are no longer published. By July 1, 2023, remaining USD LIBOR tenors will no longer be published. In anticipation of the benchmark's cessation, various regulators have encouraged entities and other market participants that engage in loans, floating-rate notes, securitizations, supplier contracts, or other financial instruments to transition away from referencing the LIBOR. There are existing contracts, securities, and instruments that reference the LIBOR and do not contemplate the cessation of its publication or contain fallback provisions for the sunset of the LIBOR.

The Secured Overnight Financing Rate (SOFR) has been recommended by some authorities and adopted in select product areas to replace the LIBOR. The Federal Reserve Bank of New York and the Office of Financial Research produce the SOFR based on a broad measure of the cost of borrowing cash overnight collateralized by United States Treasury securities in the repurchase agreement market.

Summary of Bill:

On the London Interbank Offered Rate (LIBOR) replacement date, a benchmark based on the Secured Overnight Financing Rate (SOFR) will replace the LIBOR in any contract, security, or instrument that uses the LIBOR as a benchmark, provided that such contract, security or instrument:

- does not contain fallback provisions; or
- contains fallback provisions that result in a benchmark replacement, other than the SOFR, that is based in any way on any LIBOR value.

Any fallback provisions in a contract, security, or instrument that provide for a benchmark replacement based on or otherwise involving a poll, survey, or inquiries for quotes or information concerning interbank lending rates or any interest rate or dividend rate based on the LIBOR must be disregarded and deemed null and void. A determining person for a contract, security, or instrument containing fallback provisions that permit or require the selection of a benchmark replacement for the LIBOR is authorized to select the SOFR as the benchmark replacement, subject to certain conditions.

The LIBOR replacement date is defined as:

- the later of: (1) the date of a public statement or publication of information by the administrator of the LIBOR, or another specified authority, announcing that such administrator has ceased or will cease to provide the LIBOR permanently or indefinitely, provided that there is no successor that will continue to provide the LIBOR; and (2) the date on which the administrator of the LIBOR permanently or indefinitely ceases to provide the LIBOR; or
- the date of a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR announcing that the LIBOR is no longer representative, subject to certain exceptions.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.