SENATE BILL REPORT
SSB 5946

As Passed Senate, February 11, 2022

Title: An act relating to protecting consumers from the discontinuance of the London interbank offered rate.

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 History:

Committee Activity: Business, Financial Services & Trade: 1/27/22, 2/01/22 [DPS].

Floor Activity: Passed Senate: 2/11/22, 49-0.

Brief Summary of First Substitute Bill

- Provides for the transition of certain financial contracts away from the London Interbank Offered Rate.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Majority Report: That Substitute Senate Bill No. 5946 be substituted therefor, and the substitute bill do pass.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Dozier, Ranking Member; Brown, Frockt, Lovick and Wilson, L.

Staff: Clinton McCarthy (786-7319)

Background: The London Interbank Offered Rate (LIBOR) is an interest-rate average calculated from estimates submitted by the leading banks in London. Each bank estimates what it would be charged were it to borrow from other banks. It has been the primary benchmark, along with the Euribor, for short-term interest rates around the world. Effective December 31, 2021, LIBOR is no longer to be used to issue new loans in the U.S. It is being replaced by the Secured Overnight Financing Rate (SOFR). The main difference between SOFR and LIBOR is how the rates are produced. While LIBOR is based on panel bank input, SOFR is a broad measure of the cost of borrowing cash overnight collateralized by U.S. Treasury securities in the repurchase agreement—repo—market. The transaction volumes underlying SOFR regularly are around $1 trillion in daily volumes. There are certain contracts that rely on LIBOR and do not contemplate the cessation of its publication, and do not have a fallback or replacement rate provision for the sunset of LIBOR.

<u>Timeline for London Interbank Offered Rate.</u> In 2014 the U.S. Federal Reserve Board and the Federal Reserve Bank of New York announced the creation of the Alternative Rates Reference Committee (ARRC) to assess viable alternatives to LIBOR. In 2016 ARRC released its first report on the possible indices that could serve as a replacement to LIBOR. In 2017, ARRC announced a broad treasury repurchase financing rate, SOFR, as its recommended alternative to LIBOR. Beginning January 1, 2022, LIBOR will cease publishing the one-week and two month LIBOR. By the end of June, 2023, LIBOR will cease publishing 1-month, 3-month, 6-month, and 12-month LIBOR.

Alabama and New York have passed bills to address the transition away from LIBOR. The Adjustable Interest Rate Act of 2021 passed the U.S. House of Representatives 415-9, and is in the U.S. Senate.

Summary of First Substitute Bill: This bill provides for the transition of certain financial contracts away from LIBOR, which is set to be retired in 2023. Various financial contracts reference LIBOR as a benchmark for prevailing interest rates and use LIBOR in calculating certain payments or obligations.

If a contract referencing LIBOR does not have a fallback or replacement rate provision in effect when LIBOR is retired, or a replacement rate is not selected by a determining person as defined by the bill, the bill provides for a transition to a replacement rate selected by the Board of Governors of the Federal Reserve System. The bill also provides for conforming changes to these contracts, the continuity and enforceability of these contracts, and protections against liability as a result of such a transition.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Proposed Substitute: *The committee* *recommended a different version of the bill than what was heard.* PRO: The hope is that this issue will be resolved at the federal level. This bill protects banks and consumers in instances where there is no fallback provision for when the LIBOR rate is no longer published in 2023. This will only affect those contracts that don't have a fallback provision, or an agreement to use a different measure such as SOFR. This bill won't provide an advantage to any member of a party of a contract.

Persons Testifying: PRO: Senator Mark Mullet, Prime Sponsor; Glen Simecek, Washington Bankers Association.

Persons Signed In To Testify But Not Testifying: No one.