
**Financial Institutions &
Insurance Committee**

HB 2020

Brief Description: Regulating payday lending practices.

Sponsors: Representatives Schual-Berke, Pettigrew, Kenney, Darneille, Cody, Dickerson, Kagi, Hasegawa, McCoy, McDermott, Lantz, Lovick, Flannigan, Hudgins, Hunt, P. Sullivan, Kessler, Conway, Green, Morrell, Ormsby, O'Brien, Chase, Moeller, Quall, B. Sullivan, McIntire, Williams, Kirby, Ericks and Upthegrove.

Brief Summary of Bill

- Requires the Department of Financial Institutions (DFI) to implement a common data base with real-time access through an internet connection for licensees who make small loans.
- Requires licensees to submit specified data before entering into a small loan or payment plan.
- Requires licensees to check to see if a prospective borrower has outstanding small loans or payment plans.
- Prohibits licensees from entering into a small loan or payment if the prospective borrower has four outstanding small loans, four payment plans, or any combination of four outstanding small loans or payment plans with any one licensee or all licensees combined.
- Exempts any identifying information in the database from public disclosure

Hearing Date: 2/22/05

Staff: Jon Hedegard (786-7127).

Background:

The business of check cashing and selling is regulated by the Department of Financial Institutions (DFI) pursuant to the Check Cashers and Sellers Act (Act). One of the common practices of such businesses is the issuance of what have become known as "payday loans." The term "payday loan" refers to a type of short-term, high interest, unsecured loan that is typically offered to

consumers by a business outlet offering check cashing services. 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.

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.

Under the Act, licensees must maintain business books, accounts, and records as the DFI may require. The books and accounts must be maintained for at least two years after a transaction. The DFI has 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. The Act contains a provision requiring licensees file financial statements within 105 days of the calendar or fiscal year. The DFI is required to adopt rules prescribing the form and content of the reports. The DFI may require additional reporting "as is necessary for the director to ensure compliance" with Chapter 31.45 RCW.

Summary of Bill:

The DFI must implement a common data base with real-time access through an internet connection for licensees who make small loans. The data base must allow the licensees and the DFI to determine if a particular person has any outstanding small loans.

Licensees shall submit required data before entering into a small loan or payment plan. The data elements must include:

- the prospective borrower's name;
- the prospective borrower's social security number or employment authorization alien number;
- the prospective borrower's address;
- the prospective borrower's driver's license number or other identification required by the licensee;
- the amount of the transaction;
- the date of the transaction;
- the date that the transaction is closed; and
- additional information as is required by the director by rule.

The data must be in a format established by the DFI by rule. The DFI may impose a fee not to exceed \$1 dollar per submission.

A licensee must access the data base and determine the number of outstanding small loans and payment plans with an outstanding principal balance made to the potential borrower . A licensee may not make a small loan to a borrower unless the borrower has fewer than:

- four small loans with outstanding principal balances with any one licensee or all licensees combined;
- four payment plans with outstanding balances with any one licensee or all licensees combined; or

- any combination of four small loans with outstanding principal balances and payment plans with outstanding balances with any one licensee or all licensees combined.

A licensee may rely on the information contained in the data base and is not subject to an administrative penalty or civil liability as a result of relying on inaccurate information.

Identifying information contained in the data base is confidential and exempt from public disclosure. The information may only be accessed by licensees to verify whether any small loans are outstanding for a particular person and by the DFI.

The DFI may adopt rules to implement the database.

Appropriation: None.

Fiscal Note: Requested on February 21, 2005.

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