

## **BILL ANALYSIS**

Senate Research Center  
76R9165 DWS-F

S.B. 1339  
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Economic Development  
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As Filed

### **DIGEST**

Currently, under Texas law, deferred presentment transactions are not regulated. Such transactions, commonly referred to as “pay day” loans, are transactions in which a borrower writes a postdated check to a lender to be cashed on the borrower’s next pay day in exchange for immediate cash. This bill would regulate deferred presentment transactions, including the allowable fees.

### **PURPOSE**

As proposed, S.B. 1339 regulates deferred presentment transactions.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Consumer Credit Commissioner in SECTION 1 (Sections 342.702 and 342.705(b) and (c), Finance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 342, Finance Code, by adding Subchapter M, as follows:

#### **SUBCHAPTER M. DEFERRED PRESENTMENT TRANSACTIONS**

Sec. 342.701. DEFINITIONS. Defines “check,” “deferred presentment transaction,” “fee,” and “renewal.”

Sec. 342.702. RULES. Authorizes the Consumer Credit Commissioner (commissioner) to adopt reasonable rules to enforce this subchapter.

Sec. 342.703. LICENSE REQUIRED. Prohibits a person from engaging in a deferred presentment transaction as the lender unless the person holds a license issued under this chapter. Sets forth the annual license fee, notwithstanding any other provision of this chapter.

Sec. 342.704. WRITTEN AGREEMENT REQUIRED. Requires the agreement for a deferred presentment transaction to be in writing and signed by the borrower.

Sec. 342.705. DISCLOSURE. Requires the lender, before consummation of the agreement for a deferred presentment transaction, to provide the borrower a written disclosure, and sets forth certain requirements for the disclosure. Requires the commissioner to adopt rules to establish a standardized disclosure form and procedure for the execution of the required form. Requires the form and procedure for execution to be designed to conform to federal law and to ensure that the borrower receives and acknowledges notice of all possible fees, before entering the transaction. Authorizes the commissioner to adopt rules establishing additional requirements to ensure complete and accurate disclosure.

Sec. 342.706. LOAN AMOUNT, NUMBER, AND FEE LIMIT. Prohibits the principal amount of the loan under a deferred presentment transaction from exceeding a certain amount. Prohibits a lender from being a party to more than one deferred presentment transaction with the same borrower at one time. Prohibits a deferred presentment transaction from being renewed more than twice. Sets forth the maximum fees a lender may charge on a deferred presentment transaction. Provides that nothing in this chapter prohibits a lender from being a party, with the same borrower at the same time, to a deferred presentment transaction and a loan authorized by this chapter other

than a deferred presentment transaction.

Sec. 342.707. Prohibits a lender from making a presentment or negotiation of a check received in a deferred payment transaction unless the lender endorses the check with the name under which the lender does business. Provides that the borrower is entitled to redeem the check before the date of presentment or negotiation stated in the agreement on payment to the lender of the amount of the check in cash or its equivalent. Authorizes the lender, on dishonor of the check because of insufficient funds, to use all means available to recover any amounts charged the lender by a financial institution related to the dishonor of the check, except as provided by Section 342.710.

Sec. 342.708. **LENDER CONDUCT.** Sets forth required and prohibited conduct for the lender in a deferred presentment transaction.

Sec. 342.709. **RECORDS.** Requires a license holder to keep and use certain records the commissioner requires. Requires the license holder to preserve its books and other records for at least four years.

Sec. 342.710. **LIMITATION ON ACTION AGAINST BORROWER.** Prohibits a borrower from being prosecuted under certain sections of the Penal Code for nonpayment of a check drawn as part of a deferred payment transaction. Requires a statement of the provisions of Subsection (a) to be included in bold-faced print in English and Spanish in the required disclosure.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.