

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 753  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Payday lending products have come under recent scrutiny by consumer advocates, federal regulators, and the United States military. Payday loans are short-term loans with annualized interest rates. Prior to this year, payday lending in Texas operated through the "rent-a-bank" or "rent-a-charter" model, in which payday lenders partnered with out-of-state banks to make loans to consumers. This enabled Texas payday lenders to avoid state usury limits and rate limits established by the Office of Consumer Credit Commissioner (OCCC). As a response to certain federal legislation, nearly all payday lenders in Texas registered as credit service organizations (CSO), enabling payday lenders to avoid regulation by the OCCC. Regulation that has been avoided includes reporting official data to the OCCC. Independent and reliable data is needed to create public policy regarding consumer protections and rate limits.

As proposed, S.B. 753 establishes a data collection system to require that certain lenders become certified through the OCCC and mandates an annual report to the legislature from entities offering payday loans, or "deferred presentment transactions," including Internet-based organizations and CSOs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the State Finance Commission in SECTION 1 (342.606, Finance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter M, Chapter 342, Finance Code, by adding Sections 342.606, 342.607, and 342.608, as follows:

Sec. 342.606. DEFERRED PRESENTMENT TRANSACTION DATA COLLECTION SYSTEM. (a) Requires a person who offers, services, or brokers a deferred presentment transaction, including a credit services organization to which Chapter 393 (Credit Services Organizations) applies and a person registered or licensed to do business in this state, who offers deferred presentment transactions on the Internet to submit data to a database established by a database provider selected by the consumer credit commissioner (commissioner).

(b) Requires the commissioner to contract with a person to establish a database for the compilation of information from persons who offer, service, or broker deferred presentment transactions. Requires the commissioner when selecting a database provider to ensure that the database meets certain criteria.

(c) Requires a person required to submit data under this subchapter to weekly submit certain information to the database provider.

(d) Requires the commissioner to analyze the data reported under this subchapter and prepare a report to the legislature. Requires the commissioner to submit the report not later than February 1 of each year.

(e) Provides that information submitted to the database is the property of the office of the consumer credit commissioner. Provides that information that

personally identifies an individual is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(f) Authorizes the State Finance Commission to adopt rules as necessary to implement this section.

Sec. 342.607. CERTIFICATION REQUIRED. (a) Prohibits a person from offering, servicing, or brokering a deferred presentment transaction unless the person is certified by the commissioner. Provides that the requirement of certification under this section is in addition to any license required under this chapter or other law.

(b) Sets Requires a person, to be certified by the commissioner, to meet certain requirements and take certain actions.

(c) Requires a person to annually renew the person's certification under this section.

(d) Requires the commissioner to use proceeds from the fees imposed under this section for the regulation of persons who offer, service, or broker deferred presentment transactions, including the monitoring and analysis of data submitted to the database under Section 342.606.

Sec. 342.608. BOND REQUIRED. (a) Requires a person who offers, services, or brokers a deferred presentment transaction to file with the application for certification a bond that meets certain criteria, in addition to any other bond required by this chapter or other law.

(b) Requires the bond to be in favor of this state for the use of this state and the use of another person who has a cause of action under this chapter against the person.

(c) Requires the bond to be conditioned on certain criteria.

(d) Prohibits the aggregate liability of a surety to all persons damaged by the license holder's violation of this chapter from exceeding the amount of the bond.

SECTION 2. (a) Requires the commissioner to select a database provider under Section 342.606, Finance Code, as added by this Act, not later than January 1, 2008. Requires the commissioner to set the date on which a person who offers, services, or brokers a deferred presentment transaction is required to begin submitting data as provided by that section.

(b) Provides that a person who offers, services, or brokers a deferred presentment transaction is required to be certified and file a bond under Sections 342.607 and 342.608, Finance Code, as added by this Act, not later than January 1, 2008. Requires the commissioner to prescribe an application for certification under Section 342.607, Finance Code, as added by this Act, not later than November 1, 2007.

SECTION 3. Effective date: September 1, 2007.