

BILL ANALYSIS

Senate Research Center
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S.B. 855
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Payday loans, or deferred payment transactions, are designed to be short-term, emergency loans for people in need of money with no alternatives. Military men and women, with little to spare from military income, are often targets for these types of loans. Current law lacks provisions for payday loans in relation to members of the military. As a result, payday lenders are free to charge excessive interest rates, sometimes reaching triple-digit percentages, to military men and women without concern that those customers will reject a payday loan. The financial burden on the borrower created by the high interest rates, and the potential damage to the borrower's credit for late or non-payment of the loan, serves to create pressure on the borrower to refinance loans, creating a cycle of increasing fees.

As proposed, S.B. 855 establishes a 36 percent interest rate cap on certain loans to military borrowers and their dependants. This bill mirrors the recent federal Talent Amendment; however, this bill exempts banks and credit unions, while the federal law does not.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 4, Finance Code, by adding Chapter 351, as follows:

CHAPTER 351. EXTENSION OF CONSUMER CREDIT TO SERVICEMEMBERS OR THEIR DEPENDENTS

Sec. 351.001. DEFINITIONS. Defines "creditor," "dependent," "dependent child," "extension of consumer credit," and "servicemember."

Sec. 351.002. INAPPLICABILITY OF CHAPTER. Provides that this chapter does not apply to insured depository institutions, as defined by Section 3 (Definitions), Federal Deposit Insurance Act (12 U.S.C., Section 1813), or insured credit unions, as defined by Section 101 (Definitions), Federal Credit Union Act (12 U.S.C., Section 1752).

Sec. 351.003. INTEREST. Defines "interest." Prohibits creditors who extend consumer credit to a servicemember or a servicemember's dependent (creditor) from requiring, with respect to the transaction, a servicemember or dependent to pay interest on that transaction that was not agreed to by the parties under the terms of the agreement or promissory note or is specifically prohibited by this chapter or other law.

Sec. 351.004. MAXIMUM ANNUAL PERCENTAGE RATE. Prohibits a creditor from imposing an annual percentage rate (APR) that exceeds 36 percent with respect to an extension of consumer credit to a servicemember or a servicemembers's dependent (consumer credit).

Sec. 351.005. INFORMATION REQUIRED. (a) Requires a creditor to provide, in writing, a statement of the credit extension's APR, all disclosures required under the federal Truth in Lending Act (15 U.S.C., Section 1601 et seq.), and a clear description of

the payment obligations of the servicemember or dependent, before extending consumer credit.

(b) Requires a creditor to provide a written form stating whether the individual who is subject of the credit extension is a servicemember, a servicemember's spouse, or a servicemember's dependent child, and requires the individual to sign this form before finalizing an extension of consumer credit.

Sec. 351.006. RENEWAL, REFINANCING, OR CONSOLIDATION OF CREDIT. Prohibits a creditor from renewing, repaying, or refinancing consumer credit, or to consolidate any part of the credit extension's proceeds with proceeds from any other credit extension to the servicemember or dependent by the creditor unless the creditor executes new loan documentation that is signed by the servicemember or dependent, and provides the information required by Section 351.005(a), Finance Code.

Sec. 351.007. CRIMINAL PENALTY. Provides that a creditor who knowingly violates this chapter commits a Class A misdemeanor.

Sec. 351.008. REMEDIES NOT EXCLUSIVE. Provides that the remedies and rights available under this chapter are in addition to and do not preclude any remedy otherwise available under law to a servicemember or a servicemember's dependents, including any award for consequential or punitive damages.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.