

## **BILL ANALYSIS**

Senate Research Center

S.B. 1949  
By: Watson et al.  
Business & Commerce  
4/7/2019  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Office of Consumer Credit Commissioner (OCCC) is charged with regulating nonbank financial services, including most consumer loans. Increasingly, companies offer consumer loans and other financial products over the Internet and using other emerging technology. This industry is commonly referred to as financial technology or "fintech," and includes wide-ranging online lending models.

In its 2017 Self-Evaluation Report to the Texas Sunset Advisory Commission, the OCCC identified as its first major issue the fact that "Texas consumer lending laws do not explicitly recognize these rapidly evolving online lending practices, and do not provide the agency with specific tools to address them." As a possible solution, the OCCC suggested specifying that Texas consumer lending laws apply to these loans. The OCCC concluded: "This change would help minimize regulatory uncertainty by making it clear which law applies, and would help the OCCC in coordinating with other states. This change would also strengthen the agency's case if it chose to bring an action to ensure an online lender's compliance with Texas law."

S.B. 1949 implements the OCCC's recommendation by clarifying that if an OCCC-regulated loan is made to a consumer while he or she is located in Texas, then existing Texas laws apply. This ensures the same laws apply whether a Texas consumer loan is made via a storefront, over the Internet, or through an online app. At the same time, S.B. 1949 does not change the substance of Texas' lending laws. It merely resolves regulatory uncertainty and ensures a level playing field, which will be better for Texas businesses and consumers.

<https://occc.texas.gov/sites/default/files/uploads/reports/2018-2019-occc-self-evaluation-report.pdf>

As proposed, S.B. 1949 amends current law relating to the applicability of Texas law to consumer financial transactions extended to persons located in this state at the time the transaction is entered into.

### **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 Section 342.005, Finance Code, as follows:

Sec. 342.005. APPLICABILITY OF CHAPTER. Provides that, except as provided by Sections 302.001(d) (relating to authorizing a creditor to provide for a delinquency charge in certain circumstances) and 342.004(c), a loan is subject to this chapter if the loan:

- (1) makes no changes to this subdivision;
- (2) is extended primarily for personal, family, or household use to a person who is located in this state at the time the loan is entered into;

(3)–(4) makes no changes to these subdivisions.

SECTION 2. Amends Section 342.053, Finance Code, as follows:

Sec. 342.053. New heading: AREA OF BUSINESS; LOANS ONLINE OR BY MAIL.

(a) Makes no changes to this subsection.

(b) Authorizes a lender to make, negotiate, arrange, and collect loans online from a licensed office, or by mail from a licensed office.

SECTION 3. Amends Section 343.002, Finance Code, as follows:

Sec. 343.002. APPLICABILITY. (a) Provides that this chapter applies to a loan under this chapter that is extended to a person who is located in this state at the time the loan is entered into.

(b) Creates this subsection from existing text.

SECTION 4. Amends Section 345.007, Finance Code, by adding Subsection (d) to provide that this chapter applies to a retail installment transaction extended to a person who is located in this state at the time the transaction is entered into.

SECTION 5. Amends Section 346.004(a), Finance Code, to provide that, unless the contract for the account provides otherwise, this chapter applies to a revolving credit account described by Section 346.003 (Revolving Credit Accounts) if the loan or extension of credit is extended primarily for personal, family, or household use to a person who is located in this state at the time the loan or extension of credit is entered into.

SECTION 6. Amends Subchapter A, Chapter 347, Finance Code, by adding Section 347.008, as follows:

Sec. 347.008. APPLICABILITY. Provides that each credit transaction extended to a person who is located in this state at the time the transaction is entered into is subject to this chapter.

SECTION 7. Amends Section 348.007(a), Finance Code, to provide that, except as otherwise provided by this section, each retail installment transaction extended to a person who is located in this state at the time the transaction is entered into is subject to this chapter.

SECTION 8. Amends Subchapter A, Chapter 351, Finance Code, by adding Section 351.012, as follows:

Sec. 351.012. APPLICABILITY OF CHAPTER. Provides that this chapter applies to a property tax loan that is extended to a person who is located in this state at the time the loan is entered into.

SECTION 9. Amends Subchapter A, Chapter 352, Finance Code, by adding Section 352.009, as follows:

Sec. 352.009. APPLICABILITY OF CHAPTER. Provides that a refund anticipation loan that is extended to a person who is located in this state at the time the transaction is entered into is subject to this chapter.

SECTION 10. Amends Section 371.003(8), Finance Code, to redefine "pawn transaction."

SECTION 11. Amends Section 393.602(a), Finance Code, to provide that this subchapter applies only to a credit services organization that, with respect to a consumer who is located in this state at the time of the transaction, obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of certain transactions.

SECTION 12. Makes application of this Act prospective. Provides that for purposes of this section, a refinance of a loan, installment, transaction, or extension of consumer credit is considered made on the date the loan, installment, transaction, or extension of consumer credit being refinanced was made.

SECTION 13. Effective date: September 1, 2019.