

BILL ANALYSIS

Senate Research Center
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S.B. 2131
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas' credit services organization statute provides guidance for credit services organizations that offer repair or counseling services to Texans. Due to broad definitions in that statute most major payday lenders have registered as credit services organizations, and as such are no longer subject to Texas' small loan law or regulation by the Office of Consumer Credit Commissioner (CCC).

As proposed, S.B. 2131 requires a credit services organization to be licensed by OCCC in order to provide consumer loan services where a car title, postdated personal check, or debit authorization are used as security for the loan. The bill requires the Finance Commission of Texas to adopt rules regarding licensing procedures and maximum fees authorized to be charged for the loan services.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 2 (Section 393.1045, Finance Code) and SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter B, Chapter 393, Finance Code, to read as follows:

SUBCHAPTER B. REGISTRATION, LICENSING, AND DISCLOSURE STATEMENTS

SECTION 2. Amends Subchapter B, Chapter 393, Finance Code, by adding Section 393.1045, as follows:

Sec. 393.1045. LICENSE REQUIRED FOR SERVICES FOR CERTAIN LOANS. (a) Provides that this section applies only to a credit services organization that obtains, facilitates, or assists a consumer to obtain an extension of consumer credit in which any of the following is given as security for or in connection with the debt: a motor vehicle certificate of title, except as provided by Subsection (f); the consumer's personal check to be cashed or deposited at a designated future date; or an authorization to debit at a designated future date a deposit account maintained by the consumer.

(b) Requires a credit services organization to be licensed by the Office of Consumer Credit Commissioner (OCCC) as provided by this section to engage in an activity described by Subsection (a).

(c) Requires OCCC to establish disclosure requirements for licensed credit services organizations in addition to the requirements of Section 393.105 (Disclosure Statement); adopt policies prohibiting licensed credit services organizations from harassing and intimidating consumers in connection with an extension of consumer credit; establish a data collection mechanism to enable OCCC to appropriately monitor compliance of credit services organizations with this section, Section 393.105, and Subchapters C (Contract for Services), D (Prohibitions and Restrictions), and E (Surety Bond; Surety Account); and enter into a memorandum of understanding with the office of the attorney general to

investigate credit services organizations for potential violations of a requirement of this section or a rule adopted under this section.

(d) Requires the Finance Commission of Texas to adopt rules as necessary to establish procedures for issuing, renewing, and enforcing a license under this section; to set a maximum fee for the services to be performed by a credit services organization in connection with an activity described by Subsection (a); and for the administration of this section.

(e) Prohibits a credit services organization from evading the application of this section or a rule adopted under this section by use of any device, subterfuge, or pretense. Provides that characterization of a required fee as a purchase of a good or service in connection with an extension of credit to which this section applies is a device, subterfuge, or pretense for the purposes of this section.

(f) Provides that Subsection (a)(1) does not apply to an extension of consumer credit for the express purpose of financing the purchase of a motor vehicle used as security for the debt.

SECTION 3. Requires the Finance Commission of Texas, not later than October 1, 2009, to adopt rules required by Section 393.1045, Finance Code, as added by this Act.

SECTION 4. Provides that a credit services organization is not required to obtain a license under Section 393.1045, Finance Code, as added by this Act, until January 1, 2010.

SECTION 5. Effective date: September 1, 2009.