

## **BILL ANALYSIS**

Senate Research Center

S.B. 254  
By: Davis  
Business & Commerce  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Payday loans, or deferred payment transactions, are designed to be short-term emergency loan products for people who have no alternative loan options. Military servicemembers are—often targeted by abusive payday lenders due to their limited but steady income. Deployments which have become more frequent in recent years—of active duty and National Guard troops leave military families with extra expenses at home and abroad, making them more vulnerable to the promise of quick cash from payday lenders. A Department of Defense study concluded that payday lending and other high-cost lending products are a threat to national security and destructive to the morale of troops on active deployment. Because payday lenders function within the credit service organization statute rather than Chapter 342 (Consumer Loans), Finance Code, payday lenders are allowed to collect excessive charges without concern that customers will reject their services. Many payday loans result in triple-digit and even quadruple-digit annual percentage rates. The financial burden on the borrower and the potential damage to the borrower's credit should he or she be unable to repay the loan creates a serious pressure on the borrower to refinance the loans that cannot be paid back, creating an onerous cycle of increasing fees. This bill gives state enforcement authority to federal legislation (John Warner National Defense Authorization Act 2007, Section 670, Public Law 109-364) that became effective in October 2007. Like the federal law, S.B. 254 would exempt banks and credit unions. Although federal legislation has been passed, this bill is necessary because it gives state regulators authority to enforce the law, thereby increasing the likelihood of compliance.

S.B. 254 would establish a 36 percent interest rate cap on loans extended to members of the military, including those in the Texas National Guard and military dependents, and requires a creditor to provide certain information to a borrower before finalizing an extension of credit. The bill makes it a Class A misdemeanor for a creditor who knowingly violates this Act, and subjects the creditor to all remedies and penalties under Chapter 14 (Consumer Credit Commissioner), Finance Code.

As proposed, S.B. 254 amends current law relating to the extension of consumer credit to certain members of the Texas National Guard and armed forces of the United States and their dependents and provides a penalty.

### **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 353, as follows:

#### **CHAPTER 353. EXTENSION OF CONSUMER CREDIT TO SERVICEMEMBERS OR THEIR DEPENDENTS**

Sec. 353.001. DEFINITIONS. Defines, in this chapter, "creditor," "extension of consumer credit," "servicemember," "dependent," and "dependent child."

Sec. 353.002. INAPPLICABILITY OF CHAPTER. Provides that this chapter does not apply to an insured depository institution, as that term is defined by Section 3, Federal Deposit Insurance Act (12 U.S.C. Section 1813), or an insured credit union, as that term is defined by Section 101, Federal Credit Union Act (12 U.S.C. Section 1752).

Sec. 353.003. FEDERAL REQUIREMENTS APPLICABLE. (a) Requires a creditor who extends consumer credit to a servicemember or a servicemember's dependent to comply with Section 670, Public Law 109-364 or any regulation adopted pursuant thereto.

(b) Requires a creditor to apply the protections under Section 670, Public Law 109-364 to servicemembers and servicemember's dependents as defined under Section 353.001.

(c) Requires that a violation of any provision of Section 670, Public Law 109-364 or any regulation adopted pursuant thereto be deemed a violation of this chapter.

Sec. 353.004. CRIMINAL PENALTY. Provides that a creditor who knowingly violates this chapter commits an offense. Provides that an offense under this section is a Class A misdemeanor.

Sec. 353.005. REMEDIES AND ADDITIONAL PENALTIES. (a) 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 dependent, including any award for consequential or punitive damages.

(b) Provides that on violation of this chapter, a creditor is subject to all remedies and penalties authorized under Chapter 14 (Consumer Credit Commissioner), Finance Code.

SECTION 2. Makes application of this Act, prospective.

SECTION 3. Effective date: September 1, 2011.