

BILL ANALYSIS

Senate Research Center
83R5340 CLG-F

S.B. 823
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Business & Commerce
3/22/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are approximately 1,950 traditional installment lenders in Texas who provide consumer loans under Subchapter F (Alternate Charges for Certain Loans), Chapter 342 (Consumer Loans), Finance Code. Similar to payday and auto title lenders, a traditional installment lender under Chapter 342 provides cash advances that often equal \$1,000 or less. However, whereas payday and auto title lenders must adhere to very few regulatory requirements, traditional installment lenders must comply with statutory limits that affect the size, term, interest rate, and fees charged pursuant to every loan. In addition, traditional installment lenders typically do not require access to a consumer's bank account or a postdated check, as is the case with most payday lenders.

Even while the loan limitations applicable to traditional installment lenders typically result in much more affordable products, payday and auto title lenders have become increasingly prolific in this marketplace. This is in large part because payday and auto title lenders can charge high fees that allow them to advertise their products much more aggressively.

Currently, traditional installment lenders are trying to compete within this skewed marketplace while absorbing increasingly expensive regulatory compliance costs by charging statutorily capped acquisition and delinquency charges, which were last revised in 1981 and 2005, respectively. These limits are incompatible with current business costs. Therefore, if traditional installment lenders are to continue to operate in Texas, they must be allowed to assess reasonable acquisition and delinquency charges.

S.B. 823 changes the acquisition charge limit for loans of more than \$100 from \$10 to 10 percent of the cash advanced pursuant to the loan. In addition, S.B. 823 changes the delinquency charge limit for loans of more than \$100 from the greater of \$10 or five cents for each \$1 of the delinquent installment to \$20 or five cents for each \$1 of the delinquent installment.

As proposed, S.B. 823 amends current law relating to authorized acquisition and delinquency charges for certain consumer loans.

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 342.252, Finance Code, as follows:

Sec. 342.252. ALTERNATE INTEREST CHARGE. Authorizes a loan contract, instead of the charges authorized by Section 342.201 (Maximum Interest Charge), to provide for:

- (1)-(2) Makes no changes to these subdivisions; or
- (3) on a cash advance of more than \$100:

(A) an acquisition charge that is not more than 10 percent of the amount of the cash advance, rather than not more than \$10; and

(B) an installment account handling charge that is not more than the ratio of \$4 a month for each \$100 of cash advance.

SECTION 2. Amends Section 342.257, Finance Code, to prohibit the delinquency charge on a loan with a cash advance of \$100 or more from exceeding the greater of \$20, rather than \$10, or five cents for each \$1 of the delinquent installment.

SECTION 3. Amends Section 342.259(a), Finance Code, as follows:

(a) Authorizes a loan made under this subchapter with a maximum cash advance computed under Subchapter C (Revised Ceilings and Brackets), Chapter 341 (General Provisions), using a reference base amount that is more than \$100 but not more than \$200, instead of the charges authorized by Sections 342.201 and 342.252, to provide for:

(1) an acquisition charge that is not more than 10 percent of the amount of the cash advance, rather than not more than \$10; and

(2) an installment account handling charge that is not more than the ratio of \$4 a month for each \$100 of cash advance.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2013.