

## **BILL ANALYSIS**

Senate Research Center  
80R5429 ATP-F

S.B. 857  
By: Shapleigh  
Business & Commerce  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas' credit services organization (CSO) statute was intended to provide guidance for entities that offer legitimate debt repair or counseling services to Texans. However, the statute is overly broad, as it currently applies to entities that arrange short-term consumer loans in high volume, such as payday lenders. These entities, as CSOs, are able to circumvent state laws and the regulations and rates promulgated by the Office of the Consumer Credit Commissioner that are intended to apply to them.

As proposed, S.B. 857 subjects an entity offering deferred presentment transactions or cash advances to Subtitle B (Loans and Financed Transactions), Title 4, Finance Code, and to rules regarding deferred transactions, and provides that registration as a CSO does not insulate the entity from adhering to that subtitle or any rules or regulations under it, such as the rates set by the Office of the Consumer Credit Commissioner. The bill also prohibits a CSO from extending credit to consumers when the CSO has a relationship with the lender.

### **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 342.008, Finance Code, as follows:

Sec. 342.008. ATTEMPT TO EVADE FEDERAL LAW. (a) Creates this subsection from existing text.

(b) Prohibits a person from making or offering to make a cash advance under a deferred presentment transaction on behalf of, in conjunction with, or as an agent, broker, servicer, or collector for another person, unless both comply with this subtitle (Loans and Financed Transactions) and rules adopted under Section 342.007 (Deferred Presentment Transaction) regarding deferred presentment transactions. Applies this section to such persons regardless of whether they are subject to regulation under this subtitle or other state law. Provides that an agreement made in connection with a deferred presentment transaction is void to the extent it waives application of this subsection or applies the laws of a jurisdiction other than this state to avoid compliance with this subtitle or rules adopted under Section 342.007 in a transaction described by this subsection. Provides that a person who makes or offers to make a cash advance under a deferred presentment transaction on behalf of, in conjunction with, or as an agent, broker, servicer, or collector for another person is considered to contract for interest.

SECTION 2. Amends Subchapter D, Chapter 393, Finance Code, by adding Section 393.308, as follows:

Sec. 393.308. ACTING AS OR ASSOCIATING WITH LENDER. (a) Prohibits a credit service organization from facilitating or assisting in obtaining credit for a consumer if the organization has a specific relationship with the lender as set forth in this subsection.

(b) Prohibits a credit services organization from using a scheme, device, or contrivance to evade application of this section.

SECTION 3. Effective date: September 1, 2007.