

1-1 By: Shapleigh, Van de Putte S.B. No. 855  
1-2 (In the Senate - Filed February 23, 2007; March 7, 2007,  
1-3 read first time and referred to Committee on Veteran Affairs and  
1-4 Military Installations; April 16, 2007, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 4,  
1-6 Nays 0; April 16, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 855 By: Shapleigh

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the extension of consumer credit to certain members of  
1-11 the Texas National Guard and armed forces of the United States and  
1-12 their dependents; providing a penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subtitle B, Title 4, Finance Code, is amended by  
1-15 adding Chapter 351 to read as follows:

1-16 CHAPTER 351. EXTENSION OF CONSUMER CREDIT TO SERVICEMEMBERS OR  
1-17 THEIR DEPENDENTS

1-18 Sec. 351.001. DEFINITIONS. In this chapter:

1-19 (1) "Creditor" means a person who:

1-20 (A) is engaged in the business of extending  
1-21 consumer credit; or

1-22 (B) transacts, negotiates, or services an  
1-23 extension of consumer credit.

1-24 (2) "Dependent," with respect to a servicemember,  
1-25 means the servicemember's spouse or dependent child.

1-26 (3) "Dependent child" means a person who is unmarried  
1-27 and who:

1-28 (A) is under 18 years of age;

1-29 (B) before the person's 18th birthday, became  
1-30 permanently incapable of self-support; or

1-31 (C) is under 23 years of age and is pursuing a  
1-32 course of instruction at an approved educational institution.

1-33 (4) "Extension of consumer credit" means the right to  
1-34 defer payment of debt offered or granted primarily for personal,  
1-35 family, or household purposes or to incur the debt and defer its  
1-36 payment.

1-37 (5) "Servicemember" means a member of the United  
1-38 States armed forces or a member of the Texas National Guard called  
1-39 to federal active duty.

1-40 Sec. 351.002. INAPPLICABILITY OF CHAPTER. This chapter  
1-41 does not apply to:

1-42 (1) an insured depository institution, as that term is  
1-43 defined by Section 3, Federal Deposit Insurance Act (12 U.S.C.  
1-44 Section 1813); or

1-45 (2) an insured credit union, as that term is defined by  
1-46 Section 101, Federal Credit Union Act (12 U.S.C. Section 1752).

1-47 Sec. 351.003. INTEREST. (a) In this section, "interest"  
1-48 includes a service charge, renewal charge, fee, and any other  
1-49 charge, except a charge for bona fide insurance, with respect to the  
1-50 extension of consumer credit.

1-51 (b) A creditor who extends consumer credit to a  
1-52 servicemember or a servicemember's dependent may not, with respect  
1-53 to the transaction, require the servicemember or dependent to pay  
1-54 interest that is:

1-55 (1) not agreed to by the parties under the terms of the  
1-56 agreement or promissory note; or

1-57 (2) specifically prohibited by this chapter or other  
1-58 law.

1-59 Sec. 351.004. MAXIMUM ANNUAL PERCENTAGE RATE. A creditor  
1-60 may not impose an annual percentage rate that exceeds 36 percent  
1-61 with respect to an extension of consumer credit to a servicemember  
1-62 or a servicemember's dependent.

1-63 Sec. 351.005. INFORMATION REQUIRED. (a) Before

2-1 finalizing an extension of consumer credit made to a servicemember  
2-2 or a servicemember's dependent, a creditor must provide the  
2-3 servicemember or dependent with the following written information:

2-4 (1) a statement of the annual percentage rate  
2-5 applicable to the extension of credit;

2-6 (2) all disclosures required to be made under the  
2-7 Truth in Lending Act (15 U.S.C. Section 1601 et seq.); and

2-8 (3) a clear description of the payment obligations of  
2-9 the servicemember or dependent.

2-10 (b) Before finalizing an extension of consumer credit, a  
2-11 creditor must provide a written form, to be signed by the  
2-12 individual, stating whether or not the individual who is the  
2-13 subject of the extension of credit is a servicemember, a  
2-14 servicemember's spouse, or a servicemember's dependent child.

2-15 Sec. 351.006. RENEWAL, REFINANCING, OR CONSOLIDATION OF  
2-16 CREDIT. A creditor may not renew, repay, or refinance consumer  
2-17 credit extended to a servicemember or a servicemember's dependent,  
2-18 or consolidate any part of the proceeds of the extension of credit  
2-19 with proceeds from any other extension of credit to that person by  
2-20 the creditor, unless the creditor:

2-21 (1) executes new loan documentation that is signed by  
2-22 the servicemember or dependent; and

2-23 (2) provides the information required by Section  
2-24 351.005(a).

2-25 Sec. 351.007. CRIMINAL PENALTY. A creditor who knowingly  
2-26 violates this chapter commits an offense. An offense under this  
2-27 section is a Class A misdemeanor.

2-28 Sec. 351.008. REMEDIES AND ADDITIONAL PENALTIES. (a) The  
2-29 remedies and rights available under this chapter are in addition to  
2-30 and do not preclude any remedy otherwise available under law to a  
2-31 servicemember or a servicemember's dependents, including any award  
2-32 for consequential or punitive damages.

2-33 (b) On violation of this chapter, a creditor is subject to  
2-34 all remedies and penalties authorized by Chapter 14.

2-35 SECTION 2. Chapter 351, Finance Code, as added by this Act,  
2-36 applies only to an extension of consumer credit made on or after the  
2-37 effective date of this Act. An extension of consumer credit made  
2-38 before the effective date of this Act is governed by the law in  
2-39 effect on the date the extension of consumer credit was made, and  
2-40 the former law is continued in effect for that purpose.

2-41 SECTION 3. This Act takes effect September 1, 2007.

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