

1-1 By: Shapleigh, Davis S.B. No. 189
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,
1-3 read first time and referred to Committee on Veteran Affairs and
1-4 Military Installations; March 9, 2009, reported favorably by the
1-5 following vote: Yeas 5, Nays 0; March 9, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the extension of consumer credit to certain members of
1-9 the Texas National Guard and armed forces of the United States and
1-10 their dependents; providing a penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subtitle B, Title 4, Finance Code, is amended by
1-13 adding Chapter 353 to read as follows:

1-14 CHAPTER 353. EXTENSION OF CONSUMER CREDIT TO SERVICEMEMBERS OR
1-15 THEIR DEPENDENTS

1-16 Sec. 353.001. DEFINITIONS. In this chapter:

1-17 (1) "Creditor" means a person who:

1-18 (A) is engaged in the business of extending
1-19 consumer credit; or

1-20 (B) transacts, negotiates, or services an
1-21 extension of consumer credit.

1-22 (2) "Dependent," with respect to a servicemember,
1-23 means the servicemember's spouse or dependent child.

1-24 (3) "Dependent child" means a person who is unmarried
1-25 and who:

1-26 (A) is under 18 years of age;

1-27 (B) before the person's 18th birthday, became
1-28 permanently incapable of self-support; or

1-29 (C) is under 23 years of age and is pursuing a
1-30 course of instruction at an approved educational institution.

1-31 (4) "Extension of consumer credit" means the right to
1-32 defer payment of debt offered or granted primarily for personal,
1-33 family, or household purposes or to incur the debt and defer its
1-34 payment.

1-35 (5) "Servicemember" means a member of the United
1-36 States armed forces or a member of the Texas National Guard called
1-37 to federal active duty.

1-38 Sec. 353.002. INAPPLICABILITY OF CHAPTER. This chapter
1-39 does not apply to:

1-40 (1) an insured depository institution, as that term is
1-41 defined by Section 3, Federal Deposit Insurance Act (12 U.S.C.
1-42 Section 1813); or

1-43 (2) an insured credit union, as that term is defined by
1-44 Section 101, Federal Credit Union Act (12 U.S.C. Section 1752).

1-45 Sec. 353.003. INTEREST. (a) In this section, "interest"
1-46 includes a service charge, renewal charge, fee, and any other
1-47 charge, except a charge for bona fide insurance, with respect to the
1-48 extension of consumer credit.

1-49 (b) A creditor who extends consumer credit to a
1-50 servicemember or a servicemember's dependent may not, with respect
1-51 to the transaction, require the servicemember or dependent to pay
1-52 interest that is:

1-53 (1) not agreed to by the parties under the terms of the
1-54 agreement or promissory note; or

1-55 (2) specifically prohibited by this chapter or other
1-56 law.

1-57 Sec. 353.004. MAXIMUM ANNUAL PERCENTAGE RATE. A creditor
1-58 may not impose an annual percentage rate that exceeds 36 percent
1-59 with respect to an extension of consumer credit to a servicemember
1-60 or a servicemember's dependent.

1-61 Sec. 353.005. INFORMATION REQUIRED. (a) Before finalizing
1-62 an extension of consumer credit to a servicemember or a
1-63 servicemember's dependent, a creditor must provide the
1-64 servicemember or dependent with the following written information:

(1) a statement of the annual percentage rate applicable to the extension of credit;

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

(3) a clear description of the payment obligations of the servicemember or dependent.

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

Sec. 353.006. RENEWAL, REFINANCING, OR CONSOLIDATION OF CREDIT. A creditor may not renew, repay, or refinance consumer credit extended to a servicemember or a servicemember's dependent, or consolidate any part of the proceeds of the extension of credit with proceeds from any other extension of credit to that person by the creditor, unless the creditor:

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

(2) provides the information required by Section 353.005(a).

Sec. 353.007. CRIMINAL PENALTY. A creditor who knowingly violates this chapter commits an offense. An offense under this section is a Class A misdemeanor.

Sec. 353.008. REMEDIES AND ADDITIONAL PENALTIES. (a) 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 dependents, including any award for consequential or punitive damages.

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

SECTION 2. Chapter 353, Finance Code, as added by this Act, applies only to an extension of consumer credit made on or after the effective date of this Act. An extension of consumer credit made before the effective date of this Act is governed by the law in effect on the date the extension of consumer credit was made, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

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