

By: Shapleigh

S.B. No. 242

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of a person who offers, services, or brokers a deferred presentment transaction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter M, Chapter 342, Finance Code, is amended by adding Sections 342.607, 342.608, and 342.609 to read as follows:

Sec. 342.607. DEFERRED PRESENTMENT TRANSACTION DATA COLLECTION SYSTEM. (a) A person who offers, services, or brokers a deferred presentment transaction, including a credit services organization to which Chapter 393 applies and a person registered or licensed to do business in this state, who offers deferred presentment transactions on the Internet, shall submit data to a database established by a database provider selected by the commissioner.

(b) The commissioner shall contract with a person to establish a database for the compilation of information from persons who offer, service, or broker deferred presentment transactions. In selecting a database provider, the commissioner shall ensure that the database provided by the person:

(1) provides access to the database by persons required to submit information, through an Internet connection and alternative methods, including by telephone, that enables the persons to submit information as required by this section;

1 (2) provides real-time access by the commissioner to
2 information contained in the database;

3 (3) allows a person submitting information to access
4 only information relating to:

5 (A) that person; and

6 (B) the eligibility of an individual to enter
7 into a deferred presentment transaction under this chapter or rules
8 adopted under this chapter; and

9 (4) contains safeguards to ensure that confidential
10 information contained in the database may not be accessed by an
11 unauthorized person.

12 (c) A person required to submit data under this subchapter
13 shall weekly submit to the database provider:

14 (1) the amount of cash advanced under each deferred
15 presentment transaction made, serviced, or brokered by the person
16 during the preceding week;

17 (2) the amount of transactions made, serviced, or
18 brokered by the person that were outstanding on the last day of the
19 preceding week;

20 (3) the total number of transactions renewed during
21 the preceding week;

22 (4) any alternative payment arrangements that the
23 person offers;

24 (5) the average monthly income of an individual to
25 whom a cash advance is made under a deferred presentment
26 transaction, if the person collects that information from
27 individuals; and

1 (6) the total amount of interest, fees, or charges
2 collected by the person during the preceding week for making,
3 servicing, or brokering a deferred presentment transaction.

4 (d) The commissioner shall analyze the data reported under
5 this subchapter and prepare a report to the legislature. The
6 commissioner shall submit the report not later than February 1 of
7 each year.

8 (e) Information submitted to the database is the property of
9 the office of the consumer credit commissioner. Information that
10 personally identifies an individual is not subject to disclosure
11 under Chapter 552, Government Code.

12 (f) The finance commission may adopt rules as necessary to
13 implement this section.

14 Sec. 342.608. CERTIFICATION REQUIRED. (a) A person may not
15 offer, service, or broker a deferred presentment transaction unless
16 the person is certified by the commissioner. The requirement of
17 certification under this section is in addition to any license
18 required under this chapter or other law.

19 (b) To be certified by the commissioner, a person must:

20 (1) submit an application to the commissioner on a
21 form prescribed by the commissioner;

22 (2) submit an investigation fee of \$2,500 to the
23 commissioner, if the person has not previously been certified by
24 the commissioner;

25 (3) submit a certification fee of \$1,000 for the
26 initial or renewal certification;

27 (4) have not less than \$1 million in assets,

1 calculated according to generally accepted accounting principles;
2 and

3 (5) submit a bond as required by Section 342.609.

4 (c) A person must annually renew the person's certification
5 under this section.

6 (d) The commissioner shall use proceeds from the fees
7 imposed under this section for the regulation of persons who offer,
8 service, or broker deferred presentment transactions, including
9 the monitoring and analysis of data submitted to the database under
10 Section 342.607.

11 Sec. 342.609. BOND REQUIRED. (a) In addition to any other
12 bond required by this chapter or other law, a person who offers,
13 services, or brokers a deferred presentment transaction shall file
14 with the application for certification a bond that is:

15 (1) in the amount of \$1 million; and

16 (2) issued by a surety company qualified to do
17 business as a surety in this state.

18 (b) The bond must be in favor of this state for the use of
19 this state and the use of another person who has a cause of action
20 under this chapter against the person.

21 (c) The bond must be conditioned on:

22 (1) the person's faithful performance under this
23 chapter and rules adopted under this chapter; and

24 (2) the payment of all amounts that become due to the
25 state or another person under this chapter during the calendar year
26 for which the bond is given.

27 (d) The aggregate liability of a surety to all persons

1 damaged by the license holder's violation of this chapter may not
2 exceed the amount of the bond.

3 SECTION 2. (a) The consumer credit commissioner shall
4 select a database provider under Section 342.607, Finance Code, as
5 added by this Act, not later than January 1, 2010, and shall set the
6 date on which a person who offers, services, or brokers a deferred
7 presentment transaction must begin submitting data as provided by
8 that section.

9 (b) A person who offers, services, or brokers a deferred
10 presentment transaction is required to be certified and file a bond
11 under Sections 342.608 and 342.609, Finance Code, as added by this
12 Act, not later than January 1, 2010. The consumer credit
13 commissioner shall prescribe an application for certification
14 under Section 342.608, Finance Code, as added by this Act, not later
15 than November 1, 2009.

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