

By: Shapleigh

S.B. No. 244

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the authority of certain persons to act as or on behalf of, or associate with, a lender.

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

SECTION 1. Section 342.008, Finance Code, is amended to read as follows:

Sec. 342.008. ATTEMPT TO EVADE LAW. (a) A person who is a party to a deferred presentment transaction may not evade the application of this subtitle or a rule adopted under this subchapter by use of any device, subterfuge, or pretense. Characterization of a required fee as a purchase of a good or service in connection with a deferred presentment transaction is a device, subterfuge, or pretense for the purposes of this section.

(b) A person may not make or offer 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 persons comply with this subtitle and rules adopted under Section 342.007 with respect to deferred presentment transactions. This subsection applies regardless of whether both persons are subject to regulation under this subtitle or another law of this state. An agreement made in connection with a deferred presentment transaction is void to the extent the agreement waives the application of this subsection or applies the law of a jurisdiction other than this state to avoid compliance with

1 this subtitle or rules adopted under Section 342.007 in a
2 transaction described by this subsection. For the purposes of
3 Chapter 349, a person who makes or offers to make a cash advance
4 under a deferred presentment transaction on behalf of, in
5 conjunction with, or as an agent, broker, servicer, or collector
6 for another person is considered to contract for interest.

7 SECTION 2. Subchapter D, Chapter 393, Finance Code, is
8 amended by adding Section 393.308 to read as follows:

9 Sec. 393.308. ACTING AS OR ASSOCIATING WITH LENDER. (a) A
10 credit services organization may not facilitate or assist in
11 obtaining credit for a consumer if:

12 (1) the organization is the lender;

13 (2) the organization or an officer, director, or
14 employee of the organization is in any way related to the lender or
15 an officer, director, or employee of the lender;

16 (3) the lender or the organization is an affiliate of
17 the other, or the lender and the organization are owned or
18 controlled by the same holding company;

19 (4) the organization retains or receives an economic
20 interest in the loan revenue;

21 (5) the organization services or collects the loan on
22 behalf of the lender; or

23 (6) the organization provides compensation to or
24 shares resources with the lender.

25 (b) A credit services organization may not use a scheme,
26 device, or contrivance to evade the application of this section.

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