

By: Davis, Wendy

S.B. No. 1285

A BILL TO BE ENTITLED

AN ACT

relating to the interest and fees that may be charged for certain consumer loans; providing a criminal penalty.

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

SECTION 1. Subchapter E, Chapter 342, Finance Code, is amended by adding Section 342.200 to read as follows:

Sec. 342.200. INTEREST CHARGES; REBATES. (a)

Notwithstanding any other provision of this subchapter, Subchapter F, or a rule adopted under this chapter, a loan contract under this chapter that is not secured by real property may not provide for an interest charge for the cash advance that exceeds 36 percent a year, including any fees included in the computation of interest under this chapter or other law.

(b) A charge for interest must be computed and paid as a percentage of the unpaid principal balance. For purposes of this subsection, "unpaid principal balance" means the balance that has not been paid, exclusive of any interest, service charges, or other charges related to the loan.

(c) An interest rate charged on an overdue balance may not exceed the maximum rate charged before the balance becomes due.

SECTION 2. Subchapter H, Chapter 342, Finance Code, is amended by adding Section 342.354 to read as follows:

Sec. 342.354. REFUND OF PRECOMPUTED INTEREST: OTHER LOANS.

(a) This section applies only to a loan contract to which Section

1 342.351 or 342.352 does not apply.

2 (b) If the contract is prepaid in full, the lender shall
3 refund or credit to the borrower unearned interest charges paid by
4 the borrower, as computed by the actuarial method or another method
5 that is at least as favorable to the borrower.

6 SECTION 3. Subchapter M, Chapter 342, Finance Code, is
7 amended by adding Section 342.606 to read as follows:

8 Sec. 342.606. INTEREST AND FEES FOR DEFERRED PRESENTMENT
9 TRANSACTION. (a) A lender may not charge or receive interest or
10 fees in connection with a deferred presentment transaction other
11 than the interest and fees specifically authorized by this section.

12 (b) A deferred presentment transaction may provide for an
13 administrative fee not to exceed \$5 for each transaction. An
14 administrative fee is not included in the computation of interest.

15 (c) If there are insufficient funds to pay a check on the
16 date of presentment, a lender may charge a fee not to exceed the
17 greater of \$15 or the amount charged to the lender by the financial
18 institution. Only one fee may be charged under this section for a
19 single check, regardless of whether the check has been deposited
20 and returned more than once. A fee under this subsection is the
21 exclusive authorized charge for late payment.

22 (d) A person who violates this section commits an offense.
23 An offense under this subsection is a state jail felony.

24 SECTION 4. This Act takes effect September 1, 2009.