

By: Hernandez Luna

H.B. No. 3226

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of, including fee and installment plan assistance, certain small loans made to consumers.

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

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

SUBCHAPTER N. SMALL LOANS

Sec. 342.651. DEFINITION. In this subchapter, "small loan" means a loan subject to this chapter the maximum principal amount of which is not greater than the lesser of:

(1) \$700; or

(2) 30 percent of the borrower's gross monthly income.

Sec. 342.652. REGULATION OF SMALL LOANS. (a) A license holder engaging in the business of making, transacting, or negotiating a small loan shall make, transact, or negotiate the small loan as provided by this subchapter.

(b) To the extent of any conflict between this subchapter and other provisions of this chapter, this subchapter controls.

(c) A license holder may not:

(1) make a small loan to a borrower if, as a result of making that loan, the sum of the maximum principal amount of the small loan and the outstanding principal balances of all other small loans made by all license holders to the borrower is an amount that exceeds the lesser of:

1 (A) \$700; or
2 (B) 30 percent of the borrower's gross monthly
3 income;

4 (2) make a small loan to a borrower who is in default
5 on another small loan until the earlier of:

6 (A) the date the other loan is paid in full; or

7 (B) the second anniversary of the origination
8 date of the loan;

9 (3) make a small loan to a borrower who is under
10 contract with any license holder to pay off a small loan through an
11 installment plan until the earlier of:

12 (A) the date the installment plan is paid in
13 full; or

14 (B) the second anniversary of the origination
15 date of the installment plan; or

16 (4) make a small loan to a borrower if making the small
17 loan would result in the borrower receiving more than eight small
18 loans from all license holders during any consecutive 12-month
19 period.

20 Sec. 342.653. INSTALLMENT PLAN. (a) If a borrower notifies
21 a license holder that the borrower will be or is unable to repay a
22 small loan when the loan is due, the license holder shall inform the
23 borrower that the borrower may convert the small loan to a loan to
24 be paid under an installment plan.

25 (b) The license holder must convert the small loan to a loan
26 to be paid under an installment plan at the borrower's request.

27 (c) The installment plan must be in writing and signed by

1 both the borrower and the license holder.

2 (d) The license holder may not assess a fee, an interest
3 charge, or other charges on the borrower as a result of converting
4 the small loan to a loan to be paid under an installment plan as
5 provided by this section.

6 (e) The installment plan for a small loan must provide for
7 the payment of all installments due on the loan over a period not
8 less than:

9 (1) 90 days for a loan amount equal to or less than
10 \$400; or

11 (2) 180 days for a loan amount greater than \$400.

12 (f) The borrower may pay the total of installments due on
13 the small loan at any time. The license holder may not charge any
14 penalty, fee, or other charge to the borrower for prepayment of the
15 installment plan by the borrower.

16 (g) The license holder must include a conspicuous provision
17 in a small loan agreement or small loan note that the borrower has
18 access to an installment plan.

19 (h) The license holder shall return any postdated checks
20 that the borrower gave to the license holder for the original small
21 loan at the initiation of the installment plan.

22 (i) A license holder may take postdated checks for
23 installment plan payments at the time the installment plan is
24 originated. If any check accepted as payment under the installment
25 plan is dishonored, the license holder may not charge the borrower
26 any fee for the dishonored check.

27 (j) If a borrower defaults on the installment plan, the

1 license holder may charge the borrower a one-time installment plan
2 default fee of \$25.

3 (k) If the license holder enters into an installment plan
4 contract or agreement with the borrower through a third party that
5 is representing the borrower, this section applies to the
6 installment plan contract or agreement as if it had originated with
7 the license holder.

8 Sec. 342.654. DISCLOSURE. In addition to any other
9 disclosures required by law, an application for a small loan must
10 include a statement on the front page of the loan application in at
11 least 12-point type that is substantially similar to the following:
12 "AT THE TIME YOU REPAY THIS LOAN, YOU SHOULD HAVE SUFFICIENT FUNDS
13 TO MEET YOUR OTHER FINANCIAL OBLIGATIONS. IF YOU CANNOT PAY OTHER
14 BILLS BECAUSE YOU ARE PAYING OFF THIS DEBT, YOU SHOULD ENTER INTO
15 THE INSTALLMENT PLAN OFFERED IN CONNECTION WITH THIS LOAN."

16 Sec. 342.655. SMALL LOAN INFORMATION SYSTEM. (a) The
17 commissioner shall, by contract with a vendor or service provider
18 or otherwise, develop and implement a small loan information system
19 that allows a license holder to determine:

20 (1) whether a borrower has any outstanding small
21 loans;

22 (2) the number of small loans the borrower has
23 outstanding;

24 (3) whether the borrower is eligible for a small loan
25 under this subchapter;

26 (4) whether the borrower is paying off a small loan
27 under an installment plan; and

1 (5) any other information necessary for a license
2 holder to comply with this subchapter.

3 (b) The small loan information system must provide that the
4 information entered into or stored by the system is:

5 (1) accessible to and usable by a license holder and
6 the commissioner from any location in this state; and

7 (2) secure against public disclosure, tampering,
8 theft, or unauthorized acquisition or use.

9 (c) A license holder that makes a small loan shall enter or
10 update the information required under Subsection (a) into the small
11 loan information system at the time the license holder makes the
12 small loan. A license holder shall enter and update all required
13 information for every outstanding small loan.

14 (d) The commissioner may charge license holders who make
15 small loans a fee, in an amount determined by finance commission
16 rule, to be used for the operation and administration of the small
17 loan information system.

18 (e) The finance commission shall adopt rules establishing
19 standards and procedures for the retention, archiving, and deletion
20 of information entered into or stored by the small loan information
21 system.

22 (f) Notwithstanding Chapter 552, Government Code, or any
23 other law, information in the small loan information system may not
24 be inspected by or disclosed to the public.

25 SECTION 2. Subchapter N, Chapter 342, Finance Code, as
26 added by this Act, applies only to a loan entered into on or after
27 the effective date of this Act. A loan entered into before the

1 effective date of this Act is governed by the law in effect on the
2 date the loan was entered into, and the former law is continued in
3 effect for that purpose.

4 SECTION 3. This Act takes effect September 1, 2011.