

BILL ANALYSIS

S.B. 1371
By: Johnson
Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In reviewing the Finance Code, the Office of Consumer Credit Commissioner (OCCC) has identified provisions that could be modernized, clarified, or corrected to ensure that the OCCC can continue to fulfill its mission and to ensure consistency with OCCC's 2019 legislation following the agency's review under the Texas Sunset Act. S.B. 1371 seeks to modernize, clarify, and improve existing regulatory procedures and to make technical corrections to relevant statutes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1371 amends the Finance Code to revise provisions regarding the regulation of consumer credit transactions and the regulatory authority of the consumer credit commissioner in the following manner:

- changes the methods by which amounts received in annual assessment fees from credit access businesses and credit access business license holders and amounts in the state-licensed residential mortgage loan originator recovery fund may be invested and reinvested from a method in the same manner as Employees Retirement System of Texas funds to a method using the prudent person standard that is used for managing the assets of the permanent university fund;
- authorizes the expenses of managing the investments made with those annual assessment fees to be paid from the account in which the fees are deposited;
- authorizes the Texas Finance Commission to make grants for the Texas financial education endowment;
- replaces the process of surrendering a license issued under statutory provisions relating to consumer loans, motor vehicle installment sales, property tax lenders, commercial motor vehicle installment sales, pawnshops, and certain credit services organizations by delivering the license and written notice of the surrender to the commissioner with a process that complies with the commissioner's written instructions relating to the license surrender;
- removes and repeals provisions providing for service of judicial or other process or legal notice to be made on the commissioner if an authorized lender of consumer loans or a pawnbroker does not maintain on file with the commissioner a written appointment of the lender's or pawnbroker's Texas resident agent for such service or legal notice and

instead requires such a lender and pawnbroker to maintain on file with the commissioner the name and address of the lender's or pawnbroker's registered agent for service of process;

- replaces the amount of the processing fee that the holder of a retail charge agreement may charge for a returned check from an amount capped at \$15 to an amount that does not exceed the amount prescribed in Business & Commerce Code provisions for the return of a payment device;
- replaces the amount of the registration fee that a holder under a retail installment contract or a retail charge agreement who is not an authorized lender or a credit union and a creditor who is not an authorized lender or a credit union must pay for each location at which a retail installment transaction or credit transaction is originated, serviced, or collected from \$10 or \$15, as applicable, to an amount determined by the commission;
- clarifies that a property owner may not waive or limit a requirement imposed on a property tax lender by Tax Code provisions relating to tax liens and personal liability unless specifically permitted to do so by those provisions or the Property Tax Lender License Act;
- changes the deadline by which the commissioner or a hearings officer must prescribe the time and place of a hearing regarding a proposal to revoke a facilitator's registration for a violation of provisions relating to tax refund anticipation loans from the 20th day after the date the facilitator receives the notice of proposed revocation to the 30th day after the date on which the order of revocation is served;
- changes the processes after which the commissioner may revoke or suspend a pawnshop employee license upon making certain findings from sending notice and holding a hearing to sending notice and providing an opportunity for a hearing;
- removes the specification that the dollar amounts of fees and other charges the commissioner computes and publishes to reflect inflation under provisions relating to consumer debt management services be rounded to the nearest \$100; and
- specifies that the type of entity with which a provider of debt management services who acts as an intermediary between a consumer and one or more creditors may not engage in business without the commissioner's prior consent is a for-profit business entity.

S.B. 1371 additionally repeals provisions that do the following:

- requires rules adopted by the commission regarding consumer loans and pawnshops to be entered in a permanent book and to be kept in the commissioner's office as a public record; and
- requires a copy of pawnshop rules to be mailed to each applicable license holder, prohibits the rules from taking effect until a certain date after the rules have been mailed, and requires the commissioner to additionally furnish certified copies of the rules on application and payment.

S.B. 1371 amends the Tax Code to update federal law citations and references applicable to a transfer of a tax lien on residential property.

S.B. 1371 repeals the following provisions of the Finance Code:

- Section 342.551(c);
- Section 342.556(b);
- Section 371.006(b), (c), and (d); and
- Section 371.073(b).

EFFECTIVE DATE

September 1, 2023.