

## BILL ANALYSIS

Senate Research Center  
79R5709 DWS-F

S.B. 625  
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Business & Commerce  
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### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Market changes in the financial services industry that have given more people access to a wider variety of services have also created a complex web of available services that can be confusing to even the most savvy consumer. Moreover, overlapping regulatory jurisdictions, poor self-regulation by the financial services industry, and statutes that allow great latitude in interpretation have contributed to a growing prevalence of abusive and predatory lending practices. A growing predatory lending environment demands greater enforcement by the state.

Chapter 342, Finance Code, sets out Texas' regulations for consumer lending. For the most part, Chapter 342 is regulated and enforced by the Office of the Consumer Credit Commissioner (office). Since 1967, the office has regulated non-depository creditors in Texas. Over the years, the oversight has broadened from only two types of small consumer loans to include home equity and secondary mortgage lenders, finance companies, payday lenders, signature loan companies, motor vehicle sales finance companies, pawnshops, and retailers that finance the sales of their goods and services. With an annual budget of less than \$3 million, enforcing the various statutes that govern the activities of this wide array of lenders has proven taxing.

Currently, partnerships involving coexisting jurisdiction between a state authority and local entities are found in existing law. For example, counties have coexisting jurisdiction with the Office of the Attorney General in enforcing deceptive trade practices. Similar to an arrangement whereby county attorneys prosecute deceptive trade practice and theft by check cases, a partnership between the office and local authorities should be developed. By allowing local authorities, upon request of the consumer credit commissioner, to investigate and prosecute violations of consumer lending laws, the state increases consumer protection measures and takes great strides in combating predatory lending.

S.B. 625 allows local authorities to assist the office in the institution and prosecution of an action relating to violations of Texas' consumer lending laws. S.B. 625 allows local authorities to recoup any costs incurred in the prosecution of the violation.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter L, Chapter 342, Finance Code, by adding Section 342.561, as follows:

Sec. 342.561. ENFORCEMENT BY DISTRICT OR COUNTY ATTORNEY. (a) Requires a district or county attorney, on request of the consumer credit commissioner (commissioner), to assist the commissioner in the institution and prosecution of an action under this chapter or under Chapter 14 (Consumer Credit Commissioner), Finance Code, relating to a violation of this chapter.

(b) Authorizes a district or county attorney, after obtaining written approval from the commissioner, to institute and prosecute an action for declaratory judgment or injunctive relief under this chapter and authorizes the commissioner, on request of the district or county attorney, to assist in the action.

(c) Authorizes the court in an action, if the commissioner prevails in an action in which a district or county attorney has participated under Subsection (a) or if a district or county attorney is granted a declaratory judgment or injunctive relief under Subsection (b), to order the defendant to pay the county in which the action was instituted an amount necessary to cover the costs of participation by the district or county attorney.

SECTION 2. Effective date: upon passage or September 1, 2005.