

BILL ANALYSIS

Senate Research Center
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S.B. 1127
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1127 makes several technical corrections to Title 4 (Regulation of Interest, Loans, and Financed Transactions), Finance Code, deleting obsolete references, correcting statutory citations, and clarifying language.

S.B. 1127 also amends provisions of the Finance Code to ensure consistency in the determination of annual licensing and registration fees paid to the Office of the Consumer Credit Commissioner. Currently, most of the fees are set by rule of the Finance Commission of Texas (finance commission), but some fees are still set by statute. This bill allows the finance commission to set each of these fees by rule.

As proposed, S.B. 1127 amends current law relating to fees paid to the consumer credit commissioner and to fees and interest charged in connection with consumer credit transactions.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to Finance Commission of Texas is modified SECTION 1 (Section 14.107, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 14.107(b), Finance Code, as follows:

(b) Requires the Finance Commission of Texas (finance commission) by rule to set the fees for licensing and examination under Chapter 342 (Consumer Loans), 345 (Retail Installment Sales), 347 (Manufactured Home Credit Transactions), 348 (Motor Vehicle Installment Sales), 351 (Property Tax Lenders), or 371 (Pawnshops) at amounts or rates necessary to recover the costs of administering those chapters. Authorizes the consumer credit commissioner (commissioner) to provide for collection of a single annual fee from a person licensed under Chapter 342, 345, 347, 348, 351, or 371 to include amounts due for both licensing and examination.

SECTION 2. Amends Section 303.009(d), Finance Code, to provide that, for an open-end account credit agreement that provides for credit card transactions on which a merchant discount is not imposed or received by the creditor or a retail charge agreement under Chapter 345 without a merchant discount, the ceiling is 21 percent a year.

SECTION 3. Amends Section 303.203(a), Finance Code, to authorize a lender, at the time or after a loan is made, to offer to sell to the borrower and finance in a loan contract subject to this subtitle a charge for an automobile club membership.

SECTION 4. Amends Section 342.004(b), Finance Code, to provide that a loan providing for an effective rate of interest that is 10 percent a year or less is not subject to this chapter.

SECTION 5. Amends Section 342.502(d), Finance Code, to authorize a lender, on a loan subject to this chapter, to assess and collect a fee that does not exceed the amount prescribed by Section 3.506 (Processing Fee by Holder of Payment Device), Business & Commerce Code, rather than Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, V.T.C.S.), for

the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft offered in full or partial payment of a loan.

SECTION 6. Amends the heading to Subchapter D, Chapter 345, Finance Code, to read as follows:

SUBCHAPTER D. ALTERNATE FINANCE CHARGE CEILING

SECTION 7. Amends Section 345.155, Finance Code, as follows:

Sec. 345.155. TIME PRICE DIFFERENTIAL COMPUTATION AND AMOUNT. (a) Requires a time price differential authorized under Subchapter C, rather than under this subchapter, to be computed using the average daily balance method.

(b) Authorizes a holder, if the amount of a time price differential otherwise authorized under Subchapter C (Retail Charge Agreement), rather than under this subchapter, for a billing cycle in which a balance is due is less than 75 cents a month, to charge an amount that does not exceed 75 cents a month.

SECTION 8. Amends Section 345.157(a), Finance Code, to authorize a retail charge agreement, rather than a retail charge agreement that implements the market competitive rate ceiling, to provide for the payment of certain costs.

SECTION 9. Amends Section 345.351(a), Finance Code, to require a holder who is not an authorized lender under Chapter 342 or a credit union to register with the Office of Consumer Credit Commissioner (OCCC), and pay an annual fee in an amount determined as provided by Section 14.107 (Fees), rather than a fee of \$10, for each location at which a retail installment transaction is originated, serviced, or collected.

SECTION 10. Amends Section 346.103(a), Finance Code, to authorize that certain fees be charged to or collected from a customer in connection with an account under this chapter, including a returned check fee as provided for a loan agreement under Chapter 342 by Section 3.506, Business & Commerce Code, rather than by Section 1, Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, V.T.C.S.).

SECTION 11. Amends Section 347.451(a), Finance Code, to require a creditor who is not an authorized lender under Chapter 342 or a credit union to register with the OCCC and pay an annual fee in an amount determined as provided by Section 14.107, rather than an annual fee of \$15, for each location at which a credit transaction is originated, serviced, or collected.

SECTION 12. Amends Section 371.106(a), Finance Code, to require a pawnshop employee license holder, not later than December 1, to pay to the commissioner an annual fee in an amount determined as provided by Section 14.107, rather than an annual fee of \$15, for the year beginning the next January 1.

SECTION 13. Repealer: Section 345.153 (Publication and Effective Date of Ceiling), Finance Code.

SECTION 14. Effective date: September 1, 2011.