

Oppose HB 3292

Texas should NOT Re-open the Sale-leaseback High-cost Lending Loophole

What is sale-leaseback?

Sale-leaseback is a scheme to evade state rate and fee caps for consumer loans. Before state law was changed in 2001, it was a way to offer easy money to desperate Texans at effective interest rates exceeding 700% APR. Under the scheme, a borrower would “sell” an item, like a TV, for a set amount of money, say \$200, and give the lender a check written out for \$200 to hold for future cashing.

Every two weeks, the borrower would return and pay a “lease fee”, often of 30% or more of the loan amount (\$60 in this case). Depending on how long it took the borrower to come up with the full \$200, the \$60 bi-weekly payment could go on and on—creating a cycle of debt much like the payday and auto title loan cycle of debt. In the end, a \$200 cash advance under the sale-leaseback scheme could cost \$1,000 or more to repay.

- 1. The sale-leaseback problem, an unregulated payday loan-like scheme, was fixed in 2001 and current law is working.**
 - Due to consumer complaints in the late 1990’s and abusive charges in the sale-leaseback market, the Texas Legislature decided, in 2001, to define sale-leaseback transactions as loans under Texas consumer credit laws. Since that 2001 law change, problems in the market have been resolved. This bill would undo that positive change.
 - When sale-leaseback was operating outside of our lending laws, before the 2001 law change, these transactions could cost the equivalent of more than 790% APR, based on a [Texas Senate interim study](#).
- 2. By effectively taking sale-leaseback out of the definition of a loan and therefore out of the Texas consumer loan protections, CSHB 3292 would bring back the sale-leaseback predatory payday loan-like product.**
 - A [Texas Senate study](#) called sale-leaseback an, “industry which has embraced the subterfuge of renaming a loan transaction to avoid regulatory oversight...” Sale-leaseback is called a subterfuge in multiple other state laws, and prohibited as an evasion of state consumer lending laws.
 - Texans already struggle with uncapped payday and auto title loans, and don’t need new predatory loan products. The bill is particularly harmful to active duty military in Texas and to [Texas veterans](#) who are caught in payday and auto title loans at rates 6 times higher than the general population.
- 3. HB 3292 is full of deceptive, fake protections and makes an end run around city ordinances that put in place a baseline of fair market practices for payday and auto title loans.**
 - **Fake Protection 1:** The bill makes sale-leaseback transactions that are exempted from the definition of a loan subject to the Truth in Lending Act (TILA) and the Consumer Leasing Act “to the extent applicable.” Neither is applicable. Sale-leaseback is exempted from TILA because it, “may be terminated at any time.” Lease disclosures do not apply because sale-leaseback is typically a two-weeks transaction. The disclosure requirements only apply to transactions that are longer than four months.
 - **Fake Protection 2:** The bill claims to make leases subject to The Military Lending Act “to the extent applicable.” However, the Military Lending Act only covers loans targeting our troops, so that language is meaningless. Taking sale-leaseback out of the definition of a loan revives a predatory quick cash product that would evade the Military Lending Act and put our military families at financial risk.
 - **End Run Around Ordinances:** The new predatory sale-leaseback payday loans created by HB 3292 would get around the protections in the payday and auto title loan ordinances covering 10 million Texans, as those ordinances cover payday and auto title loans in their current form, not in this re-imagined one.

HB 3292 is a dangerous bill. It opens the door to new unregulated high-cost cash advances. Texas needs more fair loans, not more schemes to evade our state consumer lending laws.