

## Statement of

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Texas Presentation – TX SB 254

**INTRODUCTION:** Mr. Chairman and Committee members. My name is Dale Vande Hey. I am the Regional State Liaison for the south central states for the Department of Defense (DoD). Our mission is to be a resource to state policymakers as they work to address quality of life issues of military members and their families at the state level. I want to thank you for this opportunity to explain to you the Department's continuing effort to work with states to limit the terms of consumer credit extended to service members and their dependents.

**FEDERAL REGULATION:** Congress gave the DoD unprecedented authority in 2006 to write a regulation that would limit credit terms provided to Service members and their families for any form of credit defined in the regulation. Title 32 of the Code of Federal Regulations, Part 232 implements the federal statute by defining the covered forms of credit -- payday, vehicle title and tax refund anticipation loans. The DoD recognized the need for Federal and State regulators to be the primary enforcers of the regulation -- Federal for tax refund anticipation loans and State for payday and vehicle title loans.

A year after the release of the regulation in August 2007, the Federal Financial Institutions Examination Council (FFIEC) released their tool for Federal and State regulators to use as part of their examinations of the creditors covered by the regulation. State regulators have assured DoD that they have continued to use the FFIEC document as part of their examinations of the creditors they supervise, and that their creditors have complied when told about the requirement.

In Texas, that meant payday lenders were examined, but NOT Credit Service Organizations who broker payday and vehicle title loans.

**IMPACT OF THE COVERED REGULATION ON COVERED CREDIT:** State regulators have said that the regulation has met its intended purpose. In Washington State as an example, their regulator reports that the number of

payday loans made by members of the military community went from 11,650 in 2006 to 944 in 2009. The Washington Department of Financial Institutions regulator has indicated that the 944 were members of the Guard and Reserve – not members on active duty. The Washington State Department of Federal Institutions has authority to enforce the regulation over the creditors they examine, along with 31 other states.

**REASON THE DoD SUPPORTS ENFORCEMENT CAPABILITY:**

Although the regulation has made a dramatic reduction in the use of the covered loans by active duty members and their families, there is evidence that some are still gaining access to these loans. A quick poll in November 2009 of 667 financial counselors working for or contracted by the DoD, along with legal assistance officers who work on military installations, revealed that about half had counseled at least one client in the preceding six months who had gotten a payday, vehicle title or tax refund anticipation loan.

Sixty-nine of these counselors and attorneys were from Texas. In their answers to a series of questions, 29 out of 40 (73 per cent) responded that they had counseled at least one client who received one of these loans from a storefront lender. Additionally, 14 of 39 respondents (36 per cent) indicated that they had at least one client who received one of these loans from an internet lender.

**NEED FOR STATE REGULATORY AUTHORITY:** Examination has worked thus far to help gain compliance, but in the event that a creditor continues to violate the regulation, court action would be needed to enforce the criminal penalties specified in the Federal statute – and that may mean through Federal court. Providing authority to the State regulator would allow for the due-process and penalties associated with non-compliance of a state rule.

In Texas, the Office of Consumer Credit is limited in what they can regulate and this concerns the Department of Defense. However, the proposed legislation you are reviewing today would ensure that all non-depository creditors are covered with respect to oversight and enforcement – to include Credit Service Organizations.

**CLOSING:** We thank Senator Davis for asking us to speak today. We look forward to Texas adopting these vital protections for our Service members and their families.

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