

By: Bernal

H.B. No. 768

A BILL TO BE ENTITLED

1 AN ACT
2 relating to credit services organizations and extensions of
3 consumer credit facilitated by credit services organizations;
4 increasing a criminal penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 393.001, Finance Code, is amended by
7 amending Subdivision (3) and adding Subdivisions (2-a), (3-a), (5),
8 (6), (7), (8), (9), and (10) to read as follows:

9 (2-a) "Credit access business" means a credit services
10 organization that obtains for a consumer or assists a consumer in
11 obtaining an extension of consumer credit.

12 (3) "Credit services organization" means a person who
13 provides, or represents that the person can or will provide, for the
14 payment of valuable consideration any of the following services
15 with respect to the extension of consumer credit by others:

16 (A) improving a consumer's credit history or
17 rating;

18 (B) obtaining an extension of consumer credit for
19 a consumer in the form of:

20 (i) a single-payment deferred presentment
21 transaction;

22 (ii) a multiple-payment deferred
23 presentment transaction;

24 (iii) a single-payment motor vehicle title

1 loan; or

2 (iv) a multiple-payment motor vehicle title

3 loan; or

4 (C) providing advice or assistance to a consumer
5 with regard to Paragraph (A) or (B).

6 (3-a) "Deferred presentment transaction" means a
7 single-payment or multiple-payment transaction defined as a
8 deferred presentment transaction by Section 341.001 in connection
9 with which the consumer is not required to provide real or personal
10 property as security.

11 (5) "Motor vehicle title loan" means a single-payment
12 or multiple-payment loan in which an unencumbered motor vehicle is
13 given as the only security for the loan. The term does not include a
14 retail installment transaction under Chapter 348 or another loan
15 made to finance the purchase of a motor vehicle.

16 (6) "Multiple-payment deferred presentment
17 transaction" means a deferred presentment transaction that is not a
18 single-payment deferred presentment transaction.

19 (7) "Multiple-payment motor vehicle title loan" means
20 a motor vehicle title loan that is not a single-payment motor
21 vehicle title loan.

22 (8) "Refinance" means a rollover, renewal, or other
23 type of transaction in which all or a portion of the principal,
24 fees, or interest due under an outstanding extension of consumer
25 credit becomes due on a later date. The term includes a new
26 extension of consumer credit that:

27 (A) consists of debt arising from principal,

1 fees, or interest that was not paid in full under an outstanding or
2 previous extension of consumer credit; or

3 (B) is made on or before the seventh day after the
4 date a previous extension of consumer credit that a credit access
5 business obtained for a consumer or assisted a consumer in
6 obtaining was paid in full.

7 (9) "Single-payment deferred presentment transaction"
8 means a deferred presentment transaction for which the entire cash
9 advance, interest, and fees are required under the terms of the
10 transaction to be payable in a single payment.

11 (10) "Single-payment motor vehicle title loan" means a
12 motor vehicle title loan for which the entire principal, interest,
13 and fees are required under the terms of the loan to be payable in a
14 single payment.

15 SECTION 2. Subchapter A, Chapter 393, Finance Code, is
16 amended by adding Section 393.004 to read as follows:

17 Sec. 393.004. EFFECT ON MUNICIPAL ORDINANCES. (a) This
18 chapter does not preempt a municipal ordinance regulating:

19 (1) a credit access business; or

20 (2) any form of an extension of consumer credit that a
21 credit access business is authorized to obtain for a consumer or
22 assist a consumer in obtaining as provided by Section 393.308.

23 (b) If a municipal ordinance described by Subsection (a)
24 conflicts with a provision of this chapter, the more stringent
25 regulation controls to the extent of the conflict.

26 SECTION 3. Section 393.201(c), Finance Code, is amended to
27 read as follows:

1 (c) A contract with a credit access business[~~, as defined by~~
2 ~~Section 393.601,~~] for the performance of services described by
3 Section 393.602(a) must, in addition to the requirements of
4 Subsection (b) and Section 393.302:

5 (1) contain a statement that there is no prepayment
6 penalty;

7 (2) contain a statement that a credit access business
8 must comply with Chapter 392 and the federal Fair Debt Collection
9 Practices Act (15 U.S.C. Section 1692 et seq.) with respect to an
10 extension of consumer credit [~~described by Section 393.602(a)~~];

11 (3) contain a statement that a person may not threaten
12 or pursue criminal charges against a consumer related to a check or
13 other debit authorization provided by the consumer as security for
14 a transaction in the absence of forgery, fraud, theft, or other
15 criminal conduct;

16 (4) contain a statement that a credit access business
17 must comply, to the extent applicable, with 10 U.S.C. Section 987
18 and any regulations adopted under that law with respect to an
19 extension of consumer credit [~~described by Section 393.602(a)~~];

20 (5) disclose to the consumer:

21 (A) the lender from whom the extension of
22 consumer credit is obtained;

23 (B) the interest paid or to be paid to the lender;

24 and

25 (C) the specific fees that will be paid to the
26 credit access business for the business's services; and

27 (6) contain the name and address of the Office of

1 Consumer Credit Commissioner and the telephone number of the
2 office's consumer helpline.

3 SECTION 4. Section 393.203, Finance Code, is amended to
4 read as follows:

5 Sec. 393.203. ISSUANCE OF CONTRACT AND OTHER DOCUMENTS.

6 (a) A credit services organization shall give to the consumer, when
7 the document is signed, a copy of the completed contract and any
8 other document the organization requires the consumer to sign.

9 (b) The contract and other documents provided by a credit
10 access business to a consumer under this section in relation to an
11 extension of consumer credit must be:

12 (1) provided before signing wholly written:

13 (A) in English; and

14 (B) if the contract negotiations are not
15 conducted in English, in the language in which the contract is
16 negotiated; and

17 (2) before signing, read in their entirety in the
18 language in which the contract is negotiated to any consumer who
19 cannot read.

20 SECTION 5. Section 393.223, Finance Code, is amended by
21 amending Subsection (a) and adding Subsection (b-1) to read as
22 follows:

23 (a) Before performing services described by Section
24 393.602(a) [393.221(1)], a credit access business must provide to a
25 consumer a written disclosure adopted by rule of the Finance
26 Commission of Texas [~~that discloses the following~~] in a form
27 prescribed by the commission that:

1 (1) discloses the interest, fees, and annual
2 percentage rates, as applicable, to be charged on a deferred
3 presentment transaction or on a motor vehicle title loan, as
4 applicable, in comparison to interest, fees, and annual percentage
5 rates to be charged on other alternative forms of consumer debt;

6 (2) discloses the amount of accumulated fees a
7 consumer would incur by renewing or refinancing a deferred
8 presentment transaction or motor vehicle title loan that remains
9 outstanding for a period of two weeks, one month, two months, and
10 three months; ~~and~~

11 (3) provides information regarding the typical
12 pattern of repayment of deferred presentment transactions and motor
13 vehicle title loans; and

14 (4) references nonprofit agencies that provide
15 financial education and training or cash assistance to borrowers.

16 (b-1) The disclosure and notice required by this section
17 must be:

18 (1) available in English and Spanish at each location
19 at which the credit access business performs services described by
20 Section 393.602(a); and

21 (2) provided to a consumer wholly written, and read in
22 their entirety at the time provided to any consumer who cannot read,
23 in the language in which the contract is negotiated.

24 SECTION 6. Subchapter D, Chapter 393, Finance Code, is
25 amended by adding Section 393.308 to read as follows:

26 Sec. 393.308. PROHIBITION ON OBTAINING CERTAIN EXTENSIONS
27 OF CONSUMER CREDIT. A credit services organization may not obtain

1 for a consumer or assist a consumer in obtaining an extension of
2 consumer credit in any form other than in the form of:

3 (1) a single-payment deferred presentment
4 transaction;

5 (2) a multiple-payment deferred presentment
6 transaction;

7 (3) a single-payment motor vehicle title loan; or

8 (4) a multiple-payment motor vehicle title loan.

9 SECTION 7. Section 393.501, Finance Code, is amended by
10 adding Subsection (c) to read as follows:

11 (c) Each day of a continuing violation of a provision of
12 Subchapter C-1 or G constitutes a separate offense.

13 SECTION 8. Section 393.602(a), Finance Code, is amended to
14 read as follows:

15 (a) This subchapter applies only to a credit services
16 organization that [~~with respect to a consumer who is located in~~
17 ~~this state at the time of the transaction,~~] obtains for a consumer
18 or assists a consumer in obtaining an extension of consumer credit
19 [~~in the form of:~~

20 [~~(1) a deferred presentment transaction; or~~

21 [~~(2) a motor vehicle title loan].~~

22 SECTION 9. Section 393.604(a), Finance Code, is amended to
23 read as follows:

24 (a) An application for a license under this subchapter must
25 be under oath and contain:

26 (1) the applicant's name and the street address,
27 mailing address, facsimile number, and telephone number of the

1 applicant at the location for which the license is sought [~~be under~~
2 ~~oath~~];

3 (2) [~~give~~] the approximate location from which the
4 business is to be conducted;

5 (3) the identities of [~~identify~~] the business's
6 principal parties in interest;

7 (4) [~~contain~~] the name, physical address, and
8 telephone number of all third-party lender organizations:

9 (A) with which the business contracts to provide
10 services described by Section 393.602(a); or

11 (B) from which the business arranges extensions
12 of consumer credit [~~described by Section 393.602(a)~~]; and

13 (5) [~~contain~~] other relevant information that the
14 commissioner requires for the findings required under Section
15 393.607.

16 SECTION 10. Section 393.620, Finance Code, is amended to
17 read as follows:

18 Sec. 393.620. TRANSFER OR ASSIGNMENT OF LICENSE PROHIBITED.
19 A license may not be transferred or assigned [~~only with the approval~~
20 ~~of the commissioner~~].

21 SECTION 11. Sections 393.622(a) and (b), Finance Code, are
22 amended to read as follows:

23 (a) The finance commission may:

24 (1) adopt rules necessary to enforce and administer
25 this subchapter;

26 (2) adopt rules with respect to the quarterly
27 reporting by a credit access business licensed under this

1 subchapter of summary business information relating to extensions
2 of consumer credit the business obtained for a consumer or assisted
3 a consumer in obtaining [~~described by Section 393.602(a)~~]; and

4 (3) adopt rules with respect to periodic examination
5 by the office relating to extensions of consumer credit the
6 business obtained for a consumer or assisted a consumer in
7 obtaining [~~described by Section 393.602(a)~~], including rules
8 related to charges for defraying the reasonable cost of conducting
9 the examinations.

10 (b) The finance commission may adopt rules under this
11 section to allow the commissioner to review, as part of a periodic
12 examination, any relevant contracts between the credit access
13 business and the third-party lender organizations with which the
14 credit access business contracts to provide services described by
15 Section 393.602(a) or from which the business arranges extensions
16 of consumer credit [~~described by Section 393.602(a)~~]. A contract
17 or information obtained by the commissioner under this section is
18 considered proprietary and confidential to the respective parties
19 to the contract, and is not subject to disclosure under Chapter 552,
20 Government Code.

21 SECTION 12. Sections 393.625, 393.626, and 393.627, Finance
22 Code, are amended to read as follows:

23 Sec. 393.625. MILITARY BORROWERS. An extension of consumer
24 credit [~~described by Section 393.602(a)~~] that is obtained by a
25 credit access business for a member of the United States military or
26 a dependent of a member of the United States military or that the
27 business assisted that person in obtaining must comply with 10

1 U.S.C. Section 987 and any regulations adopted under that law, to
2 the extent applicable.

3 Sec. 393.626. DEBT COLLECTION PRACTICES. A violation of
4 Chapter 392 by a credit access business with respect to an extension
5 of consumer credit [~~described by Section 393.602(a)~~] constitutes a
6 violation of this subchapter.

7 Sec. 393.627. QUARTERLY REPORT TO COMMISSIONER. A credit
8 access business shall file a quarterly report with the commissioner
9 on a form prescribed by the commissioner that provides the
10 following information relating to extensions of consumer credit
11 [~~described by Section 393.602(a)~~] during the preceding quarter:

12 (1) the number of consumers for whom the business
13 obtained or assisted in obtaining those extensions of consumer
14 credit;

15 (2) the number of those extensions of consumer credit
16 obtained by the business or that the business assisted consumers in
17 obtaining;

18 (3) the number of refinancing transactions of the
19 extensions of consumer credit described by Subdivision (2);

20 (4) the number of consumers refinancing the extensions
21 of consumer credit described by Subdivision (2);

22 (5) the number of consumers refinancing more than once
23 the extensions of consumer credit described by Subdivision (2);

24 (6) the average amount of the extensions of consumer
25 credit described by Subdivision (2);

26 (7) the total amount of fees charged by the business
27 for the activities described by Subdivision (1);

1 (8) the number of vehicles surrendered or repossessed
2 under the terms of an extension of consumer credit in the form of a
3 motor vehicle title loan obtained by the business or that the
4 business assisted a consumer in obtaining;

5 (9) the mean, median, and mode of the number of
6 extensions of consumer credit obtained by consumers as a result of
7 entering into the extensions of consumer credit described by
8 Subdivision (2); and

9 (10) any related information the commissioner
10 determines necessary.

11 SECTION 13. Subchapter G, Chapter 393, Finance Code, is
12 amended by adding Sections 393.629 through 393.637 to read as
13 follows:

14 Sec. 393.629. GENERAL LIMITATIONS ON EXTENSIONS OF CONSUMER
15 CREDIT; PAYMENT METHOD. (a) The provisions of this chapter
16 applicable to a credit access business apply to any consumer
17 physically located in this state at the time the extension of
18 consumer credit is made, regardless of whether the extension of
19 consumer credit was made in person in this state.

20 (b) A credit access business shall accept a payment made in
21 cash or by electronic transfer, cashier's check, teller's check, or
22 money order offered by the consumer or another party, to retire or
23 otherwise pay down debt incurred under an extension of consumer
24 credit that a credit access business obtained for a consumer or
25 assisted a consumer in obtaining under this chapter.

26 Sec. 393.630. ESTABLISHMENT OF INCOME. A credit access
27 business must require documentation to establish a consumer's

1 income for purposes of this subchapter. The only acceptable forms
2 of documentation are paper, facsimile, or electronic copies of:

3 (1) a payroll document;

4 (2) a paycheck;

5 (3) a bank, credit union, debit card, or other account
6 statement;

7 (4) a report from a nationally or regionally
8 recognized credit and data reporting company;

9 (5) Internal Revenue Service Form W-2 from the
10 preceding year;

11 (6) the federal income tax return from the preceding
12 tax year; or

13 (7) a signed letter from the consumer's employer at the
14 time the extension of consumer credit is sought.

15 Sec. 393.631. SINGLE-PAYMENT DEFERRED PRESENTMENT
16 TRANSACTION. (a) The sum of all fees, principal, interest, and
17 other amounts due under an extension of consumer credit in the form
18 of a single-payment deferred presentment transaction that a credit
19 access business obtains for a consumer or assists a consumer in
20 obtaining may not exceed 20 percent of the consumer's gross monthly
21 income.

22 (b) An extension of consumer credit in the form of a
23 single-payment deferred presentment transaction that a credit
24 access business obtains for a consumer or assists a consumer in
25 obtaining may not be refinanced more than three times. An amount
26 from each payment of a refinanced deferred presentment transaction
27 described by this subsection must be used to repay at least 25

1 percent of the principal amount of the original debt.

2 Sec. 393.632. MULTIPLE-PAYMENT DEFERRED PRESENTMENT
3 TRANSACTION. (a) The sum of all fees, principal, interest, and
4 other amounts due under all scheduled payments of an extension of
5 consumer credit in the form of a multiple-payment deferred
6 presentment transaction that a credit access business obtains for a
7 consumer or assists a consumer in obtaining may not exceed 20
8 percent of the consumer's gross monthly income.

9 (b) An extension of consumer credit in the form of a
10 multiple-payment deferred presentment transaction that a credit
11 access business obtains for a consumer or assists a consumer in
12 obtaining and all fees associated with the debt may not be payable
13 by the consumer in more than four installments. An amount from each
14 payment must be used to repay at least 25 percent of the principal
15 amount of the debt.

16 (c) An extension of consumer credit in the form of a
17 multiple-payment deferred presentment transaction that a credit
18 access business obtains for a consumer or assists a consumer in
19 obtaining may not be refinanced.

20 Sec. 393.633. SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN. (a)
21 The sum of all fees, principal, interest, and other amounts due
22 under an extension of consumer credit in the form of a
23 single-payment motor vehicle title loan that a credit access
24 business obtains for a consumer or assists a consumer in obtaining
25 may not exceed the lesser of:

26 (1) three percent of the consumer's gross annual
27 income; or

1 (2) 70 percent of the retail value of the motor vehicle
2 securing the debt.

3 (b) An extension of consumer credit in the form of a
4 single-payment motor vehicle title loan that a credit access
5 business obtains for a consumer or assists a consumer in obtaining
6 may not be refinanced more than three times. An amount from each
7 payment of a refinanced motor vehicle title loan described by this
8 subsection must be used to repay at least 25 percent of the
9 principal amount of the original debt.

10 Sec. 393.634. MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN.

11 (a) The sum of all fees, principal, interest, and other amounts due
12 under all scheduled payments of an extension of consumer credit in
13 the form of a multiple-payment motor vehicle title loan that a
14 credit access business obtains for a consumer or assists a consumer
15 in obtaining may not exceed the lesser of:

16 (1) three percent of the consumer's gross annual
17 income; or

18 (2) 70 percent of the retail value of the motor vehicle
19 securing the debt.

20 (b) An extension of consumer credit in the form of a
21 multiple-payment motor vehicle title loan that a credit access
22 business obtains for a consumer or assists a consumer in obtaining
23 and all fees associated with the debt may not be payable by the
24 consumer in more than four installments. An amount from each
25 payment must be used to repay at least 25 percent of the principal
26 amount of the debt.

27 (c) An extension of consumer credit in the form of a

1 multiple-payment motor vehicle title loan that a credit access
2 business obtains for a consumer or assists a consumer in obtaining
3 may not be refinanced.

4 Sec. 393.635. REFINANCES. (a) Any refinance of an
5 extension of consumer credit that a credit access business obtains
6 for a consumer or assists a consumer in obtaining:

7 (1) must be authorized under this subchapter;

8 (2) must be in the same form as the original extension
9 of consumer credit; and

10 (3) must meet all the requirements applicable to the
11 original extension of consumer credit, including the duration,
12 transaction, and applicable income-based or vehicle value-based
13 limitations under Section 393.631(a) or 393.633(a).

14 (b) For purposes of this section, a single-payment deferred
15 presentment transaction, a multiple-payment deferred presentment
16 transaction, a single-payment motor vehicle title loan, and a
17 multiple-payment motor vehicle title loan are the different forms
18 of extensions of consumer credit that a credit access business may
19 obtain for a consumer or assist a consumer in obtaining.

20 (c) A person may not use a device, subterfuge, or pretense
21 to evade the refinance requirements and limitations imposed on a
22 credit access business under this subchapter.

23 Sec. 393.636. MAINTENANCE OF RECORDS. (a) A credit access
24 business shall maintain a complete set of records of all extensions
25 of consumer credit obtained for consumers by the business or that
26 the business assisted consumers in obtaining. The record
27 pertaining to each extension of consumer credit must be retained

1 until the third anniversary of the date the extension of consumer
2 credit was obtained and must include:

3 (1) the name and address of the consumer;

4 (2) the principal amount of the cash advance or loan;

5 (3) the length of the original term of the extension of
6 consumer credit, the number of installments or refinances, if
7 applicable, and the length of the term of any refinance;

8 (4) the fees charged by the credit access business for
9 obtaining for a consumer or assisting the consumer in obtaining the
10 extension of consumer credit; and

11 (5) the documentation used to establish a consumer's
12 income under Section 393.630.

13 (b) A credit access business shall retain a copy of each
14 written agreement between the business and a consumer pertaining to
15 an extension of consumer credit, including any agreement regarding
16 refinancing an extension of consumer credit, until the third
17 anniversary of the date on which the agreement was entered into.

18 (c) A credit access business shall retain a copy of each
19 report filed under Section 393.627 until the third anniversary of
20 the date on which the report was filed.

21 (d) A record described by this section must be available for
22 inspection on request by the office during the normal business
23 hours of the credit access business.

24 Sec. 393.637. RULES. The finance commission shall adopt
25 any rules necessary to implement Sections 393.629-393.636.

26 SECTION 14. The following laws are repealed:

27 (1) Section 393.221, Finance Code; and

1 (2) Sections 393.601(2), (3), and (5), Finance Code.

2 SECTION 15. The changes in law made by this Act apply only
3 to an extension of consumer credit made on or after the effective
4 date of this Act. An extension of consumer credit made before the
5 effective date of this Act is governed by the law in effect on the
6 date the extension of consumer credit was made, and the former law
7 is continued in effect for that purpose. For purposes of this
8 section, a refinance of an extension of consumer credit is
9 considered made on the date the extension of consumer credit being
10 refinanced was made.

11 SECTION 16. (a) The change in law made by this Act to
12 Section 393.223, Finance Code, applies only to a disclosure or
13 notice provided by a credit access business on or after January 1,
14 2024. A disclosure or notice provided by a credit access business
15 before January 1, 2026, is governed by Section 393.223, Finance
16 Code, as that section existed immediately before the effective date
17 of this Act, and that law is continued in effect for that purpose.

18 (b) The Finance Commission of Texas shall adopt rules
19 prescribing forms under Section 393.223(a), Finance Code, as
20 amended by this Act, not later than November 1, 2025.

21 SECTION 17. Section 393.636, Finance Code, as added by this
22 Act, applies only to a record created on or after the effective date
23 of this Act. A record created before the effective date of this Act
24 is governed by the law in effect when the record was created, and
25 the former law is continued in effect for that purpose.

26 SECTION 18. This Act takes effect September 1, 2025.