

By: Truitt

H.B. No. 2593

Substitute the following for H.B. No. 2593:

By: Truitt

C.S.H.B. No. 2593

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain restrictions on deferred presentment
3 transactions and motor vehicle certificate of title loans that a
4 credit services organization obtains for a consumer or assists a
5 consumer in obtaining.

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

7 SECTION 1. Chapter 393, Finance Code, is amended by adding
8 Subchapter H to read as follows:

9 SUBCHAPTER H. CERTAIN EXTENSIONS OF CONSUMER CREDIT OBTAINED BY
10 CERTAIN CREDIT SERVICES ORGANIZATIONS

11 Sec. 393.651. DEFINITIONS. In this subchapter:

12 (1) "Commissioner" means the consumer credit
13 commissioner.

14 (2) "Credit access business" means a credit services
15 organization that obtains for a consumer or assists a consumer in
16 obtaining an extension of consumer credit in the form of a deferred
17 presentment transaction or a motor vehicle certificate of title
18 loan.

19 (3) "Deferred presentment transaction" has the
20 meaning assigned by Section 341.001.

21 (4) "Finance commission" means the Finance Commission
22 of Texas.

23 (5) "Motor vehicle certificate of title loan" means a
24 loan in which a motor vehicle certificate of title is given as

1 security for the loan. The term does not include a retail
2 installment transaction under Chapter 348 or another loan made to
3 finance the purchase of a motor vehicle.

4 (6) "Office" means the Office of Consumer Credit
5 Commissioner.

6 Sec. 393.652. APPLICABILITY. This subchapter applies only
7 to an extension of consumer credit in the form of a deferred
8 presentment transaction or motor vehicle certificate of title loan
9 that a credit access business obtains for a consumer or that a
10 credit access business assists a consumer in obtaining.

11 Sec. 393.653. PAYMENT FOR CERTAIN EXTENSIONS OF CONSUMER
12 CREDIT. (a) An extension of consumer credit to which this
13 subchapter applies must be payable in two-week or one-month
14 increments or payable in a single payment.

15 (b) A credit access business may not obtain or assist in
16 obtaining for a consumer an extension of consumer credit in the form
17 of a deferred presentment transaction or motor vehicle certificate
18 of title loan for which partial payment of the principal amount is
19 not accepted.

20 Sec. 393.654. ADVANCE AMOUNT RESTRICTED. (a) The cash
21 advanced under an extension of consumer credit that is in the form
22 of a deferred presentment transaction may not exceed:

23 (1) 25 percent of the borrower's gross monthly family
24 income, if the borrower's gross monthly family income is not more
25 than 100 percent of the federal poverty level for a family of four;
26 or

27 (2) 32 percent of the borrower's gross monthly family

1 income, if the borrower's gross monthly family income exceeds 100
2 percent of the federal poverty level for a family of four.

3 (b) The cash advanced under an extension of consumer credit
4 that is in the form of a motor vehicle certificate of title loan may
5 not exceed the lesser of:

6 (1) as applicable, either:

7 (A) three percent of the borrower's gross annual
8 family income, if the borrower's gross annual family income is not
9 more than 100 percent of the federal poverty level for a family of
10 four; or

11 (B) five percent of the borrower's gross annual
12 family income, if the borrower's gross annual family income exceeds
13 100 percent of the federal poverty level for a family of four; or

14 (2) 70 percent of the retail value of the motor
15 vehicle.

16 (c) A credit access business shall keep a record of the
17 document used to establish a borrower's family income under this
18 section. A credit access business may use an affidavit signed by
19 the borrower to establish the borrower's family income if a
20 paycheck or other documentation establishing income is
21 unavailable. An affidavit used for purposes of this subsection
22 must state in bold letters the applicable advance limits provided
23 by this section.

24 Sec. 393.655. RENEWAL OR REFINANCE. For purposes of this
25 subchapter, an extension of consumer credit described by Section
26 393.652 that is made by a person to a consumer not later than the
27 seventh day after a previous extension of consumer credit made by

1 the same person is paid by the consumer is considered to be a
2 renewal or refinance of the previous extension of credit.

3 Sec. 393.656. RESTRICTIONS APPLICABLE TO EXTENSIONS OF
4 CONSUMER CREDIT SECURED BY CERTIFICATE OF TITLE. (a) This section
5 applies only to an extension of consumer credit in the form of a
6 motor vehicle certificate of title loan.

7 (b) The extension of consumer credit may not be refinanced
8 or renewed or payable in installments more than:

9 (1) five times, if the debt is payable monthly or has a
10 term of one month; or

11 (2) eight times, if the debt is payable biweekly, or
12 has a term of two weeks.

13 (c) For purposes of Subsection (b), the charging of a fee on
14 late payment of the debt or on failure to make a payment is
15 considered to be a refinance of the extension of consumer credit.

16 (d) A credit access business may obtain for a consumer or
17 assist a consumer in obtaining an extended repayment plan for the
18 extension of consumer credit if the debt is not paid in full after
19 the applicable number of refinances, renewals, or installment
20 payments provided by Subsection (b), but may not charge the
21 consumer fees in connection with the making of payments of
22 principal and interest under an extended repayment plan.

23 (e) A single consumer may enter into only one extended
24 repayment plan in a 14-month period with respect to an extension of
25 consumer credit to which this section applies. If a credit access
26 business enters into an agreement to obtain or assist in the
27 obtaining of an extension of consumer credit with a consumer who

1 during the preceding 14 months has entered into an extended
2 repayment plan with respect to the debt and obtains for the consumer
3 or assists the consumer in obtaining extensions of consumer credit
4 in the form of refinances, renewals, or installment payments of the
5 extension up to the maximum limits provided by Subsection (b), the
6 lender has forfeited any claim to the principal amount of the debt
7 and must return the certificate of title to the consumer.

8 (f) An extended repayment plan must provide for four equal
9 or nearly equal payments of principal and interest, with all
10 principal and interest to be paid in full in the fourth payment.
11 The intervals between payments must be the same as the initial term
12 of the original extension of consumer credit. A borrower is
13 considered to have defaulted if the borrower fails to make any
14 scheduled payment under the extended repayment plan.

15 (g) A credit access business may seek reimbursement from a
16 consumer on behalf of a lender for reasonable and documented costs
17 and fees in association with the sale of a vehicle surrendered in
18 connection with the consumer's default on a debt, except to the
19 extent limited or prohibited by finance commission rule. The
20 finance commission by rule may limit or prohibit unreasonable fees
21 associated with the cost of selling such a vehicle. Notwithstanding
22 any other provision of law, the proceeds of the sale of a motor
23 vehicle, the certificate of title of which is given as security for
24 an extension of consumer credit under this section, shall satisfy
25 all outstanding and unpaid indebtedness under that extension of
26 credit, and the borrower is not liable for any deficiency resulting
27 from the sale. The lender shall pay to the borrower any surplus

1 arising from the sale, as required by Chapter 9, Business & Commerce
2 Code.

3 (h) The finance commission by rule may require that an
4 automobile club membership offer made in connection with an
5 extension of consumer credit to which this section applies be
6 accompanied by a disclaimer plainly stating the benefits and
7 limitations of the offer and that the customer's signature must be
8 present on any contract documenting the customer's agreement to
9 purchase an automobile club membership.

10 (i) It is a violation of this chapter to fail to return the
11 motor vehicle certificate of title after an extension of consumer
12 credit to which this section applies is paid in full.

13 Sec. 393.657. RESTRICTIONS APPLICABLE TO DEFERRED
14 PRESENTMENT TRANSACTIONS. (a) This section applies only to an
15 extension of consumer credit in the form of a deferred presentment
16 transaction.

17 (b) The extension of consumer credit may not be refinanced
18 or renewed or payable in installments more than:

19 (1) four times, if the debt is payable monthly or has a
20 term of one month; or

21 (2) six times, if the debt is payable biweekly, or has
22 a term of two weeks.

23 (c) For purposes of Subsection (b), the charging of a fee on
24 late payment of the debt or on failure to make a payment is
25 considered to be a refinance of the extension of consumer credit.

26 (d) A credit access business may obtain for a consumer or
27 assist a consumer in obtaining an extended repayment plan if the

1 extension of consumer credit under this section is not paid in full
2 after the applicable number of refinances, renewals, or installment
3 payments provided by Subsection (b), but may not charge the
4 consumer fees in connection with the making of payments of
5 principal and interest to a lender under an extended repayment
6 plan.

7 (e) A single consumer may enter into only one extended
8 repayment plan in a 12-month period with respect to an extension of
9 consumer credit to which this section applies. If a credit access
10 business enters into an agreement to obtain or assist in the
11 obtaining of an extension of consumer credit with a consumer who
12 during the preceding 12 months has entered into an extended
13 repayment plan with respect to the debt and obtains for the consumer
14 or assists the consumer in obtaining extensions of consumer credit
15 in the form of refinances, renewals, or installment payments of the
16 debt up to the maximum limit provided by Subsection (b), the person
17 making the cash advance has forfeited any claim to the principal
18 amount of the debt.

19 (f) An extended repayment plan must provide for four equal
20 or nearly equal payments of principal and interest, with all
21 principal and interest to be paid in full in the fourth payment.
22 The intervals between payments must be the same as the initial term
23 of the original extension of consumer credit. A borrower is
24 considered to have defaulted if the borrower fails to make any
25 scheduled payment under the extended repayment plan.

26 SECTION 2. This Act takes effect September 1, 2011.