

1-1 By: Truitt, et al. (Senate Sponsor - Carona) H.B. No. 2594
1-2 (In the Senate - Received from the House May 16, 2011;
1-3 May 17, 2011, read first time and referred to Committee on Business
1-4 and Commerce; May 19, 2011, reported favorably, as amended, by the
1-5 following vote: Yeas 8, Nays 0; May 19, 2011, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Carona

1-7 Amend H.B. No. 2594 (engrossed version) as follows:
1-8 (1) On page 6, line 23, strike "license holder" and
1-9 substitute "credit access business or license holder".

1-10 COMMITTEE AMENDMENT NO. 2 By: Carona

1-11 Amend H.B. No. 2594 (engrossed version) as follows:
1-12 (1) On page 2, line 5, add after the underlined period "For
1-13 purposes of this chapter, this definition does not preclude
1-14 repayment in more than one installment."

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the licensing and regulation of certain credit services
1-18 organizations and the regulation of certain extensions of consumer
1-19 credit obtained by those organizations or with regard to which the
1-20 organizations provide assistance; providing an administrative
1-21 penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 393.201, Finance Code, is amended by
1-24 adding Subsection (c) to read as follows:

1-25 (c) A contract with a credit access business, as defined by
1-26 Section 393.601, for the performance of services described by
1-27 Section 393.602(a) must, in addition to the requirements of
1-28 Subsection (b) and Section 393.302:

1-29 (1) contain a statement that there is no prepayment
1-30 penalty;

1-31 (2) contain a statement that a credit access business
1-32 must comply with Chapter 392 and the federal Fair Debt Collection
1-33 Practices Act (15 U.S.C. Section 1692 et seq.) with respect to an
1-34 extension of consumer credit described by Section 393.602(a);

1-35 (3) contain a statement that a person may not threaten
1-36 or pursue criminal charges against a consumer related to a check or
1-37 other debit authorization provided by the consumer as security for
1-38 a transaction in the absence of forgery, fraud, theft, or other
1-39 criminal conduct;

1-40 (4) contain a statement that a credit access business
1-41 must comply, to the extent applicable, with 10 U.S.C. Section 987
1-42 and any regulations adopted under that law with respect to an
1-43 extension of consumer credit described by Section 393.602(a);

1-44 (5) disclose to the consumer:

1-45 (A) the lender from whom the extension of
1-46 consumer credit is obtained;

1-47 (B) the interest paid or to be paid to the lender;
1-48 and

1-49 (C) the specific fees that will be paid to the
1-50 credit access business for the business's services; and

1-51 (6) the name and address of the Office of Consumer
1-52 Credit Commissioner and the telephone number of the office's
1-53 consumer helpline.

1-54 SECTION 2. Chapter 393, Finance Code, is amended by adding
1-55 Subchapter G to read as follows:

1-56 SUBCHAPTER G. LICENSING AND REGULATION OF CERTAIN CREDIT SERVICES
1-57 ORGANIZATIONS

1-58 Sec. 393.601. DEFINITIONS. In this subchapter:

1-59 (1) "Commissioner" means the consumer credit
1-60 commissioner.

1-61 (2) "Credit access business" means a credit services

2-1 organization that obtains for a consumer or assists a consumer in
 2-2 obtaining an extension of consumer credit in the form of a deferred
 2-3 presentment transaction or a motor vehicle title loan.

2-4 (3) "Deferred presentment transaction" has the
 2-5 meaning assigned by Section 341.001.

2-6 (4) "Finance commission" means the Finance Commission
 2-7 of Texas.

2-8 (5) "Motor vehicle title loan" means a loan in which an
 2-9 unencumbered motor vehicle is given as security for the loan. The
 2-10 term does not include a retail installment transaction under
 2-11 Chapter 348 or another loan made to finance the purchase of a motor
 2-12 vehicle.

2-13 (6) "Office" means the Office of Consumer Credit
 2-14 Commissioner.

2-15 Sec. 393.602. APPLICABILITY. (a) This subchapter applies
 2-16 only to a credit services organization that obtains for a consumer
 2-17 or assists a consumer in obtaining an extension of consumer credit
 2-18 in the form of:

2-19 (1) a deferred presentment transaction; or

2-20 (2) a motor vehicle title loan.

2-21 (b) Any usury violation by a lender with respect to an
 2-22 extension of consumer credit described by Subsection (a) is subject
 2-23 to Chapter 349. In connection with a determination of usury, the
 2-24 fees charged by a credit access business conducting business under
 2-25 this chapter do not constitute interest.

2-26 (c) A person may not use a device, subterfuge, or pretense
 2-27 to evade the application of this subchapter. A lawful transaction
 2-28 governed under another statute, including Title 1, Business &
 2-29 Commerce Code, does not violate this subsection and may not be
 2-30 considered a device, subterfuge, or pretense to evade the
 2-31 application of this subchapter.

2-32 Sec. 393.603. LICENSE REQUIRED. A credit services
 2-33 organization must obtain a license under this subchapter for each
 2-34 location at which the organization operates as a credit access
 2-35 business in performing services described by Section 393.602(a).

2-36 Sec. 393.604. APPLICATION FOR LICENSE. (a) An application
 2-37 for a license under this subchapter must:

2-38 (1) be under oath;

2-39 (2) give the approximate location from which the
 2-40 business is to be conducted;

2-41 (3) identify the business's principal parties in
 2-42 interest;

2-43 (4) contain the name, physical address, and telephone
 2-44 number of all third-party lender organizations with which the
 2-45 business contracts to provide services described by Section
 2-46 393.602(a) or from which the business arranges extensions of
 2-47 consumer credit described by Section 393.602(a); and

2-48 (5) contain other relevant information that the
 2-49 commissioner requires for the findings required under Section
 2-50 393.607.

2-51 (b) On the filing of one or more license applications, the
 2-52 applicant shall pay to the commissioner an investigation fee of
 2-53 \$200. Except for good cause as determined by the finance
 2-54 commission, a separate investigation fee is not required for
 2-55 multiple license applications.

2-56 (c) On the filing of each license application, the applicant
 2-57 shall pay to the commissioner for the license's year of issuance a
 2-58 license fee in an amount determined as provided by Section 14.107.

2-59 Sec. 393.605. BOND. (a) If the commissioner requires, an
 2-60 applicant for a license under this subchapter shall file with the
 2-61 application a bond that is:

2-62 (1) in an amount satisfactory to the commissioner that
 2-63 does not exceed the lesser of:

2-64 (A) \$10,000 for the first license and \$10,000 for
 2-65 each additional license; or

2-66 (B) \$2,500,000; and

2-67 (2) issued by a surety company qualified to do
 2-68 business as a surety in this state.

2-69 (b) The bond must be in favor of this state for the use of

3-1 this state and the use of a person who has a cause of action under
 3-2 this subchapter against the license holder.

3-3 (c) The bond must be conditioned on:

3-4 (1) the license holder's faithful performance under
 3-5 this subchapter and rules adopted under this subchapter; and

3-6 (2) the payment of all amounts that become due to this
 3-7 state or another person under this subchapter during the calendar
 3-8 year for which the bond is given.

3-9 (d) The aggregate liability of a surety to all persons
 3-10 damaged by the license holder's violation of this subchapter may
 3-11 not exceed the amount of the bond.

3-12 (e) A credit access business that files a bond under this
 3-13 section is not required to file a bond under Subchapter E.

3-14 (f) A credit access business, instead of obtaining a surety
 3-15 bond, may satisfy the requirements of this section by depositing an
 3-16 amount described by Subsection (a)(1) in a surety account held in
 3-17 trust at a federally insured bank or savings association located in
 3-18 this state. The name of the depository, trustee, and account number
 3-19 of the surety account must be filed with the office.

3-20 Sec. 393.606. INVESTIGATION OF APPLICATION. On the filing
 3-21 of an application and a bond, if required under Section 393.605, and
 3-22 on payment of the required fees, the commissioner shall conduct an
 3-23 investigation to determine whether to issue the license.

3-24 Sec. 393.607. APPROVAL OR DENIAL OF APPLICATION. (a) The
 3-25 commissioner shall approve the application and issue to the
 3-26 applicant a license to operate as a credit access business for
 3-27 purposes of engaging in the activity to which this subchapter
 3-28 applies if the commissioner finds that:

3-29 (1) the financial responsibility, experience,
 3-30 character, and general fitness of the applicant are sufficient to:

3-31 (A) command the confidence of the public; and

3-32 (B) warrant the belief that the business will be
 3-33 operated lawfully and fairly, within the purposes of this
 3-34 subchapter; and

3-35 (2) the applicant has net assets of at least \$25,000
 3-36 available for the operation of the business as determined in
 3-37 accordance with Section 393.611.

3-38 (b) If the commissioner does not find the eligibility
 3-39 requirements of Subsection (a) have been met, the commissioner
 3-40 shall notify the applicant.

3-41 (c) If an applicant requests a hearing on the application
 3-42 not later than the 30th day after the date of notification under
 3-43 Subsection (b), the applicant is entitled to a hearing not later
 3-44 than the 30th day after the date of the request.

3-45 (d) The commissioner shall approve or deny the application
 3-46 not later than the 30th day after the date of the filing of a
 3-47 completed application with payment of the required fees, or if a
 3-48 hearing is held, after the date of the completion of the hearing on
 3-49 the application. The commissioner and the applicant may agree to a
 3-50 later date in writing.

3-51 Sec. 393.608. DISPOSITION OF FEES ON DENIAL OF APPLICATION.
 3-52 If the commissioner denies the application, the commissioner shall
 3-53 retain the investigation fee and shall return to the applicant the
 3-54 license fee submitted with the application.

3-55 Sec. 393.609. NAME AND PLACE OF LICENSE. (a) A license
 3-56 issued under this subchapter must state:

3-57 (1) the name of the license holder; and

3-58 (2) the address of the office from which the business
 3-59 is to be conducted, except as provided by Subsection (c).

3-60 (b) A license holder may not conduct business under this
 3-61 subchapter under a name other than the name stated on the license.

3-62 (c) A license holder may not conduct business at a location
 3-63 other than the address stated on the license, except that a license
 3-64 holder:

3-65 (1) is not required to have an office in this state;
 3-66 and

3-67 (2) may operate using e-commerce methods, including
 3-68 the Internet.

3-69 Sec. 393.610. LICENSE DISPLAY. A license holder shall

4-1 display a license at the place of business provided on the license.
 4-2 With respect to business conducted through the Internet, this
 4-3 requirement may be satisfied by displaying the license on the
 4-4 business's Internet website.

4-5 Sec. 393.611. MINIMUM ASSETS FOR LICENSE. A license holder
 4-6 shall maintain net assets used or readily available for use in
 4-7 conducting the business of each of the offices for which a license
 4-8 is held under this subchapter, in an amount that is not less than
 4-9 the lesser of:

- 4-10 (1) \$25,000 for each office; or
- 4-11 (2) \$2,500,000 in the aggregate.

4-12 Sec. 393.612. ANNUAL LICENSE FEE. Not later than December
 4-13 1, a license holder shall pay to the commissioner for each license
 4-14 held an annual fee for the year beginning the next January 1, in an
 4-15 amount determined as provided by Section 14.107.

4-16 Sec. 393.613. EXPIRATION OF LICENSE ON FAILURE TO PAY
 4-17 ANNUAL FEE. If the annual fee for a license is not paid before the
 4-18 16th day after the date on which the written notice of delinquency
 4-19 of payment has been given to the license holder, the license expires
 4-20 on the later of:

- 4-21 (1) that day; or
- 4-22 (2) December 31 of the last year for which an annual
 4-23 fee was paid.

4-24 Sec. 393.614. LICENSE SUSPENSION OR REVOCATION. (a) After
 4-25 notice and a hearing the commissioner may suspend or revoke a
 4-26 license if the commissioner finds that:

4-27 (1) the license holder failed to pay the annual
 4-28 license fee, an examination fee, an investigation fee, or another
 4-29 charge imposed by the commissioner under this subchapter;

4-30 (2) the license holder, knowingly or without the
 4-31 exercise of due care, violated this chapter or a rule adopted or
 4-32 order issued under this chapter; or

4-33 (3) a fact or condition exists that, if it had existed
 4-34 or had been known to exist at the time of the original application
 4-35 for the license, clearly would have justified the commissioner's
 4-36 denial of the application.

4-37 (b) If in a three-year period the commissioner suspends or
 4-38 revokes under this section the licenses of five or more credit
 4-39 access businesses owned or controlled by the same person, including
 4-40 a corporation that owns multiple businesses, the commissioner may
 4-41 suspend or revoke the licenses of all credit access businesses
 4-42 owned or controlled by that person.

4-43 Sec. 393.615. LICENSE SUSPENSION OR REVOCATION FILED WITH
 4-44 PUBLIC RECORDS. The decision of the commissioner on the suspension
 4-45 or revocation of a license and the evidence considered by the
 4-46 commissioner in making the decision shall be filed in the public
 4-47 records of the commissioner.

4-48 Sec. 393.616. REINSTATEMENT OF SUSPENDED LICENSE; ISSUANCE
 4-49 OF NEW LICENSE AFTER REVOCATION. The commissioner may reinstate a
 4-50 suspended license or issue a new license on application to a person
 4-51 whose license has been revoked if at the time of the reinstatement
 4-52 or issuance no fact or condition exists that clearly would have
 4-53 justified the commissioner's denial of an original application for
 4-54 the license.

4-55 Sec. 393.617. SURRENDER OF LICENSE. A license holder may
 4-56 surrender a license issued under this subchapter by delivering to
 4-57 the commissioner:

- 4-58 (1) the license; and
- 4-59 (2) a written notice of the license's surrender.

4-60 Sec. 393.618. EFFECT OF LICENSE SUSPENSION, REVOCATION, OR
 4-61 SURRENDER. (a) The suspension, revocation, or surrender of a
 4-62 license issued under this subchapter does not affect the obligation
 4-63 of a contract between the license holder and a consumer entered into
 4-64 before the revocation, suspension, or surrender.

4-65 (b) Surrender of a license does not affect the license
 4-66 holder's civil or criminal liability for an act committed before
 4-67 surrender.

4-68 Sec. 393.619. MOVING AN OFFICE. (a) A license holder shall
 4-69 give written notice to the commissioner before the 30th day before

5-1 the date the license holder moves an office from the location
 5-2 provided on the license.

5-3 (b) The commissioner shall amend a license holder's license
 5-4 accordingly.

5-5 Sec. 393.620. TRANSFER OR ASSIGNMENT OF LICENSE. A license
 5-6 may be transferred or assigned only with the approval of the
 5-7 commissioner.

5-8 Sec. 393.621. ADMINISTRATION. The office shall administer
 5-9 this subchapter.

5-10 Sec. 393.622. RULES. (a) The finance commission may:

5-11 (1) adopt rules necessary to enforce and administer
 5-12 this subchapter;

5-13 (2) adopt rules with respect to the quarterly
 5-14 reporting by a credit access business licensed under this
 5-15 subchapter of summary business information relating to extensions
 5-16 of consumer credit described by Section 393.602(a); and

5-17 (3) adopt rules with respect to periodic examination
 5-18 by the office relating to extensions of consumer credit described
 5-19 by Section 393.602(a), including rules related to charges for
 5-20 defraying the reasonable cost of conducting the examinations.

5-21 (b) The finance commission may adopt rules under this
 5-22 section to allow the commissioner to review, as part of a periodic
 5-23 examination, any relevant contracts between the credit access
 5-24 business and the third-party lender organizations with which the
 5-25 credit access business contracts to provide services described by
 5-26 Section 393.602(a) or from which the business arranges extensions
 5-27 of consumer credit described by Section 393.602(a). A contract or
 5-28 information obtained by the commissioner under this section is
 5-29 considered proprietary and confidential to the respective parties
 5-30 to the contract, and is not subject to disclosure under Chapter 552,
 5-31 Government Code.

5-32 (c) In adopting rules under this section, the finance
 5-33 commission may not establish limits on the fees charged by a credit
 5-34 access business and may not authorize the commissioner to establish
 5-35 such limits.

5-36 Sec. 393.623. PROVIDING OR ADVERTISING SERVICES WITHOUT
 5-37 LICENSE PROHIBITED. A credit access business or a representative
 5-38 of the business may not provide or advertise the services of the
 5-39 business if the business is not licensed under this subchapter.

5-40 Sec. 393.624. RESTRICTIONS ON OFF-SITE ADVERTISING. (a) A
 5-41 credit access business may not advertise on the premises of a
 5-42 nursing facility, assisted living facility, group home,
 5-43 intermediate care facility for persons with mental retardation, or
 5-44 other similar facility subject to regulation by the Department of
 5-45 Aging and Disability Services.

5-46 (b) The finance commission may adopt rules to implement this
 5-47 section.

5-48 Sec. 393.625. MILITARY BORROWERS. An extension of consumer
 5-49 credit described by Section 393.602(a) that is obtained by a credit
 5-50 access business for a member of the United States military or a
 5-51 dependent of a member of the United States military or that the
 5-52 business assisted that person in obtaining must comply with 10
 5-53 U.S.C. Section 987 and any regulations adopted under that law, to
 5-54 the extent applicable.

5-55 Sec. 393.626. DEBT COLLECTION PRACTICES. A violation of
 5-56 Chapter 392 by a credit access business with respect to an extension
 5-57 of consumer credit described by Section 393.602(a) constitutes a
 5-58 violation of this subchapter.

5-59 Sec. 393.627. QUARTERLY REPORT TO COMMISSIONER. A credit
 5-60 access business shall file a quarterly report with the commissioner
 5-61 on a form prescribed by the commissioner that provides the
 5-62 following information relating to extensions of consumer credit
 5-63 described by Section 393.602(a) during the preceding quarter:

5-64 (1) the number of consumers for whom the business
 5-65 obtained or assisted in obtaining those extensions of consumer
 5-66 credit;

5-67 (2) the number of those extensions of consumer credit
 5-68 obtained by the business or that the business assisted consumers in
 5-69 obtaining;

- 6-1 (3) the number of refinancing transactions of the
- 6-2 extensions of consumer credit described by Subdivision (2);
- 6-3 (4) the number of consumers refinancing the extensions
- 6-4 of consumer credit described by Subdivision (2);
- 6-5 (5) the number of consumers refinancing more than once
- 6-6 the extensions of consumer credit described by Subdivision (2);
- 6-7 (6) the average amount of the extensions of consumer
- 6-8 credit described by Subdivision (2);
- 6-9 (7) the total amount of fees charged by the business
- 6-10 for the activities described by Subdivision (1);
- 6-11 (8) the number of vehicles surrendered or repossessed
- 6-12 under the terms of an extension of consumer credit in the form of a
- 6-13 motor vehicle title loan obtained by the business or that the
- 6-14 business assisted a consumer in obtaining;
- 6-15 (9) the mean, median, and mode of the number of
- 6-16 extensions of consumer credit obtained by consumers as a result of
- 6-17 entering into the extensions of consumer credit described by
- 6-18 Subdivision (2); and
- 6-19 (10) any related information the commissioner
- 6-20 determines necessary.

6-21 Sec. 393.628. TEXAS FINANCIAL EDUCATION ENDOWMENT. (a) As
 6-22 part of the licensing fee and procedures described under this
 6-23 subchapter, each license holder shall pay to the commissioner an
 6-24 annual assessment to improve consumer credit, financial education,
 6-25 and asset-building opportunities in this state. The annual
 6-26 assessment may not exceed \$200 for each license as specified by the
 6-27 finance commission.

6-28 (b) The Texas Financial Education Endowment shall be
 6-29 administered by the finance commission to support statewide
 6-30 financial education and consumer credit building activities and
 6-31 programs, including:

- 6-32 (1) production and dissemination of approved
- 6-33 financial education materials at licensed locations;
- 6-34 (2) advertising, marketing, and public awareness
- 6-35 campaigns to improve the credit profiles and credit scores of
- 6-36 consumers in this state;
- 6-37 (3) school and youth-based financial literacy and
- 6-38 capability;
- 6-39 (4) credit building and credit repair;
- 6-40 (5) financial coaching and consumer counseling;
- 6-41 (6) bank account enrollment and incentives for
- 6-42 personal savings; and
- 6-43 (7) other consumer financial education and
- 6-44 asset-building initiatives as considered appropriate by the
- 6-45 finance commission.

6-46 (c) In implementing this section, the finance commission
 6-47 may solicit gifts, grants, and donations for this purpose.

6-48 (d) The finance commission may partner with other state
 6-49 agencies and entities to implement this section.

6-50 (e) The finance commission shall adopt rules to administer
 6-51 this section.

6-52 SECTION 3. Section 14.101, Finance Code, is amended to read
 6-53 as follows:

6-54 Sec. 14.101. GENERAL DUTIES OF COMMISSIONER. The
 6-55 commissioner shall enforce this chapter, Subtitles B and C of Title
 6-56 4, Chapter 393 with respect to a credit access business, and Chapter
 6-57 394 in person or through an assistant commissioner, examiner, or
 6-58 other employee of the office.

6-59 SECTION 4. Section 14.107, Finance Code, is amended to read
 6-60 as follows:

6-61 Sec. 14.107. FEES. (a) The finance commission shall
 6-62 establish reasonable and necessary fees for carrying out the
 6-63 commissioner's powers and duties under this chapter, Title 4,
 6-64 Chapter 393 with respect to a credit access business, and Chapters
 6-65 371, 392, and 394 and under Chapters 51, 302, 601, and 621, Business
 6-66 & Commerce Code.

6-67 (b) The finance commission by rule shall set the fees for
 6-68 licensing and examination under Chapter 393 with respect to a
 6-69 credit access business or Chapter 342, 347, 348, 351, or 371 at

7-1 amounts or rates necessary to recover the costs of administering
 7-2 those chapters. The rules may provide that the amount of a fee
 7-3 charged to a license holder is based on the volume of the license
 7-4 holder's regulated business and other key factors. The
 7-5 commissioner may provide for collection of a single annual fee from
 7-6 a person licensed under Subchapter G of Chapter 393 or Chapter 342,
 7-7 347, 348, 351, or 371 to include amounts due for both licensing and
 7-8 examination.

7-9 SECTION 5. Section 14.201, Finance Code, is amended to read
 7-10 as follows:

7-11 Sec. 14.201. INVESTIGATION AND ENFORCEMENT AUTHORITY.
 7-12 Investigative and enforcement authority under this subchapter
 7-13 applies only to this chapter, Subtitles B and C of Title 4, Chapter
 7-14 393 with respect to a credit access business, and Chapter 394.

7-15 SECTION 6. Section 14.2015(a), Finance Code, is amended to
 7-16 read as follows:

7-17 (a) Except as provided by Subsection (b), information or
 7-18 material obtained or compiled by the commissioner in relation to an
 7-19 examination by the commissioner or the commissioner's
 7-20 representative of a license holder or registrant under Subtitle B
 7-21 or C, Title 4, Subchapter G of Chapter 393, or Chapter 394 is
 7-22 confidential and may not be disclosed by the commissioner or an
 7-23 officer or employee of the Office of Consumer Credit Commissioner,
 7-24 including:

7-25 (1) information obtained from a license holder or
 7-26 registrant under Subtitle B or C, Title 4, Subchapter G of Chapter
 7-27 393, or Chapter 394;

7-28 (2) work performed by the commissioner or the
 7-29 commissioner's representative on information obtained from a
 7-30 license holder or registrant for the purposes of an examination
 7-31 conducted under Subtitle B or C, Title 4, Chapter 393 with respect
 7-32 to a credit access business, or Chapter 394;

7-33 (3) a report on an examination of a license holder or
 7-34 registrant conducted under Subtitle B or C, Title 4, Chapter 393
 7-35 with respect to a credit access business, or Chapter 394; and

7-36 (4) any written communications between the license
 7-37 holder or registrant, as applicable, and the commissioner or the
 7-38 commissioner's representative relating to or referencing an
 7-39 examination conducted under Subtitle B or C, Title 4, Chapter 393
 7-40 with respect to a credit access business, or Chapter 394.

7-41 SECTION 7. Section 14.251, Finance Code, is amended by
 7-42 adding Subsection (a-1) and amending Subsection (b) to read as
 7-43 follows:

7-44 (a-1) The commissioner shall assess an administrative
 7-45 penalty against a credit access business who knowingly and wilfully
 7-46 violates or causes a violation of Chapter 393, or a rule adopted
 7-47 under Chapter 393.

7-48 (b) The commissioner may order a person who violates or
 7-49 causes a violation of this chapter, Chapter 394, or Subtitle B,
 7-50 Title 4, or a rule adopted under this chapter, Chapter 394, or
 7-51 Subtitle B, Title 4, or a credit access business who violates or
 7-52 causes a violation of Chapter 393 or a rule adopted under Chapter
 7-53 393, to make restitution to an identifiable person injured by the
 7-54 violation.

7-55 SECTION 8. Section 14.261(a), Finance Code, is amended to
 7-56 read as follows:

7-57 (a) In administering this chapter, the commissioner may
 7-58 accept assurance of voluntary compliance from a person who is
 7-59 engaging in or has engaged in an act or practice in violation of:

7-60 (1) this chapter or a rule adopted under this chapter;

7-61 (2) Chapter 393, if the person is a credit access
 7-62 business, or Chapter 394; or

7-63 (3) Subtitle B, Title 4, or a rule adopted under
 7-64 Subtitle B, Title 4.

7-65 SECTION 9. Section 14.262, Finance Code, is amended to read
 7-66 as follows:

7-67 Sec. 14.262. EFFECT OF ASSURANCE. (a) An assurance of
 7-68 voluntary compliance is not an admission of a violation of:

7-69 (1) this chapter or a rule adopted under this chapter;

8-1 (2) Chapter 393 with respect to a credit access
8-2 business or Chapter 394; or
8-3 (3) Subtitle B, Title 4, or a rule adopted under
8-4 Subtitle B, Title 4.
8-5 (b) Unless an assurance of voluntary compliance is
8-6 rescinded by agreement or voided by a court for good cause, a
8-7 subsequent failure to comply with the assurance is prima facie
8-8 evidence of a violation of:
8-9 (1) this chapter or a rule adopted under this chapter;
8-10 (2) Chapter 393 with respect to a credit access
8-11 business or Chapter 394; or
8-12 (3) Subtitle B, Title 4, or a rule adopted under
8-13 Subtitle B, Title 4.
8-14 SECTION 10. This Act takes effect January 1, 2012.

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