

House Bill 2594
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

- (1) contain a statement that there is no prepayment penalty;
- (2) contain a statement that a credit access business must comply with Chapter 392 and the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692 et seq.) with respect to an extension of consumer credit described by Section 393.602(a);
- (3) contain a statement that a person may not threaten or pursue criminal charges against a consumer related to a check or other debit authorization provided by the consumer as security for a transaction in the absence of forgery, fraud, theft, or other criminal conduct;
- (4) contain a statement that a credit access business must comply, to the extent applicable, with 10 U.S.C. Section 987 and any regulations adopted under that law with respect to an extension of consumer credit described by Section 393.602(a);
- (5) disclose to the consumer:
 - (A) the lender from whom the extension of consumer credit is obtained;
 - (B) the interest paid or to be paid to the lender; and
 - (C) the specific fees that will be paid to the credit access business for the business's services; and
- (6) the name and address of the Office of Consumer Credit Commissioner and the telephone number of the office's consumer helpline.

SECTION 2. Chapter 393, Finance Code, is amended by

SENATE VERSION (IE)

SECTION 1. Same as House version.

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SECTION 2. Chapter 393, Finance Code, is amended by

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adding Subchapter G to read as follows:

SUBCHAPTER G. LICENSING AND REGULATION OF CERTAIN CREDIT SERVICES ORGANIZATIONS

Sec. 393.601. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

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

(1) a deferred presentment transaction; or

(2) a motor vehicle title loan.

(b) Any usury violation by a lender with respect to an extension of consumer credit described by Subsection (a) is subject to Chapter 349. In connection with a determination of

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adding Subchapter G to read as follows:

SUBCHAPTER G. LICENSING AND REGULATION OF CERTAIN CREDIT SERVICES ORGANIZATIONS

Sec. 393.601. DEFINITIONS. In this subchapter:

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

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

(3) "Deferred presentment transaction" has the meaning assigned by Section 341.001. For purposes of this chapter, this definition does not preclude repayment in more than one installment.

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

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

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

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

(1) a deferred presentment transaction; or

(2) a motor vehicle title loan.

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usury, the fees charged by a credit access business conducting business under this chapter do not constitute interest.

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

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

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

- (1) be under oath;
- (2) give the approximate location from which the business is to be conducted;
- (3) identify the business's principal parties in interest;
- (4) contain the name, physical address, and telephone number of all third-party lender organizations with which the business contracts to provide services described by Section 393.602(a) or from which the business arranges extensions of consumer credit described by Section 393.602(a); and
- (5) contain other relevant information that the commissioner requires for the findings required under Section 393.607.

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(b) A credit access business may assess fees for its services as agreed to between the parties. A credit access business fee may be calculated daily, biweekly, monthly, or on another periodic basis. A credit access business is permitted to charge amounts allowed by other laws, as applicable. A fee may not be charged unless it is disclosed.

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

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

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

- (1) be under oath;
- (2) give the approximate location from which the business is to be conducted;
- (3) identify the business's principal parties in interest;
- (4) contain the name, physical address, and telephone number of all third-party lender organizations with which the business contracts to provide services described by Section 393.602(a) or from which the business arranges extensions of consumer credit described by Section 393.602(a); and
- (5) contain other relevant information that the commissioner requires for the findings required under Section 393.607.

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

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

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

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

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

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

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

(b) The bond must be in favor of this state for the use of this state and the use of a person who has a cause of action under this subchapter against the license holder.

(c) The bond must be conditioned on:

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

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

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

(e) A credit access business that files a bond under this

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(c) The bond must be conditioned on:

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

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

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

(e) A credit access business that files a bond under this

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section is not required to file a bond under Subchapter E.

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

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

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

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

(A) command the confidence of the public; and

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

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

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

(c) If an applicant requests a hearing on the application not later than the 30th day after the date of notification under

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section is not required to file a bond under Subchapter E.

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

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

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

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

(A) command the confidence of the public; and

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

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

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

(c) If an applicant requests a hearing on the application not later than the 30th day after the date of notification under

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Subsection (b), the applicant is entitled to a hearing not later than the 30th day after the date of the request.

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

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

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

(1) the name of the license holder; and

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

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

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

(1) is not required to have an office in this state; and

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

Sec. 393.610. LICENSE DISPLAY. A license holder shall display a license at the place of business provided on the license. With respect to business conducted through the Internet, this requirement may be satisfied by displaying the license on the business's Internet website.

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Subsection (b), the applicant is entitled to a hearing not later than the 30th day after the date of the request.

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

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

(1) \$25,000 for each office; or

(2) \$2,500,000 in the aggregate.

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

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

(1) that day; or

(2) December 31 of the last year for which an annual fee was paid.

Sec. 393.614. LICENSE SUSPENSION OR REVOCATION.

(a) After notice and a hearing the commissioner may suspend or revoke a license if the commissioner finds that:

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

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

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

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

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of the application.

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

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

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

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

(1) the license; and

(2) a written notice of the license's surrender.

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

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of the application.

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

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

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

Sec. 393.619. MOVING AN OFFICE. (a) A license holder shall give written notice to the commissioner before the 30th day before the date the license holder moves an office from the location provided on the license.

(b) The commissioner shall amend a license holder's license accordingly.

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

Sec. 393.621. ADMINISTRATION. The office shall administer this subchapter.

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

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

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

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

(b) The finance commission may adopt rules under this section to allow the commissioner to review, as part of a periodic examination, any relevant contracts between the credit access business and the third-party lender organizations with which the credit access business contracts to provide services described by Section 393.602(a) or from which the business arranges extensions of consumer credit described by

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

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

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

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

(b) The finance commission may adopt rules under this section to allow the commissioner to review, as part of a periodic examination, any relevant contracts between the credit access business and the third-party lender organizations with which the credit access business contracts to provide services described by Section 393.602(a) or from which the business arranges extensions of consumer credit described by

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Section 393.602(a). A contract or information obtained by the commissioner under this section is considered proprietary and confidential to the respective parties to the contract, and is not subject to disclosure under Chapter 552, Government Code.

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

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

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

(b) The finance commission may adopt rules to implement this section.

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

Sec. 393.626. DEBT COLLECTION PRACTICES. A violation of Chapter 392 by a credit access business with respect to an extension of consumer credit described by

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Section 393.602(a). A contract or information obtained by the commissioner under this section is considered proprietary and confidential to the respective parties to the contract, and is not subject to disclosure under Chapter 552, Government Code.

(c) Nothing in Section 393.201(c) or Sections 393.601-393.628 grants authority to the finance commission or the Office of Consumer Credit Commissioner to establish a limit on the fees charged by a credit access business.

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

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

(b) The finance commission may adopt rules to implement this section.

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

Sec. 393.626. DEBT COLLECTION PRACTICES. A violation of Chapter 392 by a credit access business with respect to an extension of consumer credit described by

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Section 393.602(a) constitutes a violation of this subchapter. Sec. 393.627. QUARTERLY REPORT TO COMMISSIONER. A credit access business shall file a quarterly report with the commissioner on a form prescribed by the commissioner that provides the following information relating to extensions of consumer credit described by Section 393.602(a) during the preceding quarter:

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

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Section 393.602(a) constitutes a violation of this subchapter. Sec. 393.627. QUARTERLY REPORT TO COMMISSIONER. A credit access business shall file a quarterly report with the commissioner on a form prescribed by the commissioner that provides the following information relating to extensions of consumer credit described by Section 393.602(a) during the preceding quarter:

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

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

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

- (1) production and dissemination of approved financial education materials at licensed locations;
- (2) advertising, marketing, and public awareness campaigns to improve the credit profiles and credit scores of consumers in this state;
- (3) school and youth-based financial literacy and capability;
- (4) credit building and credit repair;
- (5) financial coaching and consumer counseling;
- (6) bank account enrollment and incentives for personal savings; and
- (7) other consumer financial education and asset-building

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

(b) The commissioner shall remit to the comptroller amounts received under Subsection (a) for deposit in an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company. Money in the account may be spent by the finance commission only for the purposes provided by this section. Amounts in the account may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from those investments shall be deposited to the credit of the account.

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

- (1) production and dissemination of approved financial education materials at licensed locations;
- (2) advertising, marketing, and public awareness campaigns to improve the credit profiles and credit scores of consumers in this state;
- (3) school and youth-based financial literacy and capability;
- (4) credit building and credit repair;
- (5) financial coaching and consumer counseling;
- (6) bank account enrollment and incentives for personal savings; and
- (7) other consumer financial education and asset-building

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initiatives as considered appropriate by the finance commission.

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

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

(e) The finance commission shall adopt rules to administer this section.

SECTION 3. Section 14.101, Finance Code, is amended to read as follows:

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

SECTION 4. Section 14.107, Finance Code, is amended to read as follows:

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

(b) The finance commission by rule shall set the fees for licensing and examination under Chapter 393 with respect to a credit access business or Chapter 342, 347, 348, 351, or 371 at amounts or rates necessary to recover the costs of administering those chapters. The rules may provide that the amount of a fee charged to a license holder is based on the volume of the license holder's regulated business and other

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initiatives as considered appropriate by the finance commission.

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

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

(e) The finance commission shall adopt rules to administer this section. [CA1(1);CA1,FA1(2);CA2;FA3(1),(2)]

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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key factors. The commissioner may provide for collection of a single annual fee from a person licensed under Subchapter G of Chapter 393 or Chapter 342, 347, 348, 351, or 371 to include amounts due for both licensing and examination.

SECTION 5. Section 14.201, Finance Code, is amended to read as follows:

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

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

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

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

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

(3) a report on an examination of a license holder or registrant

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SECTION 5. Same as House version.

SECTION 6. Same as House version.

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conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394; and

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

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

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

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

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

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

- (1) this chapter or a rule adopted under this chapter;
- (2) Chapter 393, if the person is a credit access business, or Chapter 394; or

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SECTION 7. Same as House version.

SECTION 8. Same as House version.

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(3) Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.

SECTION 9. Section 14.262, Finance Code, is amended to read as follows:

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

- (1) this chapter or a rule adopted under this chapter;
- (2) Chapter 393 with respect to a credit access business or Chapter 394; or
- (3) Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.

(b) Unless an assurance of voluntary compliance is rescinded by agreement or voided by a court for good cause, a subsequent failure to comply with the assurance is prima facie evidence of a violation of:

- (1) this chapter or a rule adopted under this chapter;
- (2) Chapter 393 with respect to a credit access business or Chapter 394; or
- (3) Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.

SECTION 10. This Act takes effect January 1, 2012.

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SECTION 9. Same as House version.

SECTION 10. Same as House version.

CONFERENCE