

By: Burkett

H.B. No. 2548

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of a provision regarding the imposition of a surcharge for the use of a credit card.

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

SECTION 1. Section 339.001, Finance Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) The consumer credit commissioner has [~~Finance Commission of Texas shall have~~] exclusive jurisdiction to enforce [~~and adopt rules relating to~~] this section.

(d) The Finance Commission of Texas may adopt rules relating to this section. Rules adopted pursuant to this section shall be consistent with federal laws and regulations governing credit card transactions described by this section.

(e) This section does not create a cause of action against an individual for violation of this section.

SECTION 2. Section 14.101, Finance Code, is amended to read as follows:

Sec. 14.101. GENERAL DUTIES OF COMMISSIONER. The commissioner shall enforce Section 339.001, 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 3. Section 14.201, Finance Code, is amended to read

1 as follows:

2           Sec. 14.201. INVESTIGATION                   AND                   ENFORCEMENT  
3 AUTHORITY. Investigative and enforcement authority under this  
4 subchapter applies only to Section 339.001, this chapter, Subtitles  
5 B and C of Title 4, Chapter 393 with respect to a credit access  
6 business, and Chapter 394.

7           SECTION 4. Section 14.2015(a), Finance Code, as amended by  
8 Chapters 1182 (H.B. 3453) and 1302 (H.B. 2594), Acts of the 82nd  
9 Legislature, Regular Session, 2011, is reenacted and amended to  
10 read as follows:

11           (a) Except as provided by Subsection (b), information or  
12 material obtained or compiled by the commissioner in relation to an  
13 examination or investigation by the commissioner or the  
14 commissioner's representative of a license holder, registrant,  
15 applicant, or other person under Section 339.001, Subtitle B or C,  
16 Title 4, Subchapter G of Chapter 393, or Chapter 394 is confidential  
17 and may not be disclosed by the commissioner or an officer or  
18 employee of the Office of Consumer Credit Commissioner, including:

19                   (1) information obtained from a license holder,  
20 registrant, applicant, or other person examined or investigated  
21 under Section 339.001, Subtitle B or C, Title 4, Subchapter G of  
22 Chapter 393, or Chapter 394;

23                   (2) work performed by the commissioner or the  
24 commissioner's representative on information obtained from a  
25 license holder, registrant, applicant, or other person for the  
26 purposes of an examination or investigation conducted under Section  
27 339.001, Subtitle B or C, Title 4, Chapter 393 with respect to a

1 credit access business, or Chapter 394;

2 (3) a report on an examination or investigation of a  
3 license holder, registrant, applicant, or other person conducted  
4 under Section 339.001, Subtitle B or C, Title 4, Chapter 393 with  
5 respect to a credit access business, or Chapter 394; and

6 (4) any written communications between the license  
7 holder, registrant, applicant, or other person, as applicable, and  
8 the commissioner or the commissioner's representative relating to  
9 or referencing an examination or investigation conducted under  
10 Section 339.001, Subtitle B or C, Title 4, Chapter 393 with respect  
11 to a credit access business, or Chapter 394.

12 SECTION 5. Section 14.251(b), Finance Code, is amended to  
13 read as follows:

14 (b) The commissioner may order a person who violates or  
15 causes a violation of Section 339.001, this chapter, Chapter 394,  
16 or Subtitle B, Title 4, or a rule adopted under Section 339.001,  
17 this chapter, Chapter 394, or Subtitle B, Title 4, or a credit  
18 access business who violates or causes a violation of Chapter 393 or  
19 a rule adopted under Chapter 393, to make restitution to an  
20 identifiable person injured by the violation.

21 SECTION 6. Section 14.261(a), Finance Code, is amended to  
22 read as follows:

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

26 (1) Section 339.001;

27 (2) this chapter or a rule adopted under this chapter;

1           (3) [~~(2)~~] Chapter 393, if the person is a credit  
2 access business, or Chapter 394; or

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

5           SECTION 7. Section 14.262, Finance Code, is amended to read  
6 as follows:

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

9           (1) Section 339.001;

10           (2) this chapter or a rule adopted under this chapter;

11           (3) [~~(2)~~] Chapter 393 with respect to a credit access  
12 business or Chapter 394; or

13           (4) [~~(3)~~] Subtitle B, Title 4, or a rule adopted under  
14 Subtitle B, Title 4.

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

19           (1) Section 339.001;

20           (2) this chapter or a rule adopted under this chapter;

21           (3) [~~(2)~~] Chapter 393 with respect to a credit access  
22 business or Chapter 394; or

23           (4) [~~(3)~~] Subtitle B, Title 4, or a rule adopted under  
24 Subtitle B, Title 4.

25           SECTION 8. The change in law made by this Act applies only  
26 to a violation of Section 339.001, Finance Code, as amended by this  
27 Act, that occurs on or after the effective date of this Act. A

1 violation that occurs before that date is governed by the law in  
2 effect immediately before the effective date of this Act, and that  
3 law is continued in effect for that purpose.

4         SECTION 9. To the extent of any conflict, this Act prevails  
5 over another Act of the 83rd Legislature, Regular Session, 2013,  
6 relating to nonsubstantive additions to and corrections in enacted  
7 codes.

8         SECTION 10. This Act takes effect September 1, 2013.