

1-1 By: Carona S.B. No. 1247
 1-2 (In the Senate - Filed March 6, 2013; March 13, 2013, read
 1-3 first time and referred to Committee on Business and Commerce;
 1-4 April 8, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 3; April 8, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14		X		
1-15		X		
1-16	X			
1-17		X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1247 By: Carona

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to credit services organizations and extensions of
 1-22 consumer credit facilitated by credit services organizations;
 1-23 providing a civil penalty.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subsection (a), Section 392.301, Finance Code,
 1-26 is amended to read as follows:

1-27 (a) In debt collection, a debt collector may not use
 1-28 threats, coercion, or attempts to coerce that employ any of the
 1-29 following practices:

1-30 (1) using or threatening to use violence or other
 1-31 criminal means to cause harm to a person or property of a person;

1-32 (2) accusing falsely or threatening to accuse falsely
 1-33 a person of fraud or any other crime;

1-34 (3) representing or threatening to represent to any
 1-35 person other than the consumer that a consumer is wilfully refusing
 1-36 to pay a nondisputed consumer debt when the debt is in dispute and
 1-37 the consumer has notified in writing the debt collector of the
 1-38 dispute;

1-39 (4) threatening to sell or assign to another the
 1-40 obligation of the consumer and falsely representing that the result
 1-41 of the sale or assignment would be that the consumer would lose a
 1-42 defense to the consumer debt or would be subject to illegal
 1-43 collection attempts;

1-44 (5) threatening that the debtor will be arrested for
 1-45 nonpayment of a consumer debt without proper court proceedings;

1-46 (6) threatening to file a charge, complaint, or
 1-47 criminal action against a debtor when the debtor has not violated a
 1-48 criminal law;

1-49 (7) threatening that nonpayment of a consumer debt
 1-50 will result in the seizure, repossession, or sale of the person's
 1-51 property without proper court proceedings;

1-52 (8) referencing a certification signed by the consumer
 1-53 as required by Section 393.630(b) or any penalties associated with
 1-54 a violation of that section; or

1-55 (9) ~~(8)~~ threatening to take an action prohibited by
 1-56 law.

1-57 SECTION 2. Section 393.001, Finance Code, is amended by
 1-58 amending Subdivisions (1) and (3) and adding Subdivisions (1-a),
 1-59 (2-a), (3-a), (4-a), (5), (6), (7), (8), (9), (10), (11), (12), and
 1-60 (13) to read as follows:

2-1 (1) "Commissioner" means the consumer credit
2-2 commissioner.

2-3 (1-a) "Consumer" means an individual who is solicited
2-4 to purchase or who purchases the services of a credit services
2-5 organization.

2-6 (2-a) "Credit access business" means a credit services
2-7 organization that obtains for a consumer or assists a consumer in
2-8 obtaining an extension of consumer credit.

2-9 (3) "Credit services organization" means a person who
2-10 provides, or represents that the person can or will provide, for the
2-11 payment of valuable consideration any of the following services
2-12 with respect to the extension of consumer credit by others:

2-13 (A) improving a consumer's credit history or
2-14 rating;

2-15 (B) obtaining an extension of consumer credit for
2-16 a consumer in the form of a single-payment deferred presentment
2-17 transaction, a multiple-payment deferred presentment transaction,
2-18 a single-payment motor vehicle title loan, or a multiple-payment
2-19 motor vehicle title loan; or

2-20 (C) providing advice or assistance to a consumer
2-21 with regard to Paragraph (A) or (B).

2-22 (3-a) "Deferred presentment transaction" means a
2-23 single-payment or multiple-payment transaction defined as a
2-24 deferred presentment transaction by Section 341.001 in connection
2-25 with which the consumer is not required to provide real or personal
2-26 property as security.

2-27 (4-a) "Finance commission" means the Finance
2-28 Commission of Texas.

2-29 (5) "Military borrower" includes a "covered member" or
2-30 a "dependent" of a covered member, as those terms are defined by 10
2-31 U.S.C. Section 987 or a successor statute.

2-32 (6) "Motor vehicle title loan" means a single-payment
2-33 or multiple-payment loan in which an unencumbered motor vehicle is
2-34 given as the only security for the loan, except as provided by
2-35 Section 393.629(c). The term does not include a retail installment
2-36 transaction under Chapter 348 or another loan made to finance the
2-37 purchase of a motor vehicle.

2-38 (7) "Multiple-payment deferred presentment
2-39 transaction" means a deferred presentment transaction that is not a
2-40 single-payment deferred presentment transaction.

2-41 (8) "Multiple-payment motor vehicle title loan" means
2-42 a motor vehicle title loan that is not a single-payment motor
2-43 vehicle title loan.

2-44 (9) "Office" means the Office of Consumer Credit
2-45 Commissioner.

2-46 (10) "Refinance" means a rollover, renewal, or other
2-47 type of transaction in which all or a portion of the principal,
2-48 fees, or interest due under an outstanding extension of consumer
2-49 credit becomes due on a later date. The term does not include an
2-50 extended payment plan described by Section 393.638. The term
2-51 includes a new extension of consumer credit that:

2-52 (A) consists of debt arising from principal,
2-53 fees, or interest that was not paid in full under an outstanding or
2-54 previous extension of consumer credit; or

2-55 (B) is made on or before the fifth day after the
2-56 date a previous extension of consumer credit that a credit access
2-57 business obtained for a consumer or assisted a consumer in
2-58 obtaining was paid in full.

2-59 (11) "Service" means an act, conduct, or activity that
2-60 is performed or to be performed for a consumer's benefit or that
2-61 involves assisting a consumer in obtaining an extension of consumer
2-62 credit, including:

2-63 (A) negotiating or closing a loan or other
2-64 extension of consumer credit;

2-65 (B) issuing a guaranty, letter of credit, or
2-66 other credit enhancement; and

2-67 (C) servicing an extension of consumer credit.

2-68 (12) "Single-payment deferred presentment
2-69 transaction" means a deferred presentment transaction for which the

3-1 entire cash advance, interest, and fees are required under the
3-2 terms of the transaction to be payable in a single payment.

3-3 (13) "Single-payment motor vehicle title loan" means a
3-4 motor vehicle title loan for which the entire principal, interest,
3-5 and fees are required under the terms of the loan to be payable in a
3-6 single payment.

3-7 SECTION 3. Section 393.201, Finance Code, is amended by
3-8 amending Subsections (b) and (c) and adding Subsection (d) to read
3-9 as follows:

3-10 (b) In addition to the notice required by Section 393.202,
3-11 the contract must:

3-12 (1) contain the payment terms, including the total
3-13 payments to be made by the consumer, whether to the organization or
3-14 to another person;

3-15 (2) fully describe the services the organization shall
3-16 [is to] perform for the consumer, including each guarantee and each
3-17 promise of a full or partial refund and the estimated period for
3-18 performing and completing all of the services, not to exceed 180
3-19 days, unless otherwise permitted under this chapter;

3-20 (3) contain the address of the organization's
3-21 principal place of business; and

3-22 (4) contain the name and address of the organization's
3-23 agent in this state authorized to receive service of process.

3-24 (c) A contract with a credit access business [~~as defined by~~
3-25 ~~Section 393.601,~~] for the performance of services [~~described by~~
3-26 ~~Section 393.602(a)~~] must, in addition to the requirements of
3-27 Subsection (b) and Section 393.302:

3-28 (1) contain a statement that there is no prepayment
3-29 penalty;

3-30 (2) contain a statement that a credit access business
3-31 must comply with Chapter 392 and the federal Fair Debt Collection
3-32 Practices Act (15 U.S.C. Section 1692 et seq.) with respect to an
3-33 extension of consumer credit [~~described by Section 393.602(a)~~];

3-34 (3) contain a statement that a person may not threaten
3-35 or pursue criminal charges against a consumer related to a check or
3-36 other debit authorization provided by the consumer as security for
3-37 a transaction in the absence of forgery, fraud, theft, or other
3-38 criminal conduct;

3-39 (4) contain a statement that a credit access business
3-40 must comply, to the extent applicable, with 10 U.S.C. Section 987
3-41 and any regulations adopted under that law with respect to an
3-42 extension of consumer credit [~~described by Section 393.602(a)~~];

3-43 (5) disclose to the consumer:

3-44 (A) the lender from whom the extension of
3-45 consumer credit is obtained;

3-46 (B) the interest paid or to be paid to the lender;
3-47 and

3-48 (C) the specific fees that will be paid to the
3-49 credit access business for the business's services and to any third
3-50 party; [and]

3-51 (6) contain the name and address of the office, the
3-52 office's website address, [Office of Consumer Credit Commissioner]
3-53 and the telephone number of the office's consumer helpline; and

3-54 (7) use model contract clauses adopted by rule of the
3-55 finance commission.

3-56 (d) The finance commission shall adopt rules to implement
3-57 this section.

3-58 SECTION 4. Section 393.222, Finance Code, is amended by
3-59 adding Subsection (a-1) to read as follows:

3-60 (a-1) A credit access business shall post, in the same
3-61 manner as a notice required under Subsection (a), and provide as a
3-62 separate document to a consumer, a notice prescribed by the finance
3-63 commission regarding the availability of extended payment plans
3-64 that describes the basic features of the plans.

3-65 SECTION 5. Subsection (a), Section 393.223, Finance Code,
3-66 is amended to read as follows:

3-67 (a) Before performing services described by Section
3-68 393.001(2-a) [393.221(1)], a credit access business must provide to
3-69 a consumer a disclosure adopted by rule of the finance commission

4-1 [~~Finance Commission of Texas~~] that discloses the following in a
 4-2 form prescribed by the commission:

4-3 (1) the interest, fees, and annual percentage rates,
 4-4 as applicable, to be charged on a deferred presentment transaction
 4-5 or on a motor vehicle title loan, as applicable, in comparison to
 4-6 interest, fees, and annual percentage rates to be charged on other
 4-7 alternative forms of consumer debt;

4-8 (2) the amount of accumulated fees a consumer would
 4-9 incur by renewing or refinancing a deferred presentment transaction
 4-10 or motor vehicle title loan that remains outstanding for a period of
 4-11 two weeks, one month, two months, and three months; ~~and~~

4-12 (3) information regarding the typical pattern of
 4-13 repayment of deferred presentment transactions and motor vehicle
 4-14 title loans; and

4-15 (4) the name of the credit access business and any
 4-16 unique number assigned to the license issued to the business under
 4-17 Subchapter G.

4-18 SECTION 6. Subchapter D, Chapter 393, Finance Code, is
 4-19 amended by adding Section 393.308 to read as follows:

4-20 Sec. 393.308. PROHIBITION ON OBTAINING CERTAIN LOANS OR
 4-21 EXTENSIONS OF CREDIT. (a) A credit services organization may not
 4-22 obtain for a consumer or assist a consumer in obtaining an extension
 4-23 of consumer credit in any form other than in the form of a
 4-24 single-payment deferred presentment transaction, a
 4-25 multiple-payment deferred presentment transaction, a
 4-26 single-payment motor vehicle title loan, or a multiple-payment
 4-27 motor vehicle title loan.

4-28 (b) A credit services organization may obtain for a consumer
 4-29 or assist a consumer in obtaining a loan or other extension of
 4-30 consumer credit only if the loan or extension of consumer credit is
 4-31 in the form of a deferred presentment transaction or motor vehicle
 4-32 title loan described by Subsection (a) made by a third-party lender
 4-33 that is unaffiliated with the credit services organization and does
 4-34 not have any ownership, directors, officers, members, or employees
 4-35 in common with the credit services organization.

4-36 (c) A credit services organization may not charge or receive
 4-37 from a consumer a fee or other valuable consideration in connection
 4-38 with a loan or other extension of consumer credit that is not a
 4-39 deferred presentment transaction or motor vehicle title loan
 4-40 described by Subsection (b).

4-41 (d) The finance commission may adopt rules to implement this
 4-42 section.

4-43 SECTION 7. Section 393.602, Finance Code, is amended by
 4-44 amending Subsections (a) and (b) and adding Subsection (b-1) to
 4-45 read as follows:

4-46 (a) This subchapter applies only to a credit services
 4-47 organization that obtains for a consumer or assists a consumer in
 4-48 obtaining an extension of consumer credit ~~[in the form of:~~

4-49 ~~[(1) a deferred presentment transaction, or~~
 4-50 ~~[(2) a motor vehicle title loan].~~

4-51 (b) A credit access business may assess fees as agreed to
 4-52 between the parties for [its] services performed to obtain an
 4-53 extension of consumer credit for a consumer or assist a consumer in
 4-54 obtaining an extension of consumer credit in the form of a deferred
 4-55 presentment transaction or motor vehicle title loan or a refinance
 4-56 of such an extension of consumer credit [as agreed to between the
 4-57 parties]. A credit access business fee may be calculated daily,
 4-58 biweekly, monthly, or on another periodic basis. A credit access
 4-59 business is permitted to charge amounts allowed by other laws, as
 4-60 applicable. A fee may not be charged unless it is disclosed.

4-61 (b-1) Notwithstanding Subsection (a) or (b), a credit
 4-62 services organization that is not obtaining for a consumer or
 4-63 assisting a consumer in obtaining an extension of consumer credit
 4-64 may also charge or receive from a consumer a fee or other valuable
 4-65 consideration in connection with advice, assistance, or other
 4-66 services that the credit services organization provides to improve
 4-67 a consumer's credit history or rating.

4-68 SECTION 8. Subsection (a), Section 393.604, Finance Code,
 4-69 is amended to read as follows:

- 5-1 (a) An application for a license under this subchapter must:
- 5-2 (1) be under oath;
- 5-3 (2) give the approximate location from which the
- 5-4 business is to be conducted;
- 5-5 (3) identify the business's principal parties in
- 5-6 interest;
- 5-7 (4) contain the name, physical address, and telephone
- 5-8 number of all third-party lender organizations:
- 5-9 (A) with which the business contracts to provide
- 5-10 services; ~~[described by Section 393.602(a)]~~ or
- 5-11 (B) from which the business arranges extensions
- 5-12 of consumer credit ~~[described by Section 393.602(a)]~~; and
- 5-13 (5) contain other relevant information that the
- 5-14 commissioner requires for the findings required under Section
- 5-15 393.607.

5-16 SECTION 9. Subsections (a) and (b), Section 393.622,
5-17 Finance Code, are amended to read as follows:

- 5-18 (a) The finance commission may:
- 5-19 (1) adopt rules necessary to enforce and administer
- 5-20 this subchapter;
- 5-21 (2) adopt rules with respect to reports of summary
- 5-22 business information required to be submitted ~~[the quarterly~~
- 5-23 ~~reporting]~~ by a licensed credit access business under Section
- 5-24 393.627 ~~[licensed under this subchapter of summary business~~
- 5-25 ~~information relating to extensions of consumer credit described by~~
- 5-26 ~~Section 393.602(a)]~~; ~~[and]~~
- 5-27 (3) adopt rules with respect to periodic examination
- 5-28 by the office relating to extensions of consumer credit the
- 5-29 business obtained for a consumer or assisted a consumer in
- 5-30 obtaining ~~[described by Section 393.602(a)]~~, including rules
- 5-31 related to charges for defraying the reasonable cost of conducting
- 5-32 the examinations; and
- 5-33 (4) adopt rules identifying extensions of consumer
- 5-34 credit that are refinances.

5-35 (b) The finance commission may adopt rules under this
5-36 section to allow the commissioner to review, as part of a periodic
5-37 examination, any relevant contracts between the credit access
5-38 business and the third-party lender organizations with which the
5-39 credit access business contracts to provide services ~~[described by~~

5-40 ~~Section 393.602(a)]~~ or from which the business arranges extensions
5-41 of consumer credit ~~[described by Section 393.602(a)]~~. A contract
5-42 or information obtained by the commissioner under this section is
5-43 considered proprietary and confidential to the respective parties
5-44 to the contract, and is not subject to disclosure under Chapter 552,
5-45 Government Code.

5-46 SECTION 10. Subchapter G, Chapter 393, Finance Code, is
5-47 amended by adding Section 393.6221 to read as follows:

5-48 Sec. 393.6221. EXAMINATION OR INVESTIGATION BY
5-49 COMMISSIONER; OATHS. During an examination or an investigation,
5-50 the commissioner or the commissioner's representative may
5-51 administer oaths and examine a person under oath on a subject
5-52 pertinent to a matter that the commissioner is authorized or
5-53 required to consider, investigate, or secure information about
5-54 under this chapter.

5-55 SECTION 11. Section 393.625, Finance Code, is amended to
5-56 read as follows:

5-57 Sec. 393.625. MILITARY BORROWERS. (a) An extension of
5-58 consumer credit ~~[described by Section 393.602(a)]~~ that is obtained
5-59 by a credit access business for a military borrower ~~[member of the~~
5-60 ~~United States military or a dependent of a member of the United~~
5-61 ~~States military]~~ or that the business assisted a military borrower
5-62 ~~[that person]~~ in obtaining must comply with 10 U.S.C. Section 987
5-63 and any regulations adopted under that law, to the extent
5-64 applicable.

5-65 (b) The term of an extension of consumer credit, including
5-66 all renewals and refinances, obtained for a military borrower by a
5-67 credit access business or that a credit access business assists a
5-68 military borrower in obtaining may not exceed:

- 5-69 (1) 90 days, if the debt is a deferred presentment

6-1 transaction; or
6-2 (2) 180 days, if the debt is a motor vehicle title
6-3 loan.

6-4 SECTION 12. Section 393.626, Finance Code, is amended to
6-5 read as follows:

6-6 Sec. 393.626. DEBT COLLECTION PRACTICES. A violation of
6-7 Chapter 392 by a credit access business with respect to obtaining
6-8 for a consumer or assisting a consumer in obtaining an extension of
6-9 consumer credit [~~described by Section 393.602(a)~~] constitutes a
6-10 violation of this subchapter.

6-11 SECTION 13. Section 393.627, Finance Code, is amended to
6-12 read as follows:

6-13 Sec. 393.627. REPORTS [~~QUARTERLY REPORT~~] TO COMMISSIONER.

6-14 (a) A credit access business shall file [~~a~~] quarterly and annual
6-15 reports [~~report~~] with the commissioner on forms [~~a form~~] prescribed
6-16 by the commissioner that provide [~~provides~~] the following
6-17 information relating to extensions of consumer credit [~~described by~~
6-18 Section 393.602(a)] during the preceding quarter or year, as
6-19 applicable:

6-20 (1) the number of consumers for whom the business
6-21 obtained or assisted in obtaining those extensions of consumer
6-22 credit;

6-23 (2) the number of those extensions of consumer credit
6-24 obtained by the business or that the business assisted consumers in
6-25 obtaining;

6-26 (3) the number of refinancing transactions of the
6-27 extensions of consumer credit described by Subdivision (2);

6-28 (4) the number of consumers refinancing the extensions
6-29 of consumer credit described by Subdivision (2);

6-30 (5) the number of consumers refinancing more than once
6-31 the extensions of consumer credit described by Subdivision (2);

6-32 (6) the average amount of the extensions of consumer
6-33 credit described by Subdivision (2);

6-34 (7) the total amount of fees charged by the business
6-35 for the activities described by Subdivision (1);

6-36 (8) the number of vehicles surrendered or repossessed
6-37 under the terms of an extension of consumer credit in the form of a
6-38 motor vehicle title loan obtained by the business or that the
6-39 business assisted a consumer in obtaining;

6-40 (9) the number of extended payment plans offered by
6-41 the credit access business and entered into by consumers, for each
6-42 product [~~the mean, median, and mode of the number of extensions of~~
6-43 consumer credit obtained by consumers as a result of entering into
6-44 the extensions of consumer credit described by Subdivision (2)];
6-45 and

6-46 (10) any related information the commissioner
6-47 determines necessary.

6-48 (b) All information submitted by a credit access business to
6-49 the commissioner for inclusion in a report under this section is
6-50 confidential.

6-51 (c) The commissioner shall publish a statewide consolidated
6-52 analysis and recapitulation of reports filed under this section.
6-53 The commissioner may also publish a consolidated analysis and
6-54 recapitulation of the reports that provides an analysis of the 15
6-55 largest metropolitan statistical areas and the five largest
6-56 counties of this state.

6-57 SECTION 14. Subchapter G, Chapter 393, Finance Code, is
6-58 amended by adding Sections 393.629 through 393.640 to read as
6-59 follows:

6-60 Sec. 393.629. GENERAL LIMITATIONS ON EXTENSIONS OF CONSUMER
6-61 CREDIT; LANGUAGE REQUIREMENTS; PAYMENT METHOD. (a) The
6-62 provisions of this chapter applicable to a credit access business
6-63 apply to any consumer physically located in this state at the time
6-64 the extension of consumer credit is made, regardless of whether the
6-65 extension of consumer credit was made in person in this state.

6-66 (b) The finance commission by rule shall adopt Spanish
6-67 versions of the model contract clauses and all notices that a credit
6-68 access business is required to give to a consumer under this
6-69 chapter. A credit access business shall provide to the consumer a

7-1 contract that uses the adopted Spanish clauses and notices to the
 7-2 consumer if in the process of obtaining an extension of consumer
 7-3 credit the consumer requests that the documents be provided in
 7-4 Spanish or if the contract is negotiated in Spanish. The executed
 7-5 contract and any other binding and controlling document between the
 7-6 credit access business and the consumer must be written in English.

7-7 (c) A credit access business shall accept a payment made in
 7-8 cash or by electronic transfer, cashier's check, teller's check, or
 7-9 money order offered by the consumer or another party, to retire or
 7-10 otherwise pay down debt incurred under an extension of consumer
 7-11 credit that a credit access business obtained for a consumer or
 7-12 assisted a consumer in obtaining under this chapter. For a motor
 7-13 vehicle title loan, a consumer may also grant a security interest in
 7-14 an authorized debit of a bank account.

7-15 Sec. 393.630. LIMITATION ON OUTSTANDING DEBT. (a) At any
 7-16 one time, a consumer may have only one outstanding debt from a
 7-17 deferred presentment transaction that a credit access business
 7-18 obtained for the consumer or assisted the consumer in obtaining and
 7-19 one outstanding debt from a motor vehicle title loan that a credit
 7-20 access business obtained for the consumer or assisted the consumer
 7-21 in obtaining.

7-22 (b) To obtain an extension of consumer credit in the form of
 7-23 a deferred presentment transaction facilitated through the
 7-24 services of a credit access business, a consumer must sign a written
 7-25 certification on a form adopted by finance commission rule stating
 7-26 that the consumer has no other outstanding debt from an extension of
 7-27 consumer credit in the form of a deferred presentment transaction.

7-28 (c) A credit access business may not obtain for a consumer or
 7-29 assist a consumer in obtaining an extension of consumer credit in
 7-30 the form of a deferred presentment transaction if the consumer
 7-31 fails to provide the written certification required by Subsection
 7-32 (b) or if the business has evidence in its possession indicating
 7-33 that the consumer has an outstanding extension of consumer credit
 7-34 in the form of a deferred presentment transaction that the credit
 7-35 access business previously obtained for the consumer or assisted
 7-36 the consumer in obtaining. This subsection does not prohibit a
 7-37 credit access business from advancing additional funds under a
 7-38 refinance otherwise permitted under this chapter.

7-39 (d) A credit access business that violates this section is
 7-40 subject to a civil penalty in an amount not to exceed \$1,000 for
 7-41 each violation.

7-42 Sec. 393.631. LIMITATIONS RELATING TO MOTOR VEHICLE
 7-43 SECURING DEBT. (a) The proceeds of the sale of a repossessed motor
 7-44 vehicle that secured a motor vehicle title loan shall satisfy all
 7-45 outstanding and unpaid indebtedness under that extension of
 7-46 consumer credit, and the consumer is not liable for any deficiency
 7-47 resulting from the sale unless the consumer has committed fraud or
 7-48 has committed a wilful act of misconduct that damages or impairs the
 7-49 value of the motor vehicle.

7-50 (b) Any fee charged to a consumer for the repossession of a
 7-51 motor vehicle given as security for a motor vehicle title loan must
 7-52 be reasonable and may not exceed the amount actually paid by the
 7-53 credit access business or the lender to a third party for the
 7-54 repossession.

7-55 (c) A repossession under this chapter must comply with
 7-56 Chapter 9, Business & Commerce Code, except as otherwise provided
 7-57 by this section.

7-58 Sec. 393.632. ESTABLISHMENT OF INCOME OR VALUE; REFERENCE
 7-59 AMOUNT. (a) A credit access business must require documentation
 7-60 to establish a consumer's income for purposes of this subchapter.
 7-61 Acceptable forms of documentation include paper, facsimile, or
 7-62 electronic copies of:

7-63 (1) a payroll document;

7-64 (2) a paycheck;

7-65 (3) a bank statement;

7-66 (4) a report from a nationally or regionally
 7-67 recognized credit and data reporting company;

7-68 (5) Internal Revenue Service Form W-2 from the
 7-69 preceding year;

8-1 (6) the income tax return from the preceding tax year;
8-2 (7) a signed letter from the consumer's employer at the
8-3 time the extension of consumer credit is sought;
8-4 (8) an executed certification on a form adopted by
8-5 finance commission rule that attests to the consumer's monthly or
8-6 annual income; or
8-7 (9) any other document approved by finance commission
8-8 rule.
8-9 (b) A credit access business shall retain a copy of the
8-10 documentation used to establish a consumer's income under
8-11 Subsection (a) according to the business's standard records
8-12 retention policy and any applicable rule or regulation establishing
8-13 a record retention period.
8-14 (c) A credit access business that relies in good faith on a
8-15 document presented by the consumer under Subsection (a) to
8-16 establish a consumer's income has complied with this section to the
8-17 extent the income established under that document meets the
8-18 applicable requirements under this chapter.
8-19 (d) A credit access business that obtains for a consumer or
8-20 assists a consumer in obtaining an extension of consumer credit
8-21 through the Internet or other electronic means may rely on
8-22 nationally or regionally recognized database reporting systems and
8-23 may maintain a record of the database reporting system results used
8-24 to comply with Subsections (a) and (b).
8-25 (e) To establish the retail value of a motor vehicle for
8-26 purposes of this subchapter, a credit access business must:
8-27 (1) rely on a nationally or regionally recognized
8-28 vehicle appraisal guide or agree in good faith with the consumer to
8-29 the vehicle's retail value; and
8-30 (2) record the recognized or agreed-on value.
8-31 (f) For purposes of this chapter, \$28,000 is the initial
8-32 reference amount with respect to a consumer's income, and the
8-33 commissioner shall adjust this amount annually in accordance with
8-34 the Consumer Price Index.
8-35 Sec. 393.633. LOCAL ORDINANCES PREEMPTED. (a) Except as
8-36 provided by Subsection (b), a local ordinance, order, or rule
8-37 regulating a credit access business or an extension of consumer
8-38 credit that a credit access business obtains for a consumer or
8-39 assists a consumer in obtaining is preempted by this chapter.
8-40 (b) Nothing in this section affects the validity of a zoning
8-41 ordinance adopted under Chapter 211, Local Government Code.
8-42 Sec. 393.634. SINGLE-PAYMENT DEFERRED PRESENTMENT
8-43 TRANSACTION. (a) The amount advanced to a consumer under an
8-44 extension of consumer credit in the form of a single-payment
8-45 deferred presentment transaction that a credit access business
8-46 obtains for a consumer or assists a consumer in obtaining,
8-47 excluding fees, may not exceed:
8-48 (1) 25 percent of the consumer's gross monthly income,
8-49 if the consumer's gross annual income is less than the reference
8-50 amount; or
8-51 (2) 35 percent of the consumer's gross monthly income,
8-52 if the consumer is not described by Subdivision (1) and is not a
8-53 military borrower to whom a different limit applies under federal
8-54 law.
8-55 (b) The term of an original or refinanced extension of
8-56 consumer credit in the form of a single-payment deferred
8-57 presentment transaction that a credit access business obtains for a
8-58 consumer or assists a consumer in obtaining may not be less than 10
8-59 days or longer than 35 days.
8-60 (c) An extension of consumer credit in the form of a
8-61 single-payment deferred presentment transaction that a credit
8-62 access business obtains for a consumer or assists a consumer in
8-63 obtaining may not be refinanced more than four times.
8-64 (d) If a consumer who has not entered into an extended
8-65 payment plan with the credit access business in the preceding 12
8-66 months refinances a single-payment deferred presentment
8-67 transaction for the fourth time:
8-68 (1) the credit access business must offer at least one
8-69 extended payment plan to the consumer before initiating any debt

9-1 collection activities;
9-2 (2) the consumer may request, prior to the offer
9-3 required by Subdivision (1) being made, an extended payment plan at
9-4 any time on or after the date the consumer refinances the deferred
9-5 presentment transaction for the fourth time and on or before the
9-6 fifth day after the date on which the fourth refinance must be
9-7 repaid in full;
9-8 (3) to comply with the requirement of Subdivision (1),
9-9 the credit access business shall send a written notice to the
9-10 consumer disclosing the following:
9-11 (A) the amount due under the current terms of the
9-12 extension of consumer credit if the consumer declines an extended
9-13 payment plan;
9-14 (B) the amounts due on each of the installment
9-15 dates of an extended payment plan; and
9-16 (C) the date by which the consumer must accept
9-17 the extended payment plan in writing, which date shall be at least
9-18 five days after the date of such notice;
9-19 (4) the credit access business may not initiate debt
9-20 collection activities unless:
9-21 (A) the consumer fails to accept the extended
9-22 payment plan in writing on or before the deadline contained in the
9-23 notice required by Subdivision (3);
9-24 (B) the consumer declines the extended payment
9-25 plan; or
9-26 (C) the consumer fails to make a payment required
9-27 by an extended payment plan that the consumer accepted; and
9-28 (5) if the consumer declines an extended payment plan
9-29 that a credit access business is required to offer under
9-30 Subdivision (1), the consumer must sign an extended payment plan
9-31 waiver on a form prescribed by the finance commission.
9-32 (e) An extended payment plan required to be offered under
9-33 Subsection (d) must comply with Section 393.638.
9-34 (f) A credit access business may offer a consumer an
9-35 extended payment plan that provides the consumer with additional
9-36 time to repay the debts obtained through a single-payment deferred
9-37 presentment transaction, either before or after the consumer
9-38 refinances the single-payment deferred presentment transaction for
9-39 the fourth time, more than once in a 12-month period so long as the
9-40 credit access business does not assess additional fees under the
9-41 extended payment plan and the credit access business fully
9-42 describes the terms of the extended payment plan, including all due
9-43 dates and the amount due on each due date, to the consumer before
9-44 the consumer enters into the extended payment plan. An extended
9-45 payment plan offered under this subsection is not required to
9-46 comply with Section 393.638.
9-47 Sec. 393.635. MULTIPLE-PAYMENT DEFERRED PRESENTMENT
9-48 TRANSACTION. (a) The sum of all fees, principal, interest, and
9-49 other amounts due under any scheduled payment of an extension of
9-50 consumer credit in the form of a multiple-payment deferred
9-51 presentment transaction that a credit access business obtains for a
9-52 consumer or assists a consumer in obtaining may not exceed:
9-53 (1) 10 percent of the consumer's gross monthly income,
9-54 if the consumer's gross annual income is less than the reference
9-55 amount; or
9-56 (2) 15 percent of the consumer's gross monthly income,
9-57 if the consumer is not described by Subdivision (1) and is not a
9-58 military borrower to whom a different limit applies under federal
9-59 law.
9-60 (b) An extension of consumer credit in the form of a
9-61 multiple-payment deferred presentment transaction that a credit
9-62 access business obtains for a consumer or assists a consumer in
9-63 obtaining may not be payable by the consumer in more than 12
9-64 installments or have an original term of more than 180 days, and the
9-65 loan agreement must specify the number, date, and total amount due
9-66 with regard to each installment.
9-67 (c) An original or refinanced extension of consumer credit
9-68 in the form of a multiple-payment deferred presentment transaction
9-69 that a credit access business obtains for a consumer or assists a

10-1 consumer in obtaining must be payable on a fully amortizing,
 10-2 declining-principal-balance basis with substantially equal
 10-3 payments. If a credit access business precomputes its fees under a
 10-4 multiple-payment deferred presentment transaction and a consumer
 10-5 prepays in full the extension of consumer credit in that form, the
 10-6 credit access business shall refund any unearned fees to the
 10-7 consumer.

10-8 (d) The first installment of an extension of consumer credit
 10-9 in the form of a multiple-payment deferred presentment transaction
 10-10 that a credit access business obtains for a consumer or assists a
 10-11 consumer in obtaining may not be due before the 10th day after the
 10-12 date the consumer enters into the loan agreement. An installment
 10-13 may not be due before the 14th day or after the 31st day after the
 10-14 date a previous installment is due.

10-15 (e) An extension of consumer credit in the form of a
 10-16 multiple-payment deferred presentment transaction that a credit
 10-17 access business obtains for a consumer or assists a consumer in
 10-18 obtaining may be refinanced only one time, and the combined terms of
 10-19 the original extension of consumer credit and the refinanced
 10-20 extension of consumer credit may not exceed 365 days or include more
 10-21 than 24 installments.

10-22 (f) Notwithstanding Subsection (e), a credit access
 10-23 business may offer a consumer an extended payment plan in which the
 10-24 extension of consumer credit is extended beyond 365 days if the
 10-25 extended payment plan complies with Section 393.638 and if the
 10-26 credit access business fully describes the terms of the extended
 10-27 payment plan, including all due dates and the amount due on each due
 10-28 date, to the consumer before the consumer enters into the extended
 10-29 repayment plan.

10-30 Sec. 393.636. SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN.

10-31 (a) The amount advanced to a consumer under an extension of
 10-32 consumer credit in the form of a single-payment motor vehicle title
 10-33 loan that a credit access business obtains for a consumer or assists
 10-34 a consumer in obtaining, excluding fees, may not exceed the lesser
 10-35 of:

10-36 (1) six percent of the consumer's gross annual income,
 10-37 if the consumer's gross annual income is less than the reference
 10-38 amount;

10-39 (2) eight percent of the consumer's gross annual
 10-40 income, if the consumer is not described by Subdivision (1) and is
 10-41 not a military borrower to whom a different limit applies under
 10-42 federal law; or

10-43 (3) 70 percent of the retail value of the motor vehicle
 10-44 securing the debt.

10-45 (b) The term of an original or refinanced extension of
 10-46 consumer credit in the form of a single-payment motor vehicle title
 10-47 loan that a credit access business obtains for a consumer or assists
 10-48 a consumer in obtaining may not be less than 30 days or longer than
 10-49 60 days.

10-50 (c) An extension of consumer credit in the form of a
 10-51 single-payment motor vehicle title loan that a credit access
 10-52 business obtains for a consumer or assists a consumer in obtaining
 10-53 may not be refinanced more than six times.

10-54 (d) If a consumer who has not entered into an extended
 10-55 payment plan with the credit access business in the preceding 12
 10-56 months refinances a single-payment motor vehicle title loan for the
 10-57 sixth time:

10-58 (1) the credit access business must offer at least one
 10-59 extended payment plan to the consumer before initiating any
 10-60 activities to repossess the vehicle securing the debt;

10-61 (2) the consumer may request, prior to the offer
 10-62 required by Subdivision (1) being made, an extended payment plan at
 10-63 any time on or after the date the consumer refinances the motor
 10-64 vehicle title loan for the sixth time and on or before the fifth day
 10-65 after the date on which the sixth refinance must be repaid in full;

10-66 (3) to comply with the requirement of Subdivision (1),
 10-67 the credit access business shall send a written notice to the
 10-68 consumer disclosing the following:

10-69 (A) the amount due under the current terms of the

11-1 extension of consumer credit if the consumer declines an extended
 11-2 payment plan;
 11-3 (B) the amounts due on each of the installment
 11-4 dates of an extended payment plan; and
 11-5 (C) the date by which the consumer must accept
 11-6 the extended payment plan in writing, which date shall be at least
 11-7 five days after the date of such notice;
 11-8 (4) the credit access business may not repossess the
 11-9 vehicle securing the debt unless:
 11-10 (A) the consumer fails to accept the extended
 11-11 payment plan in writing on or before the deadline contained in the
 11-12 notice required by Subdivision (3);
 11-13 (B) the consumer declines the extended payment
 11-14 plan; or
 11-15 (C) the consumer fails to make a payment required
 11-16 by an extended payment plan that the consumer accepted; and
 11-17 (5) if the consumer declines an extended payment plan
 11-18 that a credit access business is required to offer under
 11-19 Subdivision (1), the consumer must sign an extended payment plan
 11-20 waiver on a form prescribed by the finance commission.
 11-21 (e) An extended payment plan required to be offered under
 11-22 Subsection (d) must comply with Section 393.638.
 11-23 (f) A credit access business may offer a consumer an
 11-24 extended payment plan that provides the consumer with additional
 11-25 time to repay the debts obtained through a single-payment motor
 11-26 vehicle title loan, either before or after the consumer refinances
 11-27 the single-payment motor vehicle title loan for the sixth time,
 11-28 more than once in a 12-month period so long as the credit access
 11-29 business does not assess additional fees under the extended payment
 11-30 plan and the credit access business fully describes the terms of the
 11-31 extended payment plan, including all due dates and the amount due on
 11-32 each due date, to the consumer before the consumer enters into the
 11-33 extended payment plan. An extended payment plan offered under this
 11-34 subsection is not required to comply with Section 393.638.
 11-35 Sec. 393.637. MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN.
 11-36 (a) The amount advanced to a consumer under an extension of
 11-37 consumer credit in the form of a multiple-payment motor vehicle
 11-38 title loan that a credit access business obtains for a consumer or
 11-39 assists a consumer in obtaining, excluding fees, may not exceed 70
 11-40 percent of the retail value of the motor vehicle securing the debt.
 11-41 (b) The sum of all fees, principal, interest, and other
 11-42 amounts due under any scheduled payment of an extension of consumer
 11-43 credit in the form of a multiple-payment motor vehicle title loan
 11-44 that a credit access business obtains for a consumer or assists a
 11-45 consumer in obtaining may not exceed:
 11-46 (1) 20 percent of the consumer's gross monthly income,
 11-47 if the consumer's gross annual income is less than the reference
 11-48 amount; or
 11-49 (2) 30 percent of the consumer's gross monthly income,
 11-50 if the consumer is not described by Subdivision (1) and is not a
 11-51 military borrower to whom a different limit applies under federal
 11-52 law.
 11-53 (c) An extension of consumer credit in the form of a
 11-54 multiple-payment motor vehicle title loan that a credit access
 11-55 business obtains for a consumer or assists a consumer in obtaining
 11-56 must be payable on a fully amortizing, declining-principal-balance
 11-57 basis with substantially equal payments. If a credit access
 11-58 business precomputes its fees under a multiple-payment motor
 11-59 vehicle title loan and a consumer prepays the loan in full, the
 11-60 credit access business shall refund any unearned fees to the
 11-61 consumer.
 11-62 (d) An extension of consumer credit in the form of a
 11-63 multiple-payment motor vehicle title loan that a credit access
 11-64 business obtains for a consumer or assists a consumer in obtaining
 11-65 may not be payable by the consumer in more than 12 installments, and
 11-66 the loan agreement must specify the number, date, and total amount
 11-67 due with regard to each installment.
 11-68 (e) The first installment of an extension of consumer credit
 11-69 in the form of a multiple-payment motor vehicle title loan that a

12-1 credit access business obtains for a consumer or assists a consumer
 12-2 in obtaining may not be due before the 10th day after the date the
 12-3 consumer enters into the loan agreement. A subsequent installment
 12-4 may not be due before the 28th day after the date the previous
 12-5 installment of the loan is due.

12-6 (f) An extension of consumer credit in the form of a
 12-7 multiple-payment motor vehicle title loan that a credit access
 12-8 business obtains for a consumer or assists a consumer in obtaining
 12-9 may not be refinanced and the loan term may not exceed 365 days,
 12-10 except as provided by Subsection (g).

12-11 (g) A credit access business may not initiate any activities
 12-12 to repossess the vehicle securing the debt under a multiple-payment
 12-13 motor vehicle title loan that a credit access business obtains for a
 12-14 consumer or assists a consumer in obtaining before offering the
 12-15 consumer at least one extended payment plan. An extended payment
 12-16 plan may cause the extension of consumer credit to extend beyond 365
 12-17 days so long as the extended payment plan complies with Section
 12-18 393.638 and the credit access business fully describes the terms of
 12-19 the extended payment plan, including all due dates and the amount
 12-20 due on each due date, to the consumer before the consumer enters
 12-21 into the extended payment plan.

12-22 (h) If the credit access business is required to offer a
 12-23 consumer an extended payment plan under Subsection (g), the credit
 12-24 access business shall send a written notice to the consumer
 12-25 disclosing the following:

12-26 (1) the amount due under the current terms of the
 12-27 extension of consumer credit if the consumer declines an extended
 12-28 payment plan;

12-29 (2) the amounts due on each of the installment dates of
 12-30 an extended payment plan; and

12-31 (3) the date by which the consumer must accept the
 12-32 extended payment plan in writing, which date shall be at least five
 12-33 days after the date of such notice.

12-34 (i) The credit access business may not repossess the vehicle
 12-35 securing the debt unless:

12-36 (1) the consumer fails to accept the extended payment
 12-37 plan in writing on or before the deadline contained in the notice
 12-38 required by Subsection (h)(3);

12-39 (2) the consumer declines the extended payment plan;

12-40 or

12-41 (3) the consumer fails to make a payment required by an
 12-42 extended payment plan that the consumer accepted.

12-43 (j) If the consumer declines the extended payment plan, the
 12-44 consumer must sign an extended payment plan waiver on a form
 12-45 prescribed by the finance commission.

12-46 Sec. 393.638. EXTENDED PAYMENT PLAN REQUIREMENTS.

12-47 (a) This section applies to extended payment plans required to be
 12-48 offered under Sections 393.634, 393.635, 393.636, and 393.637.

12-49 (b) An extended payment plan must provide for payment in at
 12-50 least:

12-51 (1) four substantially equal installments, after
 12-52 which the outstanding balance will be paid in full, with respect to
 12-53 a single-payment deferred presentment transaction or
 12-54 single-payment motor vehicle title loan; or

12-55 (2) two substantially equal installments added to the
 12-56 original and refinanced term of the extension of consumer credit,
 12-57 after which the outstanding balance, including only the fees that
 12-58 would have been due under the original extension of consumer
 12-59 credit, will be paid in full, with respect to a multiple-payment
 12-60 deferred presentment transaction or multiple-payment motor vehicle
 12-61 title loan.

12-62 (c) The period between installment payments on an extended
 12-63 payment plan may not be shorter than:

12-64 (1) 10 days, with respect to a single-payment deferred
 12-65 presentment transaction; or

12-66 (2) 30 days, with respect to a multiple-payment
 12-67 deferred presentment transaction, a single-payment motor vehicle
 12-68 title loan, or a multiple-payment motor vehicle title loan.

12-69 (d) The first payment owed under an extended payment plan

13-1 may not be due before the 10th day after the date the consumer
13-2 requests an extended payment plan.

13-3 (e) A credit access business may not assess additional fees
13-4 or assist a consumer in obtaining additional extensions of consumer
13-5 credit if the consumer is paying an extension of credit under an
13-6 extended payment plan.

13-7 (f) A consumer may pay in full a debt subject to an extended
13-8 payment plan at any time without prepayment penalties.

13-9 (g) A person may not engage in debt collection or vehicle
13-10 repossession activities for a debt subject to an extended payment
13-11 plan if the consumer is in compliance with the extended payment
13-12 plan.

13-13 (h) A person may not use a device, subterfuge, or pretense
13-14 to evade the extended payment plan requirements and limitations
13-15 imposed on a credit access business under this subchapter.

13-16 Sec. 393.639. REFINANCES. (a) Any refinance of an
13-17 extension of consumer credit that a credit access business obtains
13-18 for a consumer or assists a consumer in obtaining:

13-19 (1) must be authorized under this subchapter;

13-20 (2) must be in the same form as the original extension
13-21 of consumer credit; and

13-22 (3) must meet all the requirements applicable to the
13-23 original extension of consumer credit, including the duration,
13-24 transaction, and extended payment plan requirements under this
13-25 subchapter, including the applicable income-based or vehicle
13-26 value-based limitations under Section 393.634(a), 393.635(a),
13-27 393.636(a), or 393.637(b), except as otherwise provided by this
13-28 chapter.

13-29 (b) For purposes of this section, a single-payment deferred
13-30 presentment transaction, a multiple-payment deferred presentment
13-31 transaction, a single-payment motor vehicle title loan, and a
13-32 multiple-payment motor vehicle title loan are the different forms
13-33 of extensions of consumer credit that a credit access business may
13-34 obtain for a consumer or assist a consumer in obtaining.

13-35 (c) The terms of a refinanced extension of consumer credit
13-36 may be the same as or different from the terms of the original
13-37 extension of consumer credit.

13-38 (d) A person may not use a device, subterfuge, or pretense
13-39 to evade the refinance requirements and limitations imposed on a
13-40 credit access business under this subchapter.

13-41 Sec. 393.640. RULES. The finance commission shall adopt
13-42 any rules necessary to implement Sections 393.629-393.639.

13-43 SECTION 15. Section 411.095, Government Code, is amended to
13-44 read as follows:

13-45 Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD
13-46 INFORMATION: CONSUMER CREDIT COMMISSIONER. The consumer credit
13-47 commissioner is entitled to obtain from the department criminal
13-48 history record information that relates to a person who is an
13-49 applicant for or holder of a license under Chapter 342, 347, 348,
13-50 351, 353, ~~or~~ 371, or 393, Finance Code.

13-51 SECTION 16. Sections 393.221 and 393.601, Finance Code, are
13-52 repealed.

13-53 SECTION 17. The changes in law made by this Act apply only
13-54 to an extension of consumer credit made on or after the effective
13-55 date of this Act. An extension of consumer credit made before the
13-56 effective date of this Act is governed by the law in effect on the
13-57 date the extension of consumer credit was made, and the former law
13-58 is continued in effect for that purpose. For purposes of this
13-59 section, a refinance or renewal of an extension of consumer credit
13-60 is considered made on the date the extension of consumer credit
13-61 being refinanced or renewed was made.

13-62 SECTION 18. This Act takes effect September 1, 2013.

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