

By: Davis

S.B. No. 1716

A BILL TO BE ENTITLED

AN ACT

relating to extensions of consumer credit a credit services organization obtains for a consumer or assists a consumer in obtaining; providing a civil penalty.

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

SECTION 1. Section 393.001, Finance Code, is amended by amending Subdivision (3) and adding Subdivisions (3-a) and (5) to read as follows:

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

(A) improving a consumer's credit history or rating;

(B) obtaining an extension of consumer credit for a consumer in the form of a deferred presentment transaction or motor vehicle title loan; or

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

(3-a) "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.

(5) "Motor vehicle title loan" means a loan in which an

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

5 SECTION 2. Subchapter A, Chapter 393, Finance Code, is  
6 amended by adding Section 393.004 to read as follows:

7 Sec. 393.004. LIMITATION ON EXTENSIONS OF CONSUMER CREDIT  
8 AND REFINANCING. (a) A credit services organization may not obtain  
9 for a consumer or assist a consumer in obtaining an extension of  
10 consumer credit in any form other than in the form of a deferred  
11 presentment transaction that meets the requirements of Section  
12 393.634 or 393.635, or a motor vehicle title loan that meets the  
13 requirements of Section 393.636 or 393.637.

14 (b) Any refinance of an extension of consumer credit in the  
15 form of a deferred presentment transaction or motor vehicle title  
16 loan that a credit services organization obtains for a consumer or  
17 assists a consumer in obtaining:

18 (1) must be authorized under Subchapter G;

19 (2) may not advance additional cash to the consumer;

20 and

21 (3) must meet all the requirements under Subchapter G  
22 applicable to the original extension of consumer credit, except as  
23 specifically provided otherwise by an applicable provision of  
24 Subchapter G.

25 SECTION 3. Section 393.201(c), Finance Code, is amended to  
26 read as follows:

27 (c) A contract with a credit access business, as defined by

1 Section 393.601, for the performance of services described by  
2 Section 393.602(a) must, in addition to the requirements of  
3 Subsection (b) and Section 393.302:

4 (1) contain a statement that there is no prepayment  
5 penalty;

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

10 (3) contain a statement that a person may not threaten  
11 or pursue criminal charges against a consumer related to a check or  
12 other debit authorization provided by the consumer as security for  
13 a transaction in the absence of forgery, fraud, theft, or other  
14 criminal conduct;

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

19 (5) disclose to the consumer:

20 (A) the lender from whom the extension of  
21 consumer credit is obtained;

22 (B) the interest paid or to be paid to the lender;  
23 and

24 (C) the specific fees that will be paid to the  
25 credit access business for the business's services; and

26 (6) contain the name and address of the Office of  
27 Consumer Credit Commissioner and the telephone number of the

1 office's consumer helpline.

2 SECTION 4. Section 393.203, Finance Code, is amended to  
3 read as follows:

4 Sec. 393.203. ISSUANCE OF CONTRACT AND OTHER DOCUMENTS.

5 (a) A credit services organization shall give to the consumer, when  
6 the document is signed, a copy of the completed contract and any  
7 other document the organization requires the consumer to sign.

8 (b) The documents provided by a credit access business, as  
9 defined by Section 393.221, to a consumer under this section must be  
10 written in English, and Spanish if requested by the consumer or if  
11 the transaction is being completed in Spanish. If the consumer  
12 cannot read, the documents must be read aloud to the consumer before  
13 the consumer signs the documents.

14 SECTION 5. Section 393.221, Finance Code, is amended to  
15 read as follows:

16 Sec. 393.221. DEFINITION [~~DEFINITIONS~~]. In this  
17 subchapter, "credit access business" [+

18 [~~(1) "Credit access business"~~] means a credit services  
19 organization that obtains for a consumer or assists a consumer in  
20 obtaining an extension of consumer credit [~~in the form of a deferred~~  
21 ~~presentment transaction or a motor vehicle title loan~~].

22 [~~(2) "Deferred presentment transaction" has the~~  
23 ~~meaning assigned by Section 341.001. For purposes of this chapter,~~  
24 ~~this definition does not preclude repayment in more than one~~  
25 ~~installment. The term is also referred to as a payday loan.~~

26 [~~(3) "Motor vehicle title loan" or "auto title loan"~~  
27 ~~means a loan in which an unencumbered motor vehicle is given as~~

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

4 SECTION 6. Section 393.222, Finance Code, is amended by  
5 adding Subsection (a-1) to read as follows:

6 (a-1) A credit access business shall post, in the same  
7 manner as a notice required under Subsection (a), and provide as a  
8 separate document to a consumer, a notice prescribed by the Finance  
9 Commission of Texas regarding the availability of extended payment  
10 plans that describes the parameters of the plans.

11 SECTION 7. Section 393.223(a), Finance Code, is amended to  
12 read as follows:

13 (a) Before performing services described by Section 393.221  
14 [~~393.221(1)~~], a credit access business must provide to a consumer a  
15 disclosure adopted by rule of the Finance Commission of Texas [~~that~~  
16 ~~discloses the following~~] in a form prescribed by the commission,  
17 and if requested by the consumer, a translation of the disclosure in  
18 Spanish, that:

19 (1) discloses the interest, fees, and annual  
20 percentage rates, as applicable, to be charged on a deferred  
21 presentment transaction or on a motor vehicle title loan, as  
22 applicable, in comparison to interest, fees, and annual percentage  
23 rates to be charged on other alternative forms of consumer debt;

24 (2) discloses the amount of accumulated fees a  
25 consumer would incur by renewing or refinancing a deferred  
26 presentment transaction or motor vehicle title loan that remains  
27 outstanding for a period of two weeks, one month, two months, and

1 three months; ~~and~~

2 (3) provides information regarding the typical  
3 pattern of repayment of deferred presentment transactions and motor  
4 vehicle title loans; and

5 (4) references consumer credit counseling agencies  
6 that provide financial education and training or cash assistance to  
7 borrowers.

8 SECTION 8. Section 393.304, Finance Code, is amended to  
9 read as follows:

10 Sec. 393.304. FALSE OR MISLEADING REPRESENTATION OR  
11 STATEMENT. A credit services organization or a representative of  
12 the organization may not:

13 (1) make or use a false or misleading representation  
14 in the offer or sale of the services of the organization,  
15 including~~+~~

16 [~~(A)~~] guaranteeing to "erase bad credit" or words  
17 to that effect unless the representation clearly discloses this can  
18 be done only if the credit history is inaccurate or obsolete~~+, and~~

19 [~~(B)~~ ~~guaranteeing an extension of consumer~~  
20 ~~credit regardless of the person's credit history unless the~~  
21 ~~representation clearly discloses the eligibility requirements for~~  
22 ~~obtaining the extension~~]; or

23 (2) make, or advise a consumer to make, a statement  
24 relating to a consumer's credit worthiness, credit standing, or  
25 credit capacity that the person knows, or should know by the  
26 exercise of reasonable care, to be false or misleading to a:

27 (A) consumer reporting agency; or

1 (B) person who has extended consumer credit to a  
2 consumer or to whom a consumer is applying for an extension of  
3 consumer credit.

4 SECTION 9. Subchapter D, Chapter 393, Finance Code, is  
5 amended by adding Section 393.308 to read as follows:

6 Sec. 393.308. PROHIBITION ON OBTAINING CERTAIN LOANS OR  
7 EXTENSIONS OF CREDIT. A credit services organization may not:

8 (1) obtain for a consumer or assist a consumer in  
9 obtaining a loan or other extension of credit that is not in the  
10 form of a deferred presentment transaction or motor vehicle title  
11 loan; or

12 (2) charge or receive from a consumer a fee or other  
13 valuable consideration in connection with a loan or other extension  
14 of credit that is not a deferred presentment transaction or motor  
15 vehicle title loan.

16 SECTION 10. Section 393.601(2), Finance Code, is amended to  
17 read as follows:

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

22 SECTION 11. Section 393.602, Finance Code, is amended to  
23 read as follows:

24 Sec. 393.602. APPLICABILITY. (a) This subchapter applies  
25 only to a credit services organization that obtains for a consumer  
26 or assists a consumer in obtaining an extension of consumer credit  
27 [~~in the form of~~].

1           ~~[(1) a deferred presentment transaction; or~~  
2           ~~[(2) a motor vehicle title loan].~~

3           (b) A credit access business may assess fees as agreed to  
4 between the parties for ~~[its]~~ services performed to obtain an  
5 extension of consumer credit for a consumer or assist a consumer in  
6 obtaining an extension of consumer credit and for services  
7 described by Section 393.001(3)(A) or (C) ~~[as agreed to between the~~  
8 ~~parties]~~. A credit access business fee may be calculated daily,  
9 biweekly, monthly, or on another periodic basis. A credit access  
10 business is permitted to charge amounts allowed by other laws, as  
11 applicable. A fee may not be charged unless it is disclosed.

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

18           SECTION 12. Section 393.604(a), Finance Code, is amended to  
19 read as follows:

20           (a) An application for a license under this subchapter must:  
21               (1) be under oath;  
22               (2) give the approximate location from which the  
23 business is to be conducted;  
24               (3) identify the business's principal parties in  
25 interest;  
26               (4) contain the name, physical address, and telephone  
27 number of all third-party lender organizations:



1           (A) with which the business contracts to provide  
2 services described by Section 393.602(a); or

3           (B) from which the business arranges extensions  
4 of consumer credit [~~described by Section 393.602(a)~~]; and

5           (5) contain other relevant information that the  
6 commissioner requires for the findings required under Section  
7 393.607.

8           SECTION 13. Sections 393.622(a) and (b), Finance Code, are  
9 amended to read as follows:

10           (a) The finance commission may:

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

13                 (2) adopt rules with respect to the quarterly  
14 reporting by a credit access business licensed under this  
15 subchapter of summary business information relating to extensions  
16 of consumer credit the business obtained for a consumer or assisted  
17 a consumer in obtaining [~~described by Section 393.602(a)~~]; and

18                 (3) adopt rules with respect to periodic examination  
19 by the office relating to extensions of consumer credit the  
20 business obtained for a consumer or assisted a consumer in  
21 obtaining [~~described by Section 393.602(a)~~], including rules  
22 related to charges for defraying the reasonable cost of conducting  
23 the examinations.

24           (b) The finance commission may adopt rules under this  
25 section to allow the commissioner to review, as part of a periodic  
26 examination, any relevant contracts between the credit access  
27 business and the third-party lender organizations with which the

1 credit access business contracts to provide services described by  
2 Section 393.602(a) or from which the business arranges extensions  
3 of consumer credit [~~described by Section 393.602(a)~~]. A contract  
4 or information obtained by the commissioner under this section is  
5 considered proprietary and confidential to the respective parties  
6 to the contract, and is not subject to disclosure under Chapter 552,  
7 Government Code.

8 SECTION 14. Section 393.625, Finance Code, is amended to  
9 read as follows:

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

17 (b) With respect to a consumer who is a "covered member" or a  
18 "dependent" of a covered member, as those terms are defined by 10  
19 U.S.C. Section 987, the term of an extension of consumer credit,  
20 including all renewals and refinances, obtained for the consumer by  
21 a credit access business or that a credit access business assists  
22 the consumer in obtaining may not exceed 90 days.

23 SECTION 15. Section 393.626, Finance Code, is amended to  
24 read as follows:

25 Sec. 393.626. DEBT COLLECTION PRACTICES. A violation of  
26 Chapter 392 by a credit access business with respect to obtaining  
27 for a consumer or assisting a consumer in obtaining an extension of

1 consumer credit [~~described by Section 393.602(a)~~] constitutes a  
2 violation of this subchapter.

3 SECTION 16. Section 393.627, Finance Code, is amended to  
4 read as follows:

5 Sec. 393.627. QUARTERLY REPORT TO COMMISSIONER. A credit  
6 access business shall file a quarterly report with the commissioner  
7 on a form prescribed by the commissioner that provides the  
8 following information relating to extensions of consumer credit  
9 [~~described by Section 393.602(a)~~] during the preceding quarter:

10 (1) the number of consumers for whom the business  
11 obtained or assisted in obtaining [~~these~~] extensions of consumer  
12 credit;

13 (2) the number of [~~these~~] extensions of consumer  
14 credit obtained by the business or that the business assisted  
15 consumers in obtaining;

16 (3) the number of refinancing transactions of the  
17 extensions of consumer credit described by Subdivision (2);

18 (4) the number of consumers refinancing the extensions  
19 of consumer credit described by Subdivision (2);

20 (5) the number of consumers refinancing more than once  
21 the extensions of consumer credit described by Subdivision (2);

22 (6) the average amount of the extensions of consumer  
23 credit described by Subdivision (2);

24 (7) the total amount of fees charged by the business  
25 for the activities described by Subdivision (1);

26 (8) the number of vehicles surrendered or repossessed  
27 under the terms of an extension of consumer credit in the form of a

1 motor vehicle title loan obtained by the business or that the  
2 business assisted a consumer in obtaining;

3 (9) the mean, median, and mode of the number of  
4 extensions of consumer credit obtained by consumers as a result of  
5 entering into the extensions of consumer credit described by  
6 Subdivision (2); and

7 (10) any related information the commissioner  
8 determines necessary.

9 SECTION 17. Subchapter G, Chapter 393, Finance Code, is  
10 amended by adding Sections 393.629, 393.630, 393.631, 393.632,  
11 393.634, 393.635, 393.636, 393.637, 393.638 and 393.639 to read as  
12 follows:

13 Sec. 393.629. GENERAL LIMITATIONS ON EXTENSIONS OF CONSUMER  
14 CREDIT. (a) The term of an extension of consumer credit obtained  
15 for a consumer by a credit access business or that a credit access  
16 business assists a consumer in obtaining may not exceed 180 days.

17 (b) For purposes of this section, an extension of consumer  
18 credit that is made to a consumer on or before the seventh day after  
19 the date the consumer has paid a previous extension of consumer  
20 credit made by the same person is considered a refinance or renewal  
21 of the previous debt.

22 (c) Notwithstanding any other provision of law, the  
23 proceeds of the sale of a repossessed motor vehicle that secured an  
24 extension of consumer credit shall satisfy all outstanding and  
25 unpaid indebtedness under that extension of credit, and the  
26 consumer is not liable for any deficiency resulting from the sale  
27 unless the consumer has committed fraud in obtaining the extension

1 of consumer credit.

2 (d) Any fee charged to a consumer for the repossession of a  
3 motor vehicle given as security for an extension of consumer credit  
4 must be reasonable.

5 (e) With a consumer's written consent, a debt incurred under  
6 an extension of consumer credit that a credit access business  
7 obtained for the consumer or assisted the consumer in obtaining may  
8 be sold to another credit access business licensed under this  
9 subchapter. All transaction limits applicable to the debt before  
10 the sale apply to the debt after the debt is sold, except that the  
11 term of the extension of consumer credit may not exceed 180 days,  
12 beginning on the date the debt is sold. The sale of a debt under  
13 this subsection is considered to be a refinance of the debt for  
14 purposes of the applicable transaction limits.

15 (f) Before obtaining for a consumer or assisting a consumer  
16 in obtaining an extension of consumer credit, a credit access  
17 business shall consider the ability of the consumer to repay the  
18 debt within the term provided by law for the original extension of  
19 credit and any authorized renewal or refinance.

20 (g) A credit access business may not obtain for a consumer  
21 or assist a consumer in obtaining an extension of consumer credit in  
22 the form of a deferred presentment transaction or motor vehicle  
23 title loan unless the loan contract provides that the lender must  
24 accept partial repayment of the principal balance of the loan from  
25 the consumer, with no additional fees or penalties, at any time  
26 during regular business hours.

27 Sec. 393.630. LIMITATION ON OUTSTANDING DEBT. (a) A

1 consumer may have only one outstanding debt from an extension of  
2 consumer credit that a credit access business obtained for the  
3 consumer or assisted the consumer in obtaining.

4 (b) To obtain an extension of consumer credit facilitated  
5 through the services of a credit access business, a consumer must  
6 sign a written certification stating that the consumer:

7 (1) at that time has no other outstanding debt from an  
8 extension of consumer credit that any credit access business  
9 obtained for the consumer or assisted the consumer in obtaining;

10 (2) has not owed a debt subject to an extended payment  
11 plan that a credit access business obtained for the consumer or  
12 assisted the consumer in obtaining during the preceding 14 days;  
13 and

14 (3) has not gone into default on a debt that a credit  
15 access business obtained for the consumer or assisted the consumer  
16 in obtaining during the preceding 30 days.

17 (c) For purposes of Subsection (b)(3), a consumer is not  
18 considered in default if the consumer made a payment on a debt on or  
19 before the 10th day after the date the payment was due.

20 (d) A credit access business shall in good faith verify that  
21 a consumer is not falsifying the certification required by  
22 Subsection (b), to the best knowledge and ability of the person  
23 acting on behalf of the credit access business for that  
24 transaction.

25 (e) A person acting on behalf of a credit access business  
26 has satisfied the requirement of Subsection (d) if the person  
27 considers all information that the consumer shares with the person

1 in negotiating the transaction and if the person makes a reasonable  
2 effort to verify the consumer's representations with any records  
3 that the credit access business typically consults in the normal  
4 course of its business.

5 (f) A consumer who falsifies statements contained in the  
6 certification violates this section.

7 (g) A credit access business or a consumer who violates this  
8 section is subject to a civil penalty in an amount not to exceed  
9 \$1,000 for each violation.

10 (h) The finance commission shall adopt rules to implement  
11 this section.

12 Sec. 393.631. INSUFFICIENT FUNDS CHARGE. (a) This section  
13 applies to the presentation for payment of a personal check or  
14 authorization to debit a deposit account exchanged for a cash  
15 advance under a deferred presentment transaction that was obtained  
16 for a consumer by a credit access business or that a credit access  
17 business assisted a consumer in obtaining.

18 (b) If there are insufficient funds in the account to pay  
19 the check or make the debit on the date the check or authorization  
20 to debit is presented in accordance with the terms of the deferred  
21 presentment transaction, the consumer may not be charged more than  
22 \$25 in the aggregate, regardless of how many times presentation is  
23 made for payment on the account.

24 (c) A credit access business may not present a check or  
25 authorization to debit more than twice without written consent of  
26 the consumer.

27 Sec. 393.632. EXCESS PROCEEDS FROM SALE OF REPOSSESSED

1 VEHICLE. A credit access business may not obtain for a consumer or  
2 assist a consumer in obtaining an extension of consumer credit in  
3 the form of a motor vehicle title loan unless the loan contract  
4 provides that if the vehicle securing the loan is repossessed and  
5 subsequently sold for a price that exceeds the amount that the  
6 consumer owes on the loan, the lender shall return to the consumer  
7 the excess amount.

8 Sec. 393.634. SINGLE-PAYMENT DEFERRED PRESENTMENT  
9 TRANSACTION. (a) The principal amount of a cash advance made under  
10 an extension of consumer credit in the form of a single-payment  
11 deferred presentment transaction that a credit access business  
12 obtains for a consumer or assists a consumer in obtaining may not  
13 exceed 20 percent of the consumer's gross monthly income.

14 (b) The term of an original or refinanced extension of  
15 consumer credit in the form of a single-payment deferred  
16 presentment transaction that a credit access business obtains for a  
17 consumer or assists a consumer in obtaining may not be less than 10  
18 days.

19 (c) An extension of consumer credit in the form of a  
20 single-payment deferred presentment transaction that a credit  
21 access business obtains for a consumer or assists a consumer in  
22 obtaining may not be refinanced more than three times.

23 (d) If a consumer has refinanced a single-payment deferred  
24 presentment transaction described by Subsection (c) three times:

25 (1) the credit access business shall offer an extended  
26 payment plan to the consumer, unless the consumer has entered into  
27 two or more extended payment plans in the preceding 12 months; and



1           (2) the consumer may request an extended payment plan  
2 at any time on or after the date the consumer refinances the  
3 single-payment deferred presentment transaction for the third time  
4 and on or before the date the deferred presentment transaction must  
5 be repaid in full.

6           (e) The combined interest and fees for a deferred  
7 presentment transaction may not exceed 15 percent of the amount  
8 advanced.

9           (f) An extended payment plan authorized by Subsection (d)  
10 must comply with Section 393.638.

11           Sec. 393.635. MULTIPLE-PAYMENT DEFERRED PRESENTMENT  
12 TRANSACTION. (a) The sum of all scheduled payments due in a single  
13 month under an extension of consumer credit in the form of a  
14 multiple-payment deferred presentment transaction that a credit  
15 access business obtains for a consumer or assists a consumer in  
16 obtaining may not exceed:

17           (1) 15 percent of the consumer's gross monthly income,  
18 if the consumer's annual income is not more than 125 percent of the  
19 federal poverty level for a family of four; or

20           (2) 20 percent of the consumer's gross monthly income,  
21 if the consumer is not described by Subdivision (1) and is not a  
22 military borrower to whom a different limit applies under federal  
23 law.

24           (b) An extension of consumer credit in the form of a  
25 multiple-payment deferred presentment transaction that a credit  
26 access business obtains for a consumer or assists a consumer in  
27 obtaining may not be payable by the consumer in more than 12

1 installments, and the loan agreement must specify the number, date,  
2 and total amount due with regard to each installment.

3 (c) An extension of consumer credit in the form of a  
4 multiple-payment deferred presentment transaction that a credit  
5 access business obtains for a consumer or assists a consumer in  
6 obtaining must be payable on a fully amortizing, declining  
7 principal balance basis with substantially equal payments.

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

15 (e) An extension of consumer credit in the form of a  
16 multiple-payment deferred presentment transaction that a credit  
17 access business obtains for a consumer or assists a consumer in  
18 obtaining may not be refinanced.

19 Sec. 393.636. SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN. (a)  
20 The principal amount of a cash advance made under an extension of  
21 consumer credit in the form of a single-payment motor vehicle title  
22 loan that a credit access business obtains for a consumer or assists  
23 a consumer in obtaining may not exceed the lesser of:

24 (1) three percent of the consumer's gross annual  
25 income; or

26 (2) 70 percent of the retail value of the motor vehicle  
27 securing the debt.

1       (b) The term of an original or refinanced extension of  
2 consumer credit in the form of a single-payment motor vehicle title  
3 loan that a credit access business obtains for a consumer or assists  
4 a consumer in obtaining may not be less than 30 days.

5       (c) An extension of consumer credit in the form of a  
6 single-payment motor vehicle title loan that a credit access  
7 business obtains for a consumer or assists a consumer in obtaining  
8 may not be refinanced more than three times.

9       (d) Beginning with the first refinance and at each  
10 successive refinance after the first refinance, the minimum  
11 required payment or finance charge must reduce the principal  
12 balance by at least 10 percent of the original principal balance of  
13 the motor vehicle title loan.

14       (e) If a consumer has refinanced a single-payment motor  
15 vehicle title loan described by Subsection (c) three times:

16               (1) the credit access business must offer an extended  
17 payment plan to the consumer before initiating any activities to  
18 repossess the vehicle securing the debt; and

19               (2) the consumer may request an extended payment plan  
20 at any time on or after the date the consumer refinances the motor  
21 vehicle title loan for the third time and on or before the date the  
22 motor vehicle title loan must be repaid in full.

23       (f) A motor vehicle title loan may provide for a finance  
24 charge that does not exceed in the aggregate:

25               (1) 20 percent a month on the portion of the cash  
26 advance that does not exceed \$700;

27               (2) 18 percent a month on the portion of the cash

1 advance that is greater than \$700 but does not exceed \$1,400; and  
2 (3) 15 percent a month on the portion of the cash  
3 advance that is greater than \$1,400.

4 (g) An extended payment plan authorized by Subsection (d)  
5 must comply with Section 393.638.

6 Sec. 393.637. MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN.

7 (a) The principal amount of a cash advance made under an extension  
8 of consumer credit in the form of a multiple-payment motor vehicle  
9 title loan that a credit access business obtains for a consumer or  
10 assists a consumer in obtaining may not exceed 70 percent of the  
11 retail value of the motor vehicle securing the debt.

12 (b) A scheduled payment under a contract for an extension of  
13 consumer credit in the form of a multiple-payment motor vehicle  
14 title loan that a credit access business obtains for a consumer or  
15 assists a consumer in obtaining may not exceed:

16 (1) 15 percent of the consumer's gross monthly income,  
17 if the consumer's annual income is not more than 125 percent of the  
18 federal poverty level for a family of four; or

19 (2) 20 percent of the consumer's gross monthly income,  
20 if the consumer is not described by Subdivision (1) and is not a  
21 military borrower to whom a different limit applies under federal  
22 law.

23 (c) An extension of consumer credit in the form of a  
24 multiple-payment motor vehicle title loan that a credit access  
25 business obtains for a consumer or assists a consumer in obtaining  
26 must be payable on a fully amortizing, declining principal balance  
27 basis with substantially equal payments.

1       (d) An extension of consumer credit in the form of a  
2 multiple-payment motor vehicle title loan that a credit access  
3 business obtains for a consumer or assists a consumer in obtaining  
4 may not be payable by the consumer in more than six installments,  
5 and the loan agreement must specify the number, date, and total  
6 amount due with regard to each installment.

7       (e) The first installment of an extension of consumer credit  
8 in the form of a multiple-payment motor vehicle title loan that a  
9 credit access business obtains for a consumer or assists a consumer  
10 in obtaining may not be due before the 10th day after the date the  
11 consumer enters into the loan agreement. A subsequent installment  
12 may not be due before the 30th day after the date the previous  
13 installment of the loan is due.

14       (f) An extension of consumer credit in the form of a  
15 multiple-payment motor vehicle title loan that a credit access  
16 business obtains for a consumer or assists a consumer in obtaining  
17 may not be refinanced.

18       (g) A credit access business may not initiate any activities  
19 to repossess the vehicle securing the debt under a multiple-payment  
20 motor vehicle title loan that a credit access business obtains for a  
21 consumer or assists a consumer in obtaining before offering the  
22 consumer an extended payment plan. An extended payment plan  
23 authorized by this subsection must comply with Section 393.638.

24       Sec. 393.638. EXTENDED PAYMENT PLAN REQUIREMENTS. (a)  
25 This section applies to extended payment plans permitted under  
26 Sections 393.634, 393.636, and 393.637.

27       (b) An extended payment plan must provide for payment in at

1 least:

2 (1) four substantially equal installments, after  
3 which the outstanding balance will be paid in full, with respect to  
4 a single-payment deferred presentment transaction or  
5 single-payment motor vehicle title loan; or

6 (2) two additional substantially equal installments,  
7 after which the outstanding balance, including only the fees and  
8 interest that would have been due under the original extension of  
9 consumer credit, will be paid in full, with respect to a  
10 multiple-payment motor vehicle title loan.

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

13 (1) the term of the original extension of credit, with  
14 respect to a single-payment deferred presentment transaction; or

15 (2) 30 days, with respect to a single-payment or  
16 multiple-payment motor vehicle title loan.

17 (d) The first payment owed under an extended payment plan  
18 may not be due before the 10th day after the date the consumer  
19 requests an extended payment plan.

20 (e) A credit access business may not assess additional fees  
21 or interest or assist a consumer in obtaining additional extensions  
22 of consumer credit if the consumer is paying an extension of credit  
23 under an extended payment plan.

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

26 (g) A person may not engage in debt collection or vehicle  
27 repossession activities for a debt subject to an extended payment

1 plan if the consumer is in compliance with the extended payment  
2 plan.

3 Sec. 393.639. RULES. The finance commission may adopt any  
4 rules necessary to implement Sections 393.629, 393.630, 393.631,  
5 393.632, 393.634, 393.635, 393.636, 393.637 and 393.638.

6 SECTION 18. Sections 393.601(3) and (5), Finance Code, are  
7 repealed.

8 SECTION 19. The consumer credit commissioner shall prepare  
9 and publish a report not later than December 1, 2014, regarding the  
10 need for comprehensive data reporting and the value and feasibility  
11 of a real-time statewide database system to provide data for policy  
12 development and to enhance the evaluation of a borrower's ability  
13 to repay a deferred presentment transaction or motor vehicle title  
14 loan. In reviewing the value and feasibility of a real-time  
15 statewide database system, as part of the study, the commissioner  
16 should consider the use of a database verification fee collected  
17 from the borrower to recover the actual costs of the system.

18 SECTION 20. The changes in law made by this Act apply only  
19 to an extension of credit made on or after the effective date of  
20 this Act. An extension of credit made before the effective date of  
21 this Act is governed by the law in effect on the date the extension  
22 of credit was made, and the former law is continued in effect for  
23 that purpose.

24 SECTION 21. This Act takes effect September 1, 2013.