

By: Giddings

H.B. No. 1020

A BILL TO BE ENTITLED

AN ACT

relating to credit services organizations and extensions of consumer credit facilitated by credit services organizations; providing civil and administrative penalties.

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

SECTION 1. Subchapter M, Chapter 342, Finance Code, is amended by adding Section 342.607 to read as follows:

Sec. 342.607. DEFERRED PRESENTMENT TRANSACTION DATA COLLECTION SYSTEM. (a) In this section, "credit access business" has the meaning assigned by Section 393.001(2-a).

(b) The commissioner shall establish and implement a database for the compilation of information relating to deferred presentment transactions that allows the commissioner or persons who offer, service, or broker the transactions, including a credit access business, to determine:

(1) whether an individual seeking to enter into a deferred presentment transaction with the person has any outstanding deferred presentment transactions entered into with other persons;

(2) the total number of outstanding deferred presentment transactions entered into by the individual described by Subdivision (1) with other persons; and

(3) whether the person is in compliance with this section and other provisions of law governing deferred presentment

1 transactions.

2 (c) The commissioner shall contract with a third-party
3 vendor to operate the database required by this section. In
4 selecting the vendor, the commissioner shall:

5 (1) consider the vendor's ability to meet the
6 requirements of this section;

7 (2) consider the cost of the vendor's services;

8 (3) give strong consideration to the vendor's ability
9 to prevent fraud, abuse, and other unlawful activity associated
10 with deferred presentment transactions;

11 (4) give strong consideration to whether the vendor
12 operates a similar database in another state; and

13 (5) give strong consideration to whether the vendor's
14 operation of the database would facilitate the enforcement of laws
15 governing deferred presentment transactions and the persons who
16 offer, service, or broker those transactions.

17 (d) The commissioner shall ensure that:

18 (1) the third-party vendor operating the database
19 operates the database in accordance with this section and rules
20 adopted by the finance commission under this section; and

21 (2) the database established under this section:

22 (A) allows persons required to submit
23 information to the database to submit and access the required
24 information from any location in this state;

25 (B) provides real-time access by the
26 commissioner to information contained in the database from any
27 location in this state; and

1 (C) contains safeguards to ensure that
2 information contained in the database may not be accessed by an
3 unauthorized person.

4 (e) A person who offers, services, or brokers a deferred
5 presentment transaction, including a credit access business, shall
6 submit to the database at the time the transaction is entered into
7 data relating to the transaction that the commissioner, by rule of
8 the finance commission, determines necessary.

9 (f) Information in the database is confidential and is not
10 subject to disclosure under Chapter 552, Government Code.

11 (g) The finance commission shall adopt rules as necessary to
12 implement this section, including rules:

13 (1) relating to the form and content of information to
14 be submitted to the database;

15 (2) prescribing a fee to be paid by persons required to
16 submit information to be included in the database under Subsection
17 (e); and

18 (3) establishing requirements for the retention,
19 archiving, and deletion of information entered into or stored in
20 the database.

21 (h) The third-party vendor shall charge a person who offers,
22 services, or brokers a deferred presentment transaction a fee to
23 access or use the database under this section. The fee may be
24 charged on a per-transaction basis and may be used only to pay the
25 costs associated with the maintenance of the database under this
26 section. The finance commission by rule must approve the amount of
27 the fee, which may not exceed \$1 per deferred presentment

1 transaction.

2 (i) A person who ceases to offer, service, or broker
3 deferred presentment transactions shall continue to submit
4 information required by this section for any transactions that are
5 outstanding and with respect to which the person continues
6 collection efforts. Not later than the 10th day after the date the
7 person ceases to offer deferred presentment transactions, the
8 person shall submit to the commissioner for approval a plan for
9 continuing compliance with this section. The commissioner shall
10 promptly approve or disapprove the plan. The commissioner may
11 require a person to whom this subsection applies to submit a new or
12 modified plan.

13 SECTION 2. Subsection (a), Section [392.301](#), Finance Code,
14 is amended to read as follows:

15 (a) In debt collection, a debt collector may not use
16 threats, coercion, or attempts to coerce that employ any of the
17 following practices:

18 (1) using or threatening to use violence or other
19 criminal means to cause harm to a person or property of a person;

20 (2) accusing falsely or threatening to accuse falsely
21 a person of fraud or any other crime;

22 (3) representing or threatening to represent to any
23 person other than the consumer that a consumer is wilfully refusing
24 to pay a nondisputed consumer debt when the debt is in dispute and
25 the consumer has notified in writing the debt collector of the
26 dispute;

27 (4) threatening to sell or assign to another the

1 obligation of the consumer and falsely representing that the result
2 of the sale or assignment would be that the consumer would lose a
3 defense to the consumer debt or would be subject to illegal
4 collection attempts;

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

7 (6) threatening to file a charge, complaint, or
8 criminal action against a debtor when the debtor has not violated a
9 criminal law;

10 (7) threatening that nonpayment of a consumer debt
11 will result in the seizure, repossession, or sale of the person's
12 property without proper court proceedings;

13 (8) referencing a certification signed by the consumer
14 as required by Section 393.630(b) or any penalties associated with
15 a violation of that section; or

16 (9) [~~8~~] threatening to take an action prohibited by
17 law.

18 SECTION 3. Section 393.001, Finance Code, is amended by
19 amending Subdivisions (1) and (3) and adding Subdivisions (1-a),
20 (2-a), (3-a), (4-a), (5), (6), (7), (8), (9), (10), (11), (12), and
21 (13) to read as follows:

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

24 (1-a) "Consumer" means an individual who is solicited
25 to purchase or who purchases the services of a credit services
26 organization.

27 (2-a) "Credit access business" means a credit services

1 organization that obtains for a consumer or assists a consumer in
2 obtaining an extension of consumer credit.

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

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

9 (B) obtaining an extension of consumer credit for
10 a consumer in the form of a single-payment deferred presentment
11 transaction, a multiple-payment deferred presentment transaction,
12 a single-payment motor vehicle title loan, or a multiple-payment
13 motor vehicle title loan; or

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

16 (3-a) "Deferred presentment transaction" means a
17 single-payment or multiple-payment transaction defined as a
18 deferred presentment transaction by Section 341.001 in connection
19 with which the consumer is not required to provide real or personal
20 property as security.

21 (4-a) "Finance commission" means the Finance
22 Commission of Texas.

23 (5) "Military borrower" includes a "covered member" or
24 a "dependent" of a covered member, as those terms are defined by 10
25 U.S.C. Section 987 or a successor statute.

26 (6) "Motor vehicle title loan" means a single-payment
27 or multiple-payment loan in which an unencumbered motor vehicle is

1 given as the only security for the loan, except as provided by
2 Section 393.629(c). The term does not include a retail installment
3 transaction under Chapter 348 or another loan made to finance the
4 purchase of a motor vehicle.

5 (7) "Multiple-payment deferred presentment
6 transaction" means a deferred presentment transaction that is not a
7 single-payment deferred presentment transaction.

8 (8) "Multiple-payment motor vehicle title loan" means
9 a motor vehicle title loan that is not a single-payment motor
10 vehicle title loan.

11 (9) "Office" means the Office of Consumer Credit
12 Commissioner.

13 (10) "Refinance" means a rollover, renewal, or other
14 type of transaction in which all or a portion of the principal,
15 fees, or interest due under an outstanding extension of consumer
16 credit becomes due on a later date. The term does not include an
17 extended payment plan described by Section 393.638. The term
18 includes a new extension of consumer credit that:

19 (A) consists of debt arising from principal,
20 fees, or interest that was not paid in full under an outstanding or
21 previous extension of consumer credit; or

22 (B) is made on or before the seventh day after the
23 date a previous extension of consumer credit that a credit access
24 business obtained for a consumer or assisted a consumer in
25 obtaining was paid in full.

26 (11) "Service" means an act, conduct, or activity that
27 is performed or to be performed for a consumer's benefit or that

1 involves assisting a consumer in obtaining an extension of consumer
2 credit, including:

3 (A) negotiating or closing a loan or other
4 extension of consumer credit;

5 (B) issuing a guaranty, letter of credit, or
6 other credit enhancement; and

7 (C) servicing an extension of consumer credit.

8 (12) "Single-payment deferred presentment
9 transaction" means a deferred presentment transaction for which the
10 entire cash advance, interest, and fees are required under the
11 terms of the transaction to be payable in a single payment.

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

16 SECTION 4. Section 393.201, Finance Code, is amended by
17 amending Subsections (b) and (c) and adding Subsection (d) to read
18 as follows:

19 (b) In addition to the notice required by Section 393.202,
20 the contract must:

21 (1) contain the payment terms, including the total
22 payments to be made by the consumer, whether to the organization or
23 to another person;

24 (2) fully describe the services the organization shall
25 [is to] perform for the consumer or on behalf of a third party,
26 including each guarantee and each promise of a full or partial
27 refund and the estimated period for performing and completing all

1 of the services, not to exceed 180 days or the period permitted
2 under an extended payment plan authorized by Subchapter G;

3 (3) contain the address of the organization's
4 principal place of business; and

5 (4) contain the name and address of the organization's
6 agent in this state authorized to receive service of process.

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

11 (1) contain a statement that there is no prepayment
12 penalty;

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

17 (3) contain a statement that a person may not threaten
18 or pursue criminal charges against a consumer related to a check or
19 other debit authorization provided by the consumer as security for
20 a transaction in the absence of forgery, fraud, theft, or other
21 criminal conduct;

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

26 (5) disclose to the consumer:

27 (A) the lender from whom the extension of

1 consumer credit is obtained;

2 (B) the interest paid or to be paid to the lender;
3 and

4 (C) the specific fees that will be paid to the
5 credit access business for the business's services and to any third
6 party; [and]

7 (6) contain the name and address of the office, the
8 office's website address, [Office of Consumer Credit Commissioner]
9 and the telephone number of the office's consumer helpline; and

10 (7) use model contract clauses adopted by rule of the
11 finance commission.

12 (d) The finance commission shall adopt rules to implement
13 this section.

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

16 (a-1) A credit access business shall post, in the same
17 manner as a notice required under Subsection (a), and provide as a
18 separate document to a consumer, a notice prescribed by the finance
19 commission regarding the availability of extended payment plans
20 that describes the basic features of the plans.

21 SECTION 6. Subsection (a), Section 393.223, Finance Code,
22 is amended to read as follows:

23 (a) Before performing services described by Section
24 393.001(2-a) [393.221(1)], a credit access business must provide to
25 a consumer a disclosure adopted by rule of the finance commission
26 [Finance Commission of Texas] that discloses the following in a
27 form prescribed by the commission:

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

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

10 (3) information regarding the typical pattern of
11 repayment of deferred presentment transactions and motor vehicle
12 title loans; and

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

16 SECTION 7. Subchapter D, Chapter 393, Finance Code, is
17 amended by adding Sections 393.308, 393.309, and 393.310 to read as
18 follows:

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

27 (b) A credit services organization may obtain for a consumer

1 or assist a consumer in obtaining a loan or other extension of
2 consumer credit only if the loan or extension of consumer credit is
3 in the form of a deferred presentment transaction or motor vehicle
4 title loan described by Subsection (a) made by a third-party lender
5 that is unaffiliated with the credit services organization and does
6 not have any ownership, directors, officers, members, or employees
7 in common with the credit services organization.

8 (c) A credit services organization may not charge or receive
9 from a consumer a fee or other valuable consideration in connection
10 with a loan or other extension of consumer credit that is not a
11 deferred presentment transaction or motor vehicle title loan
12 described by Subsection (b).

13 (d) The finance commission may adopt rules to implement this
14 section.

15 (e) Notwithstanding Section 14.252, the commissioner may
16 assess an administrative penalty in an amount not to exceed \$2,000
17 for each violation against a credit access business that violates
18 this section, regardless of whether the violation is knowing or
19 wilful.

20 (f) A consumer may maintain an action under this section for
21 any violation of this section. In any suit filed under this
22 section, a consumer may recover:

23 (1) damages in an amount not to exceed \$10,000 for each
24 violation; and

25 (2) court costs and reasonable and necessary
26 attorney's fees.

27 Sec. 393.309. RESTRICTION ON AMOUNT CHARGED IN CONNECTION

1 WITH EXTENSION OF CONSUMER CREDIT. Total charges in connection
2 with an extension of consumer credit that a credit services
3 organization obtains for a consumer or assists the consumer in
4 obtaining, including interest, lender charges, and any valuable
5 consideration received by the credit services organization, may not
6 exceed the permissible interest and fee and other charges for a
7 similar type of consumer loan under Subchapter F, Chapter 342.

8 Sec. 393.310. EVASION OF MUNICIPAL ORDINANCE PROHIBITED.

9 (a) A credit access business that is subject to the regulation of a
10 municipal ordinance may not, to evade the municipal ordinance:

11 (1) require, as a condition of obtaining for a
12 consumer or assisting a consumer in obtaining an extension of
13 consumer credit in the form of a deferred presentment transaction
14 or motor vehicle title loan or a renewal, rollover, or refinance of
15 such an extension of consumer credit, that any part of the
16 transaction occur in a location outside the municipality; or

17 (2) transfer the business's obligations and rights
18 under a contract to obtain for a consumer or assist a consumer in
19 obtaining an extension of consumer credit in the form of a deferred
20 presentment transaction or motor vehicle title loan or a renewal,
21 rollover, or refinance of such an extension of consumer credit to a
22 branch of the business or another business located outside the
23 municipality.

24 (b) For purposes of Subsection (a), "renew," "rollover," or
25 "refinance" have any meanings assigned to those terms by the
26 municipal ordinance.

27 (c) If a credit access business violates Subsection (a), the

1 contract between the business and the consumer for the performance
2 of services to which the violation relates is void and
3 unenforceable, including any requirement under the contract that
4 the consumer pay fees or other consideration.

5 SECTION 8. Section 393.602, Finance Code, is amended by
6 amending Subsections (a) and (b) and adding Subsection (b-1) to
7 read as follows:

8 (a) This subchapter applies only to a credit services
9 organization that obtains for a consumer or assists a consumer in
10 obtaining an extension of consumer credit [~~in the form of:~~

11 [~~(1) a deferred presentment transaction; or~~

12 [~~(2) a motor vehicle title loan~~].

13 (b) Subject to Section 393.309, a [A] credit access business
14 may assess fees as agreed to between the parties for [its] services
15 performed to obtain an extension of consumer credit for a consumer
16 or assist a consumer in obtaining an extension of consumer credit in
17 the form of a deferred presentment transaction or motor vehicle
18 title loan or a refinance of such an extension of consumer credit
19 [as agreed to between the parties]. A credit access business fee
20 may be calculated daily, biweekly, monthly, or on another periodic
21 basis. A credit access business is permitted to charge amounts
22 allowed by other laws, as applicable. A fee may not be charged
23 unless it is disclosed.

24 (b-1) Notwithstanding Subsection (a) or (b), a credit
25 services organization that is not obtaining for a consumer or
26 assisting a consumer in obtaining an extension of consumer credit
27 may also charge or receive from a consumer a fee or other valuable

1 consideration in connection with advice, assistance, or other
2 services that the credit services organization provides to improve
3 a consumer's credit history or rating.

4 SECTION 9. Section 393.604, Finance Code, is amended by
5 amending Subsection (a) and adding Subsection (d) to read as
6 follows:

7 (a) An application for a license under this subchapter must:

8 (1) be under oath;

9 (2) give the approximate location from which the
10 business is to be conducted;

11 (3) identify the business's principal parties in
12 interest;

13 (4) contain the name, physical address, and telephone
14 number of all third-party lender organizations:

15 (A) with which the business contracts to provide
16 services; ~~[described by Section 393.602(a)]~~ or

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

19 (5) include a copy of each agreement between the
20 business and a third-party lender organization:

21 (A) with which the business contracts to provide
22 services; or

23 (B) from which the business arranges extensions
24 of consumer credit; and

25 (6) contain other relevant information that the
26 commissioner requires for the findings required under Section
27 393.607.

1 (d) Information provided by an applicant under this section
2 is public information for the purposes of Chapter 552, Government
3 Code.

4 SECTION 10. Subsections (a) and (b), Section 393.622,
5 Finance Code, are amended to read as follows:

6 (a) The finance commission may:

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

9 (2) adopt rules with respect to reports of summary
10 business information required to be submitted [~~the quarterly~~
11 ~~reporting~~] by a licensed credit access business under Section
12 393.627 [~~licensed under this subchapter of summary business~~
13 ~~information relating to extensions of consumer credit described by~~
14 ~~Section 393.602(a)~~]; [and]

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

21 (4) adopt rules identifying extensions of consumer
22 credit that are refinances.

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

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

7 SECTION 11. Subchapter G, Chapter 393, Finance Code, is
8 amended by adding Section 393.6221 to read as follows:

9 Sec. 393.6221. EXAMINATION OR INVESTIGATION BY
10 COMMISSIONER; OATHS. During an examination or an investigation,
11 the commissioner or the commissioner's representative may
12 administer oaths and examine a person under oath on a subject
13 pertinent to a matter that the commissioner is authorized or
14 required to consider, investigate, or secure information about
15 under this chapter.

16 SECTION 12. Section 393.625, Finance Code, is amended to
17 read as follows:

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

26 (b) The term of an extension of consumer credit, including
27 all renewals and refinances, obtained for a military borrower by a

1 credit access business or that a credit access business assists a
2 military borrower in obtaining may not exceed:

3 (1) 90 days, if the debt is a deferred presentment
4 transaction or single-payment motor vehicle title loan; or

5 (2) 180 days, if the debt is a multiple-payment motor
6 vehicle title loan.

7 (c) The finance commission shall adopt a disclosure
8 relating to the provisions of state and federal law applicable to a
9 military borrower who obtains an extension of consumer credit from
10 or with the assistance of a credit access business. A credit access
11 business shall provide this disclosure to military borrowers for
12 whom the credit access business seeks to obtain an extension of
13 consumer credit.

14 (d) Notwithstanding Section 14.252, the commissioner may
15 assess an administrative penalty in an amount not to exceed \$5,000
16 for each violation against a credit access business that violates
17 this section, regardless of whether the violation is knowing or
18 wilful.

19 SECTION 13. Section 393.626, Finance Code, is amended to
20 read as follows:

21 Sec. 393.626. DEBT COLLECTION PRACTICES. A violation of
22 Chapter 392 by a credit access business with respect to obtaining
23 for a consumer or assisting a consumer in obtaining an extension of
24 consumer credit [~~described by Section 393.602(a)~~] constitutes a
25 violation of this subchapter.

26 SECTION 14. Section 393.627, Finance Code, is amended to
27 read as follows:

1 Sec. 393.627. REPORTS [~~QUARTERLY REPORT~~] TO COMMISSIONER.

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

8 (1) the number of consumers for whom the business
9 obtained or assisted in obtaining those extensions of consumer
10 credit;

11 (2) the number of those extensions of consumer credit
12 obtained by the business or that the business assisted consumers in
13 obtaining;

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

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

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

20 (6) the average amount of the extensions of consumer
21 credit described by Subdivision (2);

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

24 (8) the number of vehicles surrendered or repossessed
25 under the terms of an extension of consumer credit in the form of a
26 motor vehicle title loan obtained by the business or that the
27 business assisted a consumer in obtaining;

1 (9) the number of extended payment plans offered by
2 the credit access business and entered into by consumers, for each
3 product [~~the mean, median, and mode of the number of extensions of~~
4 ~~consumer credit obtained by consumers as a result of entering into~~
5 ~~the extensions of consumer credit described by Subdivision (2)];
6 and~~

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

9 (b) All information submitted by a credit access business to
10 the commissioner for inclusion in a report under this section is
11 confidential.

12 (c) The commissioner shall publish a statewide consolidated
13 analysis and recapitulation of reports filed under this section.
14 The commissioner may also publish a consolidated analysis and
15 recapitulation of the reports that provides an analysis of the 15
16 largest metropolitan statistical areas and the five largest
17 counties of this state.

18 SECTION 15. Subchapter G, Chapter 393, Finance Code, is
19 amended by adding Sections 393.629 through 393.640 to read as
20 follows:

21 Sec. 393.629. GENERAL LIMITATIONS ON EXTENSIONS OF CONSUMER
22 CREDIT; LANGUAGE REQUIREMENTS; PAYMENT METHOD. (a) The
23 provisions of this chapter applicable to a credit access business
24 apply to any consumer physically located in this state at the time
25 the extension of consumer credit is made, regardless of whether the
26 extension of consumer credit was made in person in this state.

27 (b) The finance commission by rule shall adopt Spanish

1 versions of the model contract clauses and all notices that a credit
2 access business is required to give to a consumer under this
3 chapter. A credit access business shall provide to the consumer a
4 contract that uses the adopted Spanish clauses and notices to the
5 consumer if in the process of obtaining an extension of consumer
6 credit the consumer requests that the documents be provided in
7 Spanish or if the contract is negotiated in Spanish. The executed
8 contract and any other binding and controlling document between the
9 credit access business and the consumer must be written in English.

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

18 (d) The term of an extension of consumer credit obtained for
19 a consumer by a credit access business or that a credit access
20 business assists a consumer in obtaining may not exceed 180 days.
21 If a term of less than 180 days for an extension of consumer credit
22 is specified under this chapter, the shorter term applies.

23 Sec. 393.630. LIMITATION ON OUTSTANDING DEBT. (a) At any
24 one time, a consumer may have only one outstanding debt from a
25 deferred presentment transaction that a credit access business
26 obtained for the consumer or assisted the consumer in obtaining and
27 one outstanding debt from a motor vehicle title loan that a credit

1 access business obtained for the consumer or assisted the consumer
2 in obtaining.

3 (b) To obtain an extension of consumer credit in the form of
4 a deferred presentment transaction facilitated through the
5 services of a credit access business, a consumer must sign a written
6 certification on a form adopted by finance commission rule stating
7 that the consumer has no other outstanding debt from an extension of
8 consumer credit in the form of a deferred presentment transaction.

9 (c) A credit access business shall in good faith verify that
10 a consumer is not falsifying the certification required by
11 Subsection (b), to the best knowledge and ability of the person
12 acting on behalf of the credit access business for that
13 transaction. A person acting on behalf of a credit access business
14 has satisfied this requirement if the person considers all
15 information that the consumer shares with the person in negotiating
16 the transaction and if the person makes a reasonable effort to
17 verify the consumer's representations with any records that the
18 credit access business typically consults in the normal course of
19 its business.

20 (d) A credit access business that violates this section is
21 subject to a civil penalty in an amount not to exceed \$1,000 for
22 each violation.

23 Sec. 393.631. LIMITATIONS RELATING TO MOTOR VEHICLE
24 SECURING DEBT. (a) The proceeds of the sale of a repossessed motor
25 vehicle that secured a motor vehicle title loan shall satisfy all
26 outstanding and unpaid indebtedness under that extension of
27 consumer credit, and the consumer is not liable for any deficiency

1 resulting from the sale unless the consumer has committed fraud or
2 has committed a wilful act of misconduct that damages or impairs the
3 value of the motor vehicle.

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

9 (c) A repossession under this chapter must comply with
10 Chapter 9, Business & Commerce Code, except as otherwise provided
11 by this section.

12 Sec. 393.632. ESTABLISHMENT OF INCOME OR VALUE; REFERENCE
13 AMOUNT. (a) A credit access business must require documentation
14 to establish a consumer's income for purposes of this subchapter.
15 Acceptable forms of documentation include paper, facsimile, or
16 electronic copies of:

17 (1) a payroll document;

18 (2) a paycheck;

19 (3) a bank statement;

20 (4) a report from a nationally or regionally
21 recognized credit and data reporting company;

22 (5) Internal Revenue Service Form W-2 from the
23 preceding year;

24 (6) the income tax return from the preceding tax year;

25 (7) a signed letter from the consumer's employer at the
26 time the extension of consumer credit is sought; or

27 (8) any other document approved by finance commission

1 rule.

2 (b) A credit access business shall retain a copy of the
3 documentation used to establish a consumer's income under
4 Subsection (a) according to the business's standard records
5 retention policy and any applicable rule or regulation establishing
6 a record retention period.

7 (c) A credit access business that relies in good faith on a
8 document presented by the consumer under Subsection (a) to
9 establish a consumer's income has complied with this section to the
10 extent the income established under that document meets the
11 applicable requirements under this chapter.

12 (d) A credit access business that obtains for a consumer or
13 assists a consumer in obtaining an extension of consumer credit
14 through the Internet or other electronic means may rely on
15 nationally or regionally recognized database reporting systems and
16 may maintain a record of the database reporting system results used
17 to comply with Subsections (a) and (b).

18 (e) To establish the retail value of a motor vehicle for
19 purposes of this subchapter, a credit access business must:

20 (1) rely on a nationally or regionally recognized
21 vehicle appraisal guide or agree in good faith with the consumer to
22 the vehicle's retail value; and

23 (2) record the recognized or agreed-on value.

24 (f) For purposes of this chapter, \$28,000 is the initial
25 reference amount with respect to a consumer's income, and the
26 commissioner shall adjust this amount annually in accordance with
27 the Consumer Price Index.

1 Sec. 393.633. CERTAIN LOCAL ORDINANCES NOT PREEMPTED. This
2 chapter does not preempt a local ordinance regulating a credit
3 access business or an extension of consumer credit obtained for a
4 consumer by a credit access business or that a credit access
5 business assists a consumer in obtaining, if the ordinance is
6 compatible with and equal to or more stringent than a requirement
7 prescribed by this chapter.

8 Sec. 393.634. SINGLE-PAYMENT DEFERRED PRESENTMENT
9 TRANSACTION. (a) The sum of all fees, principal, interest, and
10 other amounts due under an extension of consumer credit in the form
11 of a single-payment deferred presentment transaction that a credit
12 access business obtains for a consumer or assists a consumer in
13 obtaining, excluding fees, may not exceed:

14 (1) 20 percent of the consumer's gross monthly income,
15 if the consumer's gross annual income is less than the reference
16 amount; or

17 (2) 25 percent of the consumer's gross monthly income,
18 if the consumer is not described by Subdivision (1) and is not a
19 military borrower to whom a different limit applies under federal
20 law.

21 (b) The term of an original or refinanced extension of
22 consumer credit in the form of a single-payment deferred
23 presentment transaction that a credit access business obtains for a
24 consumer or assists a consumer in obtaining may not be less than 10
25 days or longer than 35 days.

26 (c) An extension of consumer credit in the form of a
27 single-payment deferred presentment transaction that a credit

1 access business obtains for a consumer or assists a consumer in
2 obtaining may not be refinanced more than three times.

3 (d) If a consumer who has not entered into an extended
4 payment plan with the credit access business in the preceding 12
5 months refinances a single-payment deferred presentment
6 transaction for the third time:

7 (1) the credit access business must offer at least one
8 extended payment plan to the consumer before initiating any debt
9 collection activities;

10 (2) the consumer may request, prior to the offer
11 required by Subdivision (1) being made, an extended payment plan at
12 any time on or after the date the consumer refinances the deferred
13 presentment transaction for the third time and on or before the
14 fifth day after the date on which the third refinance must be repaid
15 in full;

16 (3) to comply with the requirement of Subdivision (1),
17 the credit access business shall send a written notice to the
18 consumer disclosing the following:

19 (A) the amount due under the current terms of the
20 extension of consumer credit if the consumer declines an extended
21 payment plan;

22 (B) the amounts due on each of the installment
23 dates of an extended payment plan; and

24 (C) the date by which the consumer must accept
25 the extended payment plan in writing, which date shall be at least
26 five days after the date of such notice;

27 (4) the credit access business may not initiate debt

1 collection activities unless:

2 (A) the consumer fails to accept the extended
3 payment plan in writing on or before the deadline contained in the
4 notice required by Subdivision (3);

5 (B) the consumer declines the extended payment
6 plan; or

7 (C) the consumer fails to make a payment required
8 by an extended payment plan that the consumer accepted; and

9 (5) if the consumer declines an extended payment plan
10 that a credit access business is required to offer under
11 Subdivision (1), the consumer must sign an extended payment plan
12 waiver on a form prescribed by the finance commission.

13 (e) An extended payment plan required to be offered under
14 Subsection (d) must comply with Section 393.638.

15 (f) A credit access business may offer a consumer an
16 extended payment plan that provides the consumer with additional
17 time to repay the debts obtained through a single-payment deferred
18 presentment transaction, either before or after the consumer
19 refinances the single-payment deferred presentment transaction for
20 the third time, more than once in a 12-month period so long as the
21 credit access business does not assess additional fees under the
22 extended payment plan and the credit access business fully
23 describes the terms of the extended payment plan, including all due
24 dates and the amount due on each due date, to the consumer before
25 the consumer enters into the extended payment plan. An extended
26 payment plan offered under this subsection is not required to
27 comply with Section 393.638.

1 (g) A credit access business shall accept a partial payment
2 that complies with Section 393.629(c) paid by a consumer or on
3 behalf of a consumer to pay down outstanding principal owed under a
4 single-payment deferred presentment transaction that the credit
5 access business obtained for the consumer or assisted the consumer
6 in obtaining.

7 Sec. 393.635. MULTIPLE-PAYMENT DEFERRED PRESENTMENT
8 TRANSACTION. (a) The sum of all fees, principal, interest, and
9 other amounts due under any scheduled payment of an extension of
10 consumer credit in the form of a multiple-payment deferred
11 presentment transaction that a credit access business obtains for a
12 consumer or assists a consumer in obtaining may not exceed:

13 (1) 10 percent of the consumer's gross monthly income,
14 if the consumer's gross annual income is less than the reference
15 amount; or

16 (2) 15 percent of the consumer's gross monthly income,
17 if the consumer is not described by Subdivision (1) and is not a
18 military borrower to whom a different limit applies under federal
19 law.

20 (b) An extension of consumer credit in the form of a
21 multiple-payment deferred presentment transaction that a credit
22 access business obtains for a consumer or assists a consumer in
23 obtaining may not be payable by the consumer in more than 12
24 installments or have an original term of more than 180 days, and the
25 loan agreement must specify the number, date, and total amount due
26 with regard to each installment.

27 (c) An original or refinanced extension of consumer credit

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

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

17 (e) An extension of consumer credit in the form of a
18 multiple-payment deferred presentment transaction that a credit
19 access business obtains for a consumer or assists a consumer in
20 obtaining may not be refinanced, may not include more than 12
21 installments, and may not have a term that exceeds 180 days,
22 excluding an extended payment plan offered in compliance with
23 Section 393.638.

24 (f) A credit access business may offer a consumer an
25 extended payment plan if the extended payment plan complies with
26 Section 393.638 and if the credit access business fully describes
27 the terms of the extended payment plan, including all due dates and

1 the amount due on each due date, to the consumer before the consumer
2 enters into the extended repayment plan.

3 Sec. 393.636. SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN.

4 (a) The sum of all fees, principal, interest, and other amounts
5 due under 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 excluding fees, may not exceed the lesser of:

9 (1) six percent of the consumer's gross annual income,
10 if the consumer's gross annual income is less than the reference
11 amount;

12 (2) eight percent of the consumer's gross annual
13 income, if the consumer is not described by Subdivision (1) and is
14 not a military borrower to whom a different limit applies under
15 federal law; or

16 (3) 70 percent of the retail value of the motor vehicle
17 securing the debt.

18 (b) The term of an original or refinanced extension of
19 consumer credit in the form of a single-payment motor vehicle title
20 loan that a credit access business obtains for a consumer or assists
21 a consumer in obtaining may not be less than 30 days or longer than
22 35 days.

23 (c) An extension of consumer credit in the form of a
24 single-payment motor vehicle title loan that a credit access
25 business obtains for a consumer or assists a consumer in obtaining
26 may not be refinanced more than three times. The combined terms of
27 the original extension of consumer credit and any refinanced

1 extensions of consumer credit, excluding an extended payment plan
2 offered in compliance with Subsection (f) or Section 393.638, may
3 not exceed 90 days. The credit access business shall fully describe
4 the terms of an extended payment plan, including all due dates and
5 the amount due on each due date, to the consumer before the consumer
6 enters into the extended payment plan.

7 (d) If a consumer who has not entered into an extended
8 payment plan with the credit access business in the preceding 12
9 months refinances a single-payment motor vehicle title loan for the
10 third time:

11 (1) the credit access business must offer at least one
12 extended payment plan to the consumer before initiating any
13 activities to repossess the vehicle securing the debt;

14 (2) the consumer may request, prior to the offer
15 required by Subdivision (1) being made, an extended payment plan at
16 any time on or after the date the consumer refinances the motor
17 vehicle title loan for the third time and on or before the fifth day
18 after the date on which the third refinance must be repaid in full;

19 (3) to comply with the requirement of Subdivision (1),
20 the credit access business shall send a written notice to the
21 consumer disclosing the following:

22 (A) the amount due under the current terms of the
23 extension of consumer credit if the consumer declines an extended
24 payment plan;

25 (B) the amounts due on each of the installment
26 dates of an extended payment plan; and

27 (C) the date by which the consumer must accept

1 the extended payment plan in writing, which date shall be at least
2 five days after the date of such notice;

3 (4) the credit access business may not repossess the
4 vehicle securing the debt unless:

5 (A) the consumer fails to accept the extended
6 payment plan in writing on or before the deadline contained in the
7 notice required by Subdivision (3);

8 (B) the consumer declines the extended payment
9 plan; or

10 (C) the consumer fails to make a payment required
11 by an extended payment plan that the consumer accepted; and

12 (5) if the consumer declines an extended payment plan
13 that a credit access business is required to offer under
14 Subdivision (1), the consumer must sign an extended payment plan
15 waiver on a form prescribed by the finance commission.

16 (e) An extended payment plan required to be offered under
17 Subsection (d) must comply with Section 393.638.

18 (f) A credit access business may offer a consumer an
19 extended payment plan that provides the consumer with additional
20 time to repay the debts obtained through a single-payment motor
21 vehicle title loan, either before or after the consumer refinances
22 the single-payment motor vehicle title loan for the third time,
23 more than once in a 12-month period so long as the credit access
24 business does not assess additional fees under the extended payment
25 plan and the credit access business fully describes the terms of the
26 extended payment plan, including all due dates and the amount due on
27 each due date, to the consumer before the consumer enters into the

1 extended payment plan. An extended payment plan offered under this
2 subsection is not required to comply with Section 393.638.

3 (g) A credit access business shall accept a partial payment
4 that complies with Section 393.629(c) paid by a consumer or on
5 behalf of a consumer to pay down outstanding principal owed under a
6 single-payment motor vehicle title loan that the credit access
7 business obtained for the consumer or assisted the consumer in
8 obtaining.

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

10 (a) The amount advanced to a consumer under an extension of
11 consumer credit in the form of a multiple-payment motor vehicle
12 title loan that a credit access business obtains for a consumer or
13 assists a consumer in obtaining, excluding fees, may not exceed 70
14 percent of the retail value of the motor vehicle securing the debt.

15 (b) The sum of all fees, principal, interest, and other
16 amounts due under any scheduled payment of an extension of consumer
17 credit in the form of a multiple-payment motor vehicle title loan
18 that a credit access business obtains for a consumer or assists a
19 consumer in obtaining may not exceed:

20 (1) 20 percent of the consumer's gross monthly income,
21 if the consumer's gross annual income is less than the reference
22 amount; or

23 (2) 30 percent of the consumer's gross monthly income,
24 if the consumer is not described by Subdivision (1) and is not a
25 military borrower to whom a different limit applies under federal
26 law.

27 (c) An extension of consumer credit in the form of a

1 multiple-payment motor vehicle title loan that a credit access
2 business obtains for a consumer or assists a consumer in obtaining
3 must be payable on a fully amortizing, declining-principal-balance
4 basis with substantially equal payments. If a credit access
5 business precomputes its fees under a multiple-payment motor
6 vehicle title loan and a consumer prepays the loan in full, the
7 credit access business shall refund any unearned fees to the
8 consumer.

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

15 (e) The first installment of an extension of consumer credit
16 in the form of a multiple-payment motor vehicle title loan that a
17 credit access business obtains for a consumer or assists a consumer
18 in obtaining may not be due before the 10th day after the date the
19 consumer enters into the loan agreement. A subsequent installment
20 may not be due before the 28th day after the date the previous
21 installment of the loan is due.

22 (f) An extension of consumer credit in the form of a
23 multiple-payment motor vehicle title loan that a credit access
24 business obtains for a consumer or assists a consumer in obtaining
25 may not be refinanced and the loan term may not exceed 180 days,
26 except as provided by Subsection (g).

27 (g) A credit access business may not initiate any activities

1 to repossess the vehicle securing the debt under a multiple-payment
2 motor vehicle title loan that a credit access business obtains for a
3 consumer or assists a consumer in obtaining before offering the
4 consumer at least one extended payment plan. An extended payment
5 plan may cause the extension of consumer credit to extend beyond 180
6 days so long as the extended payment plan complies with Section
7 393.638 and the credit access business fully describes the terms of
8 the extended payment plan, including all due dates and the amount
9 due on each due date, to the consumer before the consumer enters
10 into the extended payment plan.

11 (h) If the credit access business is required to offer a
12 consumer an extended payment plan under Subsection (g), the credit
13 access business shall send a written notice to the consumer
14 disclosing the following:

15 (1) the amount due under the current terms of the
16 extension of consumer credit if the consumer declines an extended
17 payment plan;

18 (2) the amounts due on each of the installment dates of
19 an extended payment plan; and

20 (3) the date by which the consumer must accept the
21 extended payment plan in writing, which date shall be at least five
22 days after the date of such notice.

23 (i) The credit access business may not repossess the vehicle
24 securing the debt unless:

25 (1) the consumer fails to accept the extended payment
26 plan in writing on or before the deadline contained in the notice
27 required by Subsection (h)(3);

1 (2) the consumer declines the extended payment plan;

2 or

3 (3) the consumer fails to make a payment required by an
4 extended payment plan that the consumer accepted.

5 (j) If the consumer declines the extended payment plan, the
6 consumer must sign an extended payment plan waiver on a form
7 prescribed by the finance commission.

8 Sec. 393.638. EXTENDED PAYMENT PLAN REQUIREMENTS.

9 (a) This section applies to extended payment plans required to be
10 offered under Sections 393.634, 393.635, 393.636, and 393.637.

11 (b) An extended payment plan must provide for payment in at
12 least:

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

17 (2) two substantially equal installments added to the
18 original and refinanced term of the extension of consumer credit,
19 after which the outstanding balance, including only the fees that
20 would have been due under the original extension of consumer
21 credit, will be paid in full, with respect to a multiple-payment
22 deferred presentment transaction or multiple-payment motor vehicle
23 title loan.

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

26 (1) 10 days, with respect to a single-payment deferred
27 presentment transaction; or

1 (2) 30 days, with respect to a multiple-payment
2 deferred presentment transaction, a single-payment motor vehicle
3 title loan, or a multiple-payment motor vehicle title loan.

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

7 (e) A credit access business may not assess additional fees
8 or assist a consumer in obtaining additional extensions of consumer
9 credit if the consumer is paying an extension of credit under an
10 extended payment plan.

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

13 (g) A person may not engage in debt collection or vehicle
14 repossession activities for a debt subject to an extended payment
15 plan if the consumer is in compliance with the extended payment
16 plan.

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

20 Sec. 393.639. REFINANCES. (a) Any refinance of an
21 extension of consumer credit that a credit access business obtains
22 for a consumer or assists a consumer in obtaining:

23 (1) must be authorized under this subchapter;

24 (2) must be in the same form as the original extension
25 of consumer credit; and

26 (3) must meet all the requirements applicable to the
27 original extension of consumer credit, including the duration,

1 transaction, and extended payment plan requirements under this
2 subchapter, including the applicable income-based or vehicle
3 value-based limitations under Section 393.634(a), 393.635(a),
4 393.636(a), or 393.637(b), except as otherwise provided by this
5 chapter.

6 (b) For purposes of this section, a single-payment deferred
7 presentment transaction, a multiple-payment deferred presentment
8 transaction, a single-payment motor vehicle title loan, and a
9 multiple-payment motor vehicle title loan are the different forms
10 of extensions of consumer credit that a credit access business may
11 obtain for a consumer or assist a consumer in obtaining.

12 (c) The terms of a refinanced extension of consumer credit
13 may be the same as or different from the terms of the original
14 extension of consumer credit.

15 (d) A person may not use a device, subterfuge, or pretense
16 to evade the refinance requirements and limitations imposed on a
17 credit access business under this subchapter.

18 Sec. 393.640. RULES. The finance commission shall adopt
19 any rules necessary to implement Sections 393.629-393.639.

20 SECTION 16. Section 411.095, Government Code, is amended to
21 read as follows:

22 Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD
23 INFORMATION: CONSUMER CREDIT COMMISSIONER. The consumer credit
24 commissioner is entitled to obtain from the department criminal
25 history record information that relates to a person who is an
26 applicant for or holder of a license under Chapter 342, 347, 348,
27 351, 353, ~~or~~ 371, or 393, Finance Code.

1 SECTION 17. Sections 393.221 and 393.601, Finance Code, are
2 repealed.

3 SECTION 18. The consumer credit commissioner shall
4 establish and implement the database under Section 342.607, Finance
5 Code, as added by this Act, not later than January 1, 2016, and
6 shall prescribe the date by which a person who offers, services, or
7 brokers a deferred presentment transaction must begin submitting
8 data as provided by that section.

9 SECTION 19. The changes in law made by this Act apply only
10 to an extension of consumer credit made on or after the effective
11 date of this Act. An extension of consumer credit made before the
12 effective date of this Act is governed by the law in effect on the
13 date the extension of consumer credit was made, and the former law
14 is continued in effect for that purpose. For purposes of this
15 section, a refinance or renewal of an extension of consumer credit
16 is considered made on the date the extension of consumer credit
17 being refinanced or renewed was made.

18 SECTION 20. Section 393.310, Finance Code, as added by this
19 Act, applies only to a contract entered into on or after the
20 effective date of this Act. A contract entered into before the
21 effective date of this Act is governed by the law in effect when the
22 contract was entered into, and the former law is continued in effect
23 for that purpose.

24 SECTION 21. This Act takes effect September 1, 2015.