

By: Flynn

H.B. No. 2166

A BILL TO BE ENTITLED

AN ACT

relating to certain extensions of consumer credit facilitated by credit access businesses; providing a civil penalty.

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

SECTION 1. Subchapter C, Chapter 393, Section 201, Finance Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A deferred presentment transaction, as defined by Section 393.601, for the performance of services described by Section 393.602(a)(1) must comply with the following terms.

(1) The proceeds given to a consumer in connection with a deferred presentment transaction extended to the consumer may not exceed:

(A) 35 percent of the consumer's gross monthly income for a single payment transaction; and

(B) 25 percent of the consumer's gross monthly income for a scheduled payment on a multiple payment transaction.

The term of a single payment transaction may not exceed 30 days. In determining a consumer's gross monthly income, a credit access business may utilize payroll documents, checks, bank statements and reports from nationally or regionally recognized credit and data reporting companies, and may rely on the representations of a consumer to form a reasonable belief about the consumer's gross monthly income.

1 (2) A consumer who is unable to fully repay the fourth
2 refinance of an initial single payment deferred presentment
3 transaction may elect to repay the loan by means of an extended
4 payment plan provided the consumer is not otherwise in default of
5 such loan. For the purposes of this subsection, a "refinance" means
6 any transaction a credit access business assists a consumer in
7 obtaining that extends the repayment period of a then-outstanding
8 deferred presentment transaction beyond its original term. A
9 refinance shall include both a traditional refinance that is
10 evidenced by new written loan documents with new disclosures that
11 satisfy and replace the prior loan documents, as well as a renewal
12 of a single-payment transaction in which the term of the
13 transaction is extended for an additional identical period. A
14 refinance shall not include a workout agreement. "Refinance"
15 includes the terms "renewal" and "rollover."

16 (A) At every licensed location, a credit access
17 business must notify a consumer of the consumer's right to an
18 extended payment plan by posting the following notice in a
19 conspicuous location visible to the general public: "If you are
20 unable to repay your transaction when due, you may be eligible for
21 an extended payment plan. You are eligible for an extended payment
22 plan if you have refinanced your initial transaction four times.
23 You are eligible for an extended payment plan at least once in any
24 12 month period. If you meet the requirements for an extended
25 payment plan, we will offer you a plan before the due date of your
26 existing transaction. To accept our offer of an extended payment
27 plan, you must sign a written agreement that describes the terms of

1 the plan before the due date of your exiting transaction." The
2 notice shall also be included, in at least 12-point bold type, on
3 the first page of a contract with a credit access business.

4 (B) An extended payment shall comply with the
5 following:

6 (i) A credit access business must offer to
7 assist an eligible consumer, as described in (d)(2) of this
8 subsection, in obtaining an extended payment plan at least once
9 every 12 months. The 12 month period is measured from the date of
10 such extended payment plan.

11 (ii) A credit access business must offer a
12 consumer an extended payment plan before the due date of the fourth
13 refinance of the outstanding transaction.

14 (iii) A credit access business may not
15 charge the consumer additional fees during an extended payment
16 plan.

17 (iv) A consumer must sign a written
18 agreement that describes the terms of the extended payment plan.

19 (v) An extended payment plan must allow a
20 consumer to repay all outstanding amounts owing at the time such
21 extended payment plan is offered in at least four substantially
22 equal payments.

23 (vi) A consumer may prepay an extended
24 payment plan in full at any time without penalty.

25 (C) If a consumer continues to make timely
26 payments pursuant to an extended payment plan, a credit access
27 business is prohibited from:

1 (i) engaging in collection activities with
2 respect to such deferred presentment transaction; and

3 (ii) obtaining, or assisting the consumer
4 in obtaining, additional deferred presentment transactions.

5 (3) A multiple payment deferred presentment
6 transaction shall be payable on a fully-amortizing, declining
7 principal balance basis with substantially equal payments as agreed
8 upon by the parties. Fees may be pre-computed or charged on a daily
9 accrual method. If fees are pre-computed, a credit access business
10 shall refund unearned fees calculated on an actuarial basis upon
11 the prepayment in full of a deferred presentment transaction. A
12 multiple payment deferred presentment transaction may not exceed
13 180 days.

14 (e) A motor vehicle title loan, as defined by Section
15 393.601, for the performance of services described by Section
16 393.602(a)(2), must comply with the following terms.

17 (1) The proceeds given to a consumer in connection
18 with a a motor vehicle title loan given to the consumer may not
19 exceed the lesser of:

20 (A) 7 percent of the consumer's gross monthly
21 income for a single payment loan;

22 (B) 30 percent of the consumer's gross monthly
23 income for a scheduled payment on a multiple payment loan; or

24 (C) 70 percent of the retail value of the motor
25 vehicle as determined pursuant to this subsection.

26 The term of a single payment loan may not exceed 30 days and the term
27 of a multiple-payment loan shall not exceed 365 days. The retail

1 value of a motor vehicle shall be based upon nationally or
2 regionally recognized motor-vehicle appraisal guides if the
3 vehicle is listed in such guides. If a value for the motor vehicle
4 is not listed in such guides, then the credit access business and
5 the consumer shall agree in good faith on an appropriate retail
6 value for the vehicle using generally available information
7 relating to such motor vehicle. In determining a consumer's gross
8 monthly income, a credit access business may utilize payroll
9 documents, checks, bank statements and reports from nationally or
10 regionally recognized credit and data reporting companies, and may
11 rely on the representations of a consumer to form a reasonable
12 belief about the consumer's gross monthly income.

13 (2) A consumer who is unable to fully repay the eighth
14 refinance of an initial single payment motor vehicle title loan may
15 elect to repay the loan by means of an extended payment plan
16 provided the consumer is not otherwise in default of such loan. For
17 the purposes of this subsection, a "refinance" means any
18 transaction a credit access business assists a consumer in
19 obtaining that extends the repayment period of a then-outstanding
20 motor vehicle title loan beyond its original term. A refinance
21 shall include both a traditional refinance that is evidenced by new
22 written loan documents with new disclosures that satisfy and
23 replace the prior loan documents, as well as a renewal of a
24 single-payment loan in which the term of the loan is extended for an
25 additional identical period. A refinance shall not include a
26 workout agreement. "Refinance" includes the terms "renewal" and
27 "rollover."

1 (A) At every licensed location, a credit access
2 business must notify a consumer of the consumer's right to an
3 extended payment plan by posting the following notice in a
4 conspicuous location visible to the general public: "If you are
5 unable to repay your loan when due, you may be eligible for an
6 extended payment plan. You are eligible for an extended payment
7 plan if you have refinanced your initial loan eight times. You are
8 eligible for an extended payment plan at least once in any 12 month
9 period. If you meet the requirements for an extended payment plan,
10 we will offer you a plan before the due date of your existing loan.
11 To accept our offer of an extended payment plan, you must sign a
12 written agreement that describes the terms of the plan before the
13 due date of your exiting loan." The notice shall also be included,
14 in at least 12-point bold type, on the first page of a contract with
15 a credit access business.

16 (B) An extended payment shall comply with the
17 following:

18 (i) A credit access business must offer to
19 assist an eligible consumer, as described in (e)(2) of this
20 subsection, in obtaining an extended payment plan at least once
21 every 12 months. The 12 month period is measured from the date of
22 such extended payment plan.

23 (ii) A credit access business must offer a
24 consumer an extended payment plan before the due date of the eighth
25 refinance of the outstanding loan.

26 (iii) A credit access business may not
27 charge the consumer additional fees during an extended payment

1 plan.

2 (iv) A consumer must sign a written
3 agreement that describes the terms of the extended payment plan.

4 (v) An extended payment plan must allow a
5 consumer to repay all outstanding amounts owing in at least four
6 substantially equal payments.

7 (vi) A consumer may prepay an extended
8 payment plan in full at any time without penalty.

9 (C) If a consumer continues to make timely
10 payments pursuant to an extended payment plan, a credit access
11 business is prohibited from:

12 (i) engaging in collection activities with
13 respect to such motor vehicle title loan; and

14 (ii) obtaining, or assisting the consumer
15 in obtaining, additional motor vehicle title loans.

16 (3) A multiple payment motor vehicle title loan shall
17 be payable on a fully-amortizing, declining principal balance basis
18 with substantially equal payments as agreed upon by the parties.
19 Fees may be pre-computed or charged on a daily accrual method. If
20 fees are pre-computed, a credit access business shall refund
21 unearned fees calculated on an actuarial basis upon the prepayment
22 in full of a motor vehicle title loan.

23 (4) Notwithstanding other law to the contrary, a motor
24 vehicle title loan must provide that, except for fraud or other
25 misconduct, including without limitation creating or not
26 disclosing additional liens, or intentionally concealing or
27 damaging the motor vehicle, the consumer shall have no personal

1 liability with respect to the amount owed pursuant to either the
2 motor vehicle title loan agreement or credit access agreement or
3 any deficiency resulting from foreclosure against the motor vehicle
4 pledged by the consumer.