

By: Parker

H.B. No. 3094

Substitute the following for H.B. No. 3094:

By: Stephenson

C.S.H.B. No. 3094

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of consumer credit transactions and the
3 regulatory authority of the Office of Consumer Credit Commissioner;
4 amending provisions subject to a criminal penalty.

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

6 SECTION 1. Section 14.2015, Finance Code, is amended to
7 read as follows:

8 Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION.

9 (a) Except as provided by Subsection (b), information or material
10 obtained or compiled by the commissioner in relation to an
11 examination or investigation by the commissioner or the
12 commissioner's representative of a license holder, registrant,
13 applicant, or other person under a provision listed in Section
14 14.201 [~~Section 339.001, Subtitle B or C, Title 4, Subchapter C of~~
15 ~~Chapter 393, or Chapter 394~~] is confidential and may not be
16 disclosed by the commissioner or an officer or employee of the
17 Office of Consumer Credit Commissioner, including:

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

22 (2) work performed by the commissioner or the
23 commissioner's representative on information obtained from the [~~a~~]
24 license holder, registrant, applicant, or other person for the

1 purposes of an examination or investigation [~~conducted under~~
2 ~~Section 339.001, Subtitle B or C, Title 4, Chapter 393 with~~
3 ~~respect to a credit access business, or Chapter 394~~];

4 (3) a report on an examination or investigation of the
5 [a] license holder, registrant, applicant, or other person
6 [~~conducted under Section 339.001, Subtitle B or C, Title 4, Chapter~~
7 ~~393 with respect to a credit access business, or Chapter 394~~]; and

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

14 (b) The commissioner or the commissioner's representative
15 may disclose the confidential information or material described by
16 Subsection (a):

17 (1) to a department, agency, or instrumentality of
18 this state or the United States if the commissioner considers
19 disclosure to be necessary or proper to the enforcement of the laws
20 of this state or the United States and in the best interest of the
21 public;

22 (2) if the information was provided to or provided by
23 the license holder, registrant, applicant, or other person, and the
24 person consents to the release of the information or has published
25 the information contained in the release; or

26 (3) if the commissioner determines that release of the
27 information is required for an administrative hearing.

1 SECTION 2. Section 14.251, Finance Code, is amended by
2 adding Subsection (c) to read as follows:

3 (c) An order of restitution under Subsection (b) is subject
4 to the notice, procedure, and enforcement provisions of Sections
5 14.253 through 14.260 applicable to an administrative penalty.

6 SECTION 3. Section 14.256, Finance Code, is amended to read
7 as follows:

8 Sec. 14.256. ACCEPTANCE OF PENALTY; DEFAULT. If a person
9 accepts the determination and recommended penalty of the
10 commissioner or fails to make a timely written request for a
11 hearing, the commissioner by order shall approve the determination
12 and impose the recommended penalty.

13 SECTION 4. Section 14.257(a), Finance Code, is amended to
14 read as follows:

15 (a) If a person makes a timely written request for
16 ~~[requests]~~ a hearing ~~[or fails to give a timely response to the~~
17 ~~notice]~~, the commissioner shall set a hearing and give notice of the
18 hearing to the person by certified mail.

19 SECTION 5. Section 180.002(5), Finance Code, is amended to
20 read as follows:

21 (5) "Dwelling" has the meaning assigned by Section
22 103(w) ~~[103(v)]~~ of the Truth in Lending Act (15 U.S.C. Section
23 1602(w) ~~[1602(v)]~~).

24 SECTION 6. Section 303.015(c), Finance Code, is amended to
25 read as follows:

26 (c) A variable rate agreement for credit extended primarily
27 for personal, family, or household use must include the disclosures

1 identified for variable rate contracts required by regulations
2 issued by the Federal Reserve Board and the Bureau of Consumer
3 Financial Protection under the Truth in Lending Act (15 U.S.C.
4 Section 1601 et seq.), as amended, except that if that Act does not
5 apply because of the amount of the transaction, the following
6 disclosure must be included in a size equal to at least 10-point
7 type that is boldface, capitalized, underlined, or otherwise set
8 out from surrounding material so as to be conspicuous:

9 "NOTICE TO CONSUMER: UNDER TEXAS LAW, IF YOU CONSENT TO THIS
10 AGREEMENT, YOU MAY BE SUBJECT TO A FUTURE RATE AS HIGH AS 24 PERCENT
11 PER YEAR."

12 SECTION 7. Section 303.402(a), Finance Code, is amended to
13 read as follows:

14 (a) A person who contracts for, charges, or receives under a
15 contract subject to Chapter 342, 345, 346, 347, 348, or 353,
16 including a contract for an open-end account, a rate or amount of
17 interest or time price differential that exceeds the maximum
18 applicable rate or amount authorized by the applicable chapter and
19 the maximum applicable rate or amount authorized by [~~ex~~] this
20 chapter is subject to a penalty for that violation determined under
21 Chapter 349.

22 SECTION 8. Sections 308.002(c) and (e), Finance Code, are
23 amended to read as follows:

24 (c) In interpreting this section, an administrative agency
25 or a court shall be guided by the applicable advertising provisions
26 of:

27 (1) Part C of the Truth in Lending Act [~~15 U.S.C.~~

1 ~~Chapter 41, Subchapter I~~] (15 U.S.C. Section 1661 [~~1601~~] et seq.);
2 (2) Regulation Z (12 C.F.R. Parts 226 and 1026) [~~12~~
3 ~~C.F.R. Part 226~~] adopted by the Board of Governors of the Federal
4 Reserve System and the Bureau of Consumer Financial Protection; and
5 (3) the Official Staff Commentary and other
6 interpretations of that statute and regulation by the Board of
7 Governors of the Federal Reserve System, the Bureau of Consumer
8 Financial Protection, and the staff of those agencies [~~its staff~~].

9 (e) A creditor who complies with the Truth in Lending Act
10 (15 U.S.C. Section 1601 et seq.) and [~~Federal Reserve~~] Regulation Z
11 (12 C.F.R. Parts [~~Part~~] 226 and 1026) in advertising a credit
12 transaction is considered to have fully complied with this section.

13 SECTION 9. Section [341.301\(a\)](#), Finance Code, is amended to
14 read as follows:

15 (a) In each advertisement that purports to offer credit
16 regulated by this subtitle, Subtitle C, or Chapter 394, the
17 advertiser shall disclose the legal or registered name of the
18 advertiser and:

19 (1) shall disclose the street address of the
20 advertiser's place of business unless the advertisement:

21 (A) is located on the premises of the
22 advertiser's place of business; or

23 (B) is broadcast by radio or television; or

24 (2) if the advertisement is broadcast by radio or
25 television, shall:

26 (A) disclose the telephone number of the
27 advertiser; and

1 (B) comply with the applicable disclosure
2 requirements of Regulation Z (12 C.F.R. Parts 226 and 1026) [~~12~~
3 ~~C.F.R. Section 226.1 et seq. (Regulation Z)~~].

4 SECTION 10. Section 341.401(b), Finance Code, is amended to
5 read as follows:

6 (b) In interpreting this section, a court or administrative
7 agency shall be guided by the Equal Credit Opportunity Act (15
8 U.S.C. Section 1691 et seq.) and regulations under and
9 interpretations of that Act by the Federal Reserve Board and the
10 Bureau of Consumer Financial Protection to the extent that Act and
11 those regulations and interpretations can be made applicable to
12 conduct prohibited by this section.

13 SECTION 11. Section 341.402(b), Finance Code, is amended to
14 read as follows:

15 (b) The liability of a person under this section is instead
16 of and not in addition to that person's liability under the Equal
17 Credit Opportunity [~~Title VII of the Consumer Credit Protection~~]
18 Act (15 U.S.C. Section 1691 et seq.). If the same act or omission
19 violates Section 341.401 and applicable federal law, the person
20 aggrieved by that conduct may bring a legal action to recover
21 monetary damages either under this section or under that federal
22 law, but not both.

23 SECTION 12. Section 341.502(a-1), Finance Code, is amended
24 to read as follows:

25 (a-1) If the terms of the agreement for a loan under
26 Subsection (a) were negotiated in Spanish, a copy of a summary of
27 those terms and other pertinent information shall be provided to

1 the debtor in Spanish in a form identical to disclosures required
2 for a closed-end transaction under 12 C.F.R. Sections [~~Section~~]
3 226.18 and 1026.18.

4 SECTION 13. Section 342.156, Finance Code, is amended to
5 read as follows:

6 Sec. 342.156. LICENSE SUSPENSION OR REVOCATION. After
7 notice and an opportunity for a hearing the commissioner may
8 suspend or revoke a license if the commissioner finds that:

9 (1) the license holder failed to pay the annual
10 license fee, an examination fee, an investigation fee, or another
11 charge imposed by the commissioner under this chapter;

12 (2) the license holder, knowingly or without the
13 exercise of due care, violated this chapter or a rule adopted or
14 order issued under this chapter;

15 (3) a fact or condition exists that, if it had existed
16 or had been known to exist at the time of the original application
17 for the license, clearly would have justified the commissioner's
18 denial of the application; or

19 (4) the license holder has failed to ensure that an
20 individual acting as a residential mortgage loan originator, as
21 defined by Section 180.002, in the making, transacting, or
22 negotiating of a loan subject to this chapter is licensed under this
23 chapter in accordance with Section 342.0515.

24 SECTION 14. Section 342.201, Finance Code, is amended by
25 adding Subsection (e-1) to read as follows:

26 (e-1) The interest charge under Subsection (e) must be
27 contracted for, charged, or received using the scheduled

1 installment earnings method or the true daily earnings method under
2 one of the following methods:

3 (1) applying the applicable daily rate to each part of
4 the unpaid principal balance corresponding to the brackets
5 described by Subsection (e) for the actual or scheduled number of
6 days during a payment period; or

7 (2) applying a single equivalent daily rate to the
8 unpaid principal balance for the actual or scheduled number of days
9 during a payment period, where the single equivalent daily rate is
10 determined at the inception of the loan using the scheduled
11 installment earnings method, and would earn an amount of interest
12 authorized under Subsection (e) if the debt were paid to maturity
13 according to the schedule of payments.

14 SECTION 15. Section 343.201, Finance Code, is amended to
15 read as follows:

16 Sec. 343.201. DEFINITIONS. In this subchapter:

17 (1) "High-cost home loan" means a loan that:

18 (A) is made to one or more individuals for
19 personal, family, or household purposes;

20 (B) is secured in whole or part by:

21 (i) a manufactured home, as defined by
22 Section 347.002, used or to be used as the borrower's principal
23 residence; or

24 (ii) real property improved by a dwelling
25 designed for occupancy by four or fewer families and used or to be
26 used as the borrower's principal residence;

27 (C) has a principal amount equal to or less than

1 one-half of the maximum conventional loan amount for first
2 mortgages as established and adjusted by the Federal National
3 Mortgage Association;

4 (D) is not:

5 (i) a reverse mortgage; or

6 (ii) an open-end account, as defined by
7 Section 301.002; and

8 (E) is a credit transaction described by 12
9 C.F.R. Section 1026.32 [~~226.32~~], as amended, except that the term
10 includes a residential mortgage transaction, as defined by 12
11 C.F.R. Section 1026.2 [~~226.2~~], as amended, if the total loan amount
12 is \$20,000 or more and:

13 (i) the annual percentage rate exceeds the
14 rate indicated in 12 C.F.R. Section 1026.32(a)(1)(i)
15 [~~226.32(a)(1)(i)~~], as amended; or

16 (ii) the total points and fees payable by
17 the consumer at or before loan closing will exceed the amount
18 indicated in 12 C.F.R. Section 1026.32(a)(1)(ii)
19 [~~226.32(a)(1)(ii)~~], as amended.

20 (2) "Points and fees" has the meaning assigned by 12
21 C.F.R. Section 1026.32(b) [~~226.32(b)~~], as amended.

22 SECTION 16. Section 345.106, Finance Code, is amended to
23 read as follows:

24 Sec. 345.106. PROCESSING FEE FOR RETURNED CHECK. A retail
25 charge agreement may provide that the holder of the agreement may:

26 (1) charge the retail buyer, on return of a dishonored
27 check given in payment under the agreement, a reasonable processing

1 fee that does not exceed the amount prescribed by Section 3.506,
2 Business & Commerce Code [~~is not more than \$15~~]; and

3 (2) add the fee to the unpaid balance under the
4 agreement.

5 SECTION 17. Section 347.002(b), Finance Code, is amended to
6 read as follows:

7 (b) To the extent possible, a word or phrase used in this
8 chapter, other than a term defined by this section, has the meaning
9 assigned by the Truth in Lending [~~Part I, Consumer Credit~~
10 ~~Protection~~] Act (15 U.S.C. Section 1601 et seq.) and its subsequent
11 amendments, as implemented by Regulation Z (12 C.F.R. Part 1026)
12 [~~12 C.F.R. 226.1 et seq.~~].

13 SECTION 18. Section 347.004(a), Finance Code, is amended to
14 read as follows:

15 (a) A creditor shall comply with all applicable
16 requirements, including required disclosures, under the Truth in
17 Lending [~~Part I, Consumer Credit Protection~~] Act (15 U.S.C. Section
18 1601 et seq.) and its subsequent amendments, as implemented by
19 Regulation Z (12 C.F.R. Part 1026) [~~12 C.F.R. 226.1 et seq.~~
20 ~~(Regulation Z)~~] adopted under that Act.

21 SECTION 19. Section 347.056, Finance Code, is amended to
22 read as follows:

23 Sec. 347.056. AUTHORITY OF CONSUMER CREDIT COMMISSIONER
24 RELATING TO A CREDIT DOCUMENT. Except as provided by Section
25 347.004(a), the [~~The~~] commissioner may not require the inclusion of
26 any specific language or a disclosure on a credit document that is
27 not expressly required by:

1 (1) this chapter; or

2 (2) a regulation of the Office of the Comptroller of
3 the Currency [~~Thrift Supervision~~].

4 SECTION 20. Section 347.155(b), Finance Code, is amended to
5 read as follows:

6 (b) On prepayment, after deduction of an acquisition charge
7 that does not exceed \$50, the consumer is entitled to a refund
8 credit of the time price differential or interest. The amount of
9 the credit is computed on an actuarial basis in accordance with
10 regulations of the Office of the Comptroller of the Currency
11 [~~Thrift Supervision~~] adopted under the Depository Institutions
12 Deregulation and Monetary Control Act of 1980 (12 U.S.C. Section
13 1735f-7a [~~4a~~] et seq.) for the prepayment of a mortgage loan that is
14 secured by a first lien on a residential manufactured home.

15 SECTION 21. Section 347.356, Finance Code, is amended to
16 read as follows:

17 Sec. 347.356. REQUIREMENTS FOR ACTION TO REPOSSESS,
18 FORECLOSE, OR ACCELERATE PAYMENT OF ENTIRE DEBT. An action to
19 repossess a manufactured home, foreclose a lien on a manufactured
20 home, or accelerate payment of the entire unpaid balance of a credit
21 transaction must comply with the regulations of the Office of the
22 Comptroller of the Currency [~~Thrift Supervision~~] relating to the
23 disclosure required for repossession, foreclosure, or acceleration
24 except in extreme circumstances, including abandonment or
25 voluntary surrender of the manufactured home.

26 SECTION 22. Section 347.455(b), Finance Code, is amended to
27 read as follows:

1 (b) If the real property is included in the cash price of a
2 credit transaction, the creditor may:

3 (1) charge a fee that is ordinarily associated with a
4 real property transaction and is not prohibited by law, including a
5 fee that is associated with a real property transaction and
6 excluded from a finance charge under this chapter by the Consumer
7 Credit Protection Act (15 U.S.C. Section 1601 et seq.) and
8 Regulation Z (12 C.F.R. Part 1026) [~~12 C.F.R. Section 226.1 et seq.~~
9 ~~(Regulation Z)~~] adopted under that Act; and

10 (2) elect to treat the manufactured home as if it were
11 residential real property for all purposes in connection with the
12 credit transaction by conspicuously disclosing that election to the
13 consumer.

14 SECTION 23. Section 348.005, Finance Code, as amended by
15 Chapters 355 (H.B. 2462), 1135 (H.B. 2741), and 1287 (H.B. 2202),
16 Acts of the 83rd Legislature, Regular Session, 2013, is reenacted
17 and amended to read as follows:

18 Sec. 348.005. ITEMIZED CHARGE. An amount in a retail
19 installment contract is an itemized charge if the amount is not
20 included in the cash price and is the amount of:

21 (1) the price of accessories;
22 (1-a) the price of services related to the sale;
23 (1-b) fees for registration, certificate of title, and
24 license and any additional registration fees charged by a deputy as
25 authorized by rules adopted under Section 520.0071 [~~520.008~~],
26 Transportation Code;

27 (2) any taxes;

1 (3) fees or charges prescribed by law and connected
2 with the sale or inspection of the motor vehicle; and

3 (4) charges authorized for insurance, service
4 contracts, warranties, automobile club memberships, or a debt
5 cancellation agreement by this chapter [~~Subchapter C~~].

6 SECTION 24. Section 348.009(a), Finance Code, is amended to
7 read as follows:

8 (a) The disclosure requirements of Regulation Z (12 C.F.R.
9 Parts 226 and 1026) [~~12 C.F.R. Part 226 (Regulation Z)~~] adopted
10 under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and
11 specifically 12 C.F.R. Sections [~~Section~~] 226.18(f) and
12 1026.18(f), regarding variable rate disclosures, apply according
13 to their terms to retail installment transactions.

14 SECTION 25. Section 348.208(b), Finance Code, is amended to
15 read as follows:

16 (b) A retail installment contract may include as a separate
17 charge an amount for:

18 (1) motor vehicle property damage or bodily injury
19 liability insurance;

20 (2) mechanical breakdown insurance;

21 (3) participation in a [~~motor~~] vehicle [~~theft~~]
22 protection product authorized under Chapter 2306, Occupations Code
23 [~~plan~~];

24 (4) insurance to reimburse the retail buyer for the
25 amount computed by subtracting the proceeds of the buyer's basic
26 collision policy on the motor vehicle from the amount owed on the
27 vehicle if the vehicle has been rendered a total loss;

- 1 (5) a warranty or service contract relating to the
2 motor vehicle;
- 3 (6) an identity recovery service contract; or
- 4 (7) a debt cancellation agreement if the agreement is
5 included as a term of a retail installment contract under Section
6 [348.124](#).

7 SECTION 26. Section [348.404](#)(d), Finance Code, is amended to
8 read as follows:

9 (d) A retail seller may include money advanced under
10 Subsection (b) in the retail installment contract only if it is
11 included as an itemized charge and may disclose money advanced
12 under Subsection (b) in any manner permitted by Regulation Z (12
13 C.F.R. Parts 226 and 1026) [~~12 C.F.R. Part 226 (Regulation Z)~~]
14 adopted under the Truth in Lending Act (15 U.S.C. Section 1601 et
15 seq.). Section [349.003](#) does not apply to this subsection. This
16 subsection does not create a private right of action. The
17 commissioner has exclusive jurisdiction to enforce this
18 subsection.

19 SECTION 27. Section [348.508](#), Finance Code, is amended to
20 read as follows:

21 Sec. 348.508. LICENSE SUSPENSION OR REVOCATION. After
22 notice and an opportunity for a hearing the commissioner may
23 suspend or revoke a license if the commissioner finds that:

24 (1) the license holder failed to pay the annual
25 license fee, an examination fee, an investigation fee, or another
26 charge imposed by the commissioner;

27 (2) the license holder, knowingly or without the

1 exercise of due care, violated this chapter or a rule adopted or
2 order issued under this chapter; or

3 (3) a fact or condition exists that, if it had existed
4 or had been known to exist at the time of the original application
5 for the license, clearly would have justified the commissioner's
6 denial of the application.

7 SECTION 28. Section 351.0022, Finance Code, is amended to
8 read as follows:

9 Sec. 351.0022. WAIVER PROHIBITED. Except as specifically
10 permitted by this chapter or Chapter 32, Tax Code, a property owner
11 may not waive or limit a requirement imposed on a property tax
12 lender by this chapter or Chapter 32, Tax Code.

13 SECTION 29. Subchapter A, Chapter 351, Finance Code, is
14 amended by adding Section 351.0081 to read as follows:

15 Sec. 351.0081. LENDER'S RECORDS; DOCUMENT RETENTION
16 REQUIREMENTS. (a) A property tax lender shall maintain a record of
17 each property tax loan made under this chapter as necessary to
18 enable the commissioner to determine whether the lender is
19 complying with this chapter.

20 (b) A property tax lender shall keep the record until the
21 later of:

22 (1) the fourth anniversary of the date of the property
23 tax loan; or

24 (2) the second anniversary of the date on which the
25 final entry is made in the record.

26 (c) A record described by Subsection (a) must be prepared in
27 accordance with accepted accounting practices.

1 (d) The commissioner shall accept a lender's system of
2 records if the system discloses the information reasonably required
3 under Subsection (a).

4 (e) A property tax lender shall keep each obligation signed
5 by a property owner at an office in this state designated by the
6 lender unless the obligation is transferred under an agreement that
7 gives the commissioner access to the obligation.

8 SECTION 30. Section 351.156, Finance Code, is amended to
9 read as follows:

10 Sec. 351.156. LICENSE SUSPENSION OR REVOCATION. After
11 notice and an opportunity for a hearing the commissioner may
12 suspend or revoke a license if the commissioner finds that:

13 (1) the license holder failed to pay the annual
14 license fee, an examination fee, an investigation fee, or another
15 charge imposed by the commissioner under this chapter;

16 (2) the license holder, knowingly or without the
17 exercise of due care, violated this chapter or Section 32.06 or
18 32.065, Tax Code, or a rule adopted or an order issued under this
19 chapter or Section 32.06 or 32.065, Tax Code;

20 (3) a fact or condition exists that, if it had existed
21 or had been known to exist at the time of the original application
22 for the license, clearly would have justified the commissioner's
23 denial of the application; or

24 (4) the license holder has failed to ensure that an
25 individual acting as a residential mortgage loan originator, as
26 defined by Section 180.002, in the making, transacting, or
27 negotiating of a property tax loan for a principal dwelling is

1 licensed under this chapter in accordance with Section 351.0515.

2 SECTION 31. Section 352.006(b), Finance Code, is amended to
3 read as follows:

4 (b) If the commissioner proposes to revoke a registration,
5 the facilitator is entitled to notice and an opportunity for a
6 hearing before the commissioner or a hearings officer, who shall
7 propose a decision to the commissioner. The commissioner or
8 hearings officer shall prescribe the time and place of the hearing
9 if the facilitator makes a written request for a hearing not later
10 than the 20th day after the date the facilitator receives the notice
11 of hearing. The hearing is governed by Chapter 2001, Government
12 Code.

13 SECTION 32. Section 353.508, Finance Code, is amended to
14 read as follows:

15 Sec. 353.508. LICENSE SUSPENSION OR REVOCATION. After
16 notice and an opportunity for a hearing the commissioner may
17 suspend or revoke a license if the commissioner finds that:

18 (1) the license holder failed to pay the annual
19 license fee, an investigation fee, or another charge imposed by the
20 commissioner;

21 (2) the license holder, knowingly or without the
22 exercise of due care, violated this chapter or a rule adopted or
23 order issued under this chapter; or

24 (3) a fact or condition exists that, if it had existed
25 or had been known to exist at the time of the original application
26 for the license, clearly would have justified the commissioner's
27 denial of the application.

1 SECTION 33. Section 371.157, Finance Code, is amended to
2 read as follows:

3 Sec. 371.157. PAWN TICKET. A pawnbroker, at the time a pawn
4 transaction is entered, shall deliver to the pledgor a pawn ticket
5 or other memorandum that clearly shows:

6 (1) the name and address of the pawnshop;

7 (2) the pledgor's name, address, and physical
8 description and a driver's license number, military identification
9 number, identification certificate number, or other official
10 number that can identify the pledgor;

11 (3) the date of the transaction;

12 (4) an identification and description of the pledged
13 goods, including serial numbers if reasonably available;

14 (5) the amount of cash advanced or credit extended to
15 the pledgor, designated as "Amount Financed";

16 (6) the amount of the pawn service charge, designated
17 as "Finance Charge";

18 (7) the total amount, consisting of the amount
19 financed plus the finance charge, that must be paid to redeem the
20 pledged goods on the maturity date, designated as "Total of
21 Payments";

22 (8) the "Annual Percentage Rate," computed according
23 to Regulation Z (12 C.F.R. Part 1026) adopted [~~regulations issued~~
24 by the Bureau of Consumer Financial Protection [~~Federal Reserve~~
25 ~~Board~~] under the Truth in Lending Act (15 U.S.C. Section 1601 et
26 seq.), as amended;

27 (9) the maturity date of the pawn transaction; and

1 (10) a statement that:

2 (A) the pledgor is not obligated to redeem the
3 pledged goods; and

4 (B) the pledged goods may be forfeited to the
5 pawnbroker on the 31st day after the maturity date.

6 SECTION 34. Section 371.251(a), Finance Code, is amended to
7 read as follows:

8 (a) After notice and an opportunity for a hearing, the
9 commissioner may revoke or suspend a pawnshop license if the
10 commissioner finds that:

11 (1) the pawnbroker has not paid a fee or charge imposed
12 by the commissioner under this chapter;

13 (2) the pawnbroker, knowingly or without exercising
14 due care to prevent the violation, has violated this chapter or a
15 rule adopted or an order issued under this chapter;

16 (3) a fact or condition exists that, if it had existed
17 or had been known to exist at the time of the original license
18 application, clearly would have justified refusal to issue the
19 license;

20 (4) the pawnbroker has established an association with
21 an unlicensed person who, with the knowledge of the pawnbroker, has
22 violated this chapter;

23 (5) the pawnbroker has aided or conspired with a
24 person to circumvent this chapter;

25 (6) the pawnbroker or a legal or beneficial owner of
26 the pawnbroker is not of good moral character or has been convicted
27 of a crime that the commissioner finds directly relates to the

1 duties and responsibilities of the occupation of pawnbroker or
2 would otherwise make the person unfit for a pawnshop license under
3 Section 371.052;

4 (7) the financial responsibility, experience,
5 character, or general fitness of the pawnbroker or its owners and
6 managers do not command the confidence of the public or warrant the
7 belief that the business will be operated lawfully, fairly, and
8 within the purposes of this chapter; or

9 (8) the pawnbroker has not maintained the minimum net
10 assets required by Section 371.072.

11 SECTION 35. Section 371.255, Finance Code, is amended to
12 read as follows:

13 Sec. 371.255. REVOCATION OR SUSPENSION OF PAWNSHOP EMPLOYEE
14 LICENSE. After notice and an opportunity for a hearing, the
15 commissioner may revoke or suspend a pawnshop employee license if
16 the commissioner finds that:

17 (1) the license holder knowingly or recklessly
18 violated this chapter or a rule adopted or order issued under this
19 chapter;

20 (2) a fact or condition exists that, if it had existed
21 or had been known to exist at the time of the original license
22 application, clearly would have justified refusal to issue the
23 license; or

24 (3) the moral character, business repute, and general
25 fitness of the license holder do not warrant belief that the license
26 holder will operate the business lawfully and fairly within the
27 provisions of this chapter.

1 SECTION 36. Section 393.614(a), Finance Code, is amended to
2 read as follows:

3 (a) After notice and an opportunity for a hearing the
4 commissioner may suspend or revoke a license if the commissioner
5 finds that:

6 (1) the license holder failed to pay the annual
7 license fee, an examination fee, an investigation fee, or another
8 charge imposed by the commissioner under this subchapter;

9 (2) the license holder, knowingly or without the
10 exercise of due care, violated this chapter or a rule adopted or
11 order issued under this chapter; or

12 (3) a fact or condition exists that, if it had existed
13 or had been known to exist at the time of the original application
14 for the license, clearly would have justified the commissioner's
15 denial of the application.

16 SECTION 37. Section 394.204(k), Finance Code, is amended to
17 read as follows:

18 (k) In addition to the power to refuse an initial
19 application as specified in this section, the commissioner may
20 suspend or revoke a provider's registration after notice and an
21 opportunity for a hearing if the commissioner finds that any of the
22 following conditions are met:

23 (1) a fact or condition exists that if it had existed
24 when the provider applied for registration would have been grounds
25 for denying registration;

26 (2) a fact or condition exists that the commissioner
27 was not aware of when the provider applied for registration and

1 would have been grounds for denying registration;

2 (3) the provider violates this subchapter or rule or
3 order of the commissioner under this subchapter;

4 (4) the provider is insolvent;

5 (5) the provider refuses to permit the commissioner to
6 make an examination authorized by this subchapter;

7 (6) the provider fails to respond within a reasonable
8 time and in an appropriate manner to communications from the
9 commissioner;

10 (7) the provider has received money from or on behalf
11 of a consumer for disbursement to a creditor under a debt management
12 plan that provides for regular periodic payments to creditors in
13 full repayment of the principal amount of the debts and the provider
14 has failed to disburse money to the creditor on behalf of the
15 consumer within a reasonable time, normally 30 days;

16 (8) the commissioner determines that the provider's
17 trust account is not materially in balance with and reconciled to
18 the consumer's account; or

19 (9) the provider fails to warrant the belief that the
20 business will be operated lawfully and fairly and within the
21 provisions and purposes of this subchapter.

22 SECTION 38. Section [394.212\(a\)](#), Finance Code, is amended to
23 read as follows:

24 (a) A provider may not:

25 (1) purchase a debt or obligation of a consumer;

26 (2) receive or charge a fee in the form of a promissory
27 note or other negotiable instrument other than a check or a draft;

- 1 (3) lend money or provide credit to the consumer;
- 2 (4) obtain a mortgage or other security interest in
3 property owned by a consumer;
- 4 (5) engage in business with an entity described by
5 Section 394.204(c)(7) [~~394.204(c)(3)~~] without prior consent of the
6 commissioner, except that unless denied, consent is considered
7 granted 30 days after the date the provider notifies the
8 commissioner of the intent to engage in business with the
9 for-profit business entity [~~an organization~~] described by Section
10 394.204(c)(7) [~~394.204(c)(3)~~];
- 11 (6) offer, pay, or give a gift, bonus, premium,
12 reward, or other compensation to a person for entering into a debt
13 management services agreement;
- 14 (7) represent that the provider is authorized or
15 competent to furnish legal advice or perform legal services unless
16 supervised by an attorney as required by State Bar of Texas rules;
- 17 (8) use an unconscionable means to obtain a contract
18 with a consumer;
- 19 (9) engage in an unfair, deceptive, or unconscionable
20 act or practice in connection with a service provided to a consumer;
21 or
- 22 (10) require or attempt to require payment of an
23 amount that the provider states, discloses, or advertises to be a
24 voluntary contribution from the consumer.

25 SECTION 39. Section 1956.0614(b), Occupations Code, is
26 amended to read as follows:

27 (b) If the commissioner proposes to revoke a registration,

1 the dealer is entitled to notice and an opportunity for a hearing
2 before the commissioner or a hearings officer, who shall propose a
3 decision to the commissioner. The commissioner or hearings
4 officer shall prescribe the time and place of the hearing if the
5 dealer makes a written request for a hearing not later than the 20th
6 day after the date the dealer receives the notice of the
7 hearing. The hearing is governed by Chapter 2001, Government Code.

8 SECTION 40. Sections 32.06(d-1) and (f-3), Tax Code, are
9 amended to read as follows:

10 (d-1) A right of rescission described by the Truth in
11 Lending Act (15 U.S.C. Section 1635) and Regulation Z (12 C.F.R.
12 Section 1026.23) [~~12 C.F.R. Section 226.23~~] applies to a transfer
13 under this section of a tax lien on residential property owned and
14 used by the property owner for personal, family, or household
15 purposes.

16 (f-3) Notwithstanding any contractual agreement with the
17 property owner, the transferee of a tax lien must provide the payoff
18 information required by this section to the greatest extent
19 permitted by the Gramm-Leach-Bliley Act (15 U.S.C. Section 6802)
20 and Regulation P (12 C.F.R. Section 1016) [~~15 U.S.C. Section 6802~~
21 and ~~12 C.F.R. Part 216~~]. The payoff statement must meet the
22 requirements of a payoff statement defined by Section 12.017,
23 Property Code. A transferee may charge a reasonable fee for a
24 payoff statement that is requested after an initial payoff
25 statement is provided. However, a transferee is not required to
26 release payoff information pursuant to a notice under Subsection
27 (f-1) unless the notice contains the information prescribed by the

1 Finance Commission of Texas.

2 SECTION 41. Sections [11.305\(a\)](#), (b), and (c), Finance Code,
3 are repealed.

4 SECTION 42. This Act takes effect September 1, 2015.