

By: Ellis

S.B. No. 92

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to regulation of certain credit services organizations and  
3 to certain extensions of consumer credit the organizations obtain  
4 for a consumer or assist a consumer in obtaining.

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

6 SECTION 1. Subchapter A, Chapter 393, Finance Code, is  
7 amended by adding Section 393.004 to read as follows:

8 Sec. 393.004. EFFECT ON MUNICIPAL ORDINANCES. (a) In this  
9 section, "credit access business" has the meaning assigned by  
10 Section 393.601.

11 (b) This chapter does not preempt a municipal ordinance  
12 regulating a credit access business or an extension of consumer  
13 credit that a credit access business obtains for a consumer or  
14 assists a consumer in obtaining.

15 (c) If a municipal ordinance described by Subsection (b)  
16 conflicts with a provision of this chapter regulating a credit  
17 access business or an extension of consumer credit described by  
18 Subsection (b), the more stringent regulation controls to the  
19 extent of the conflict.

20 SECTION 2. Section 393.203, Finance Code, is amended to  
21 read as follows:

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

23 (a) A credit services organization shall give to the consumer, when  
24 the document is signed, a copy of the completed contract and any

1 other document the organization requires the consumer to sign.

2 (b) The contract and other documents provided by a credit  
3 access business, as defined by Section 393.221, to a consumer under  
4 this section in relation to an extension of consumer credit must be:

5 (1) provided before signing wholly written in the  
6 language in which the contract is negotiated; and

7 (2) read before signing in their entirety in the  
8 language in which the contract is negotiated to any consumer who  
9 cannot read.

10 SECTION 3. Section 393.223, Finance Code, is amended by  
11 amending Subsection (a) and adding Subsection (b-1) to read as  
12 follows:

13 (a) Before performing services described by Section  
14 393.602(a) [393.221(1)], a credit access business must provide to a  
15 consumer a written disclosure adopted by rule of the Finance  
16 Commission of Texas [~~that discloses the following~~] in a form  
17 prescribed by the commission that:

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

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

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

4           (4) references nonprofit agencies that provide  
5 financial education and training or cash assistance to borrowers.

6           **(b-1) The disclosure and notice required by this section**  
7 **must be:**

8           (1) available in English and Spanish at each location  
9 at which the credit access business performs services described by  
10 Section 393.602(a); and

11           (2) provided to a consumer wholly written, and read in  
12 their entirety at the time provided to any consumer who cannot read,  
13 in the language in which the contract is negotiated.

14           SECTION 4. Subchapter D, Chapter 393, Finance Code, is  
15 amended by adding Sections 393.308 and 393.309 to read as follows:

16           Sec. 393.308. RESTRICTIONS ON AMOUNT ADVANCED UNDER CERTAIN  
17 EXTENSIONS OF CONSUMER CREDIT. (a) In this section, "deferred  
18 presentment transaction" and "motor vehicle title loan" have the  
19 meanings assigned by Section 393.601.

20           **(b) A credit services organization may not obtain for a**  
21 **consumer or assist a consumer in obtaining an extension of consumer**  
22 **credit in the form of a deferred presentment transaction if the**  
23 **amount of cash advanced exceeds 20 percent of the borrower's gross**  
24 **monthly income.**

25           **(c) A credit services organization may not obtain for a**  
26 **consumer or assist a consumer in obtaining an extension of consumer**  
27 **credit in the form of a motor vehicle title loan if the amount of**

1 cash advanced exceeds the lesser of:

2 (1) three percent of the borrower's gross annual  
3 income; or

4 (2) 70 percent of the retail value of the motor  
5 vehicle.

6 (d) A credit services organization shall use a consumer's  
7 paycheck or other documentation establishing income to determine a  
8 consumer's income for purposes of this section.

9 Sec. 393.309. REPAYMENT OF CERTAIN EXTENSIONS OF CONSUMER  
10 CREDIT. (a) In this section, "deferred presentment transaction"  
11 and "motor vehicle title loan" have the meanings assigned by  
12 Section 393.221.

13 (b) An extension of consumer credit in the form of a  
14 deferred presentment transaction or motor vehicle title loan that a  
15 credit services organization obtains for a consumer or assists a  
16 consumer in obtaining may not be payable in more than four  
17 installments. Proceeds from each installment must be used to repay  
18 at least 25 percent of the principal amount of the debt. An  
19 extension of consumer credit described by this subsection that  
20 provides for repayment in installments may not be refinanced or  
21 renewed.

22 (c) An extension of consumer credit in the form of a  
23 deferred presentment transaction or motor vehicle title loan that a  
24 credit services organization obtains for a consumer or assists a  
25 consumer in obtaining and that provides for a single lump-sum  
26 payment may not be refinanced or renewed more than three times.  
27 Proceeds from each refinancing or renewal must be used to repay at

1 least 25 percent of the principal amount of the original debt.

2 (d) For purposes of this section, an extension of consumer  
3 credit in the form of a deferred presentment transaction or motor  
4 vehicle title loan that is made to a consumer on or before the  
5 seventh day after the date the consumer has paid a previous  
6 extension of consumer credit made by the same person is considered a  
7 refinance or renewal of the previous debt.

8 SECTION 5. Section 393.501, Finance Code, is amended by  
9 adding Subsection (c) to read as follows:

10 (c) Each day of a continuing violation of a provision of  
11 Subchapter C-1 or G constitutes a separate offense.

12 SECTION 6. Section 393.604(a), Finance Code, is amended to  
13 read as follows:

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

15 (1) be under oath;

16 (2) contain the applicant's name and the street  
17 address, mailing address, facsimile number, and telephone number of  
18 the applicant at the location for which the license is sought;

19 (3) give the approximate location from which the  
20 business is to be conducted;

21 (4) [~~3~~] identify the business's principal parties in  
22 interest;

23 (5) [~~4~~] contain the name, physical address, and  
24 telephone number of all third-party lender organizations with which  
25 the business contracts to provide services described by Section  
26 393.602(a) or from which the business arranges extensions of  
27 consumer credit described by Section 393.602(a); and

1           (6) [~~(5)~~] contain other relevant information that the  
2 commissioner requires for the findings required under Section  
3 393.607.

4           SECTION 7. Section 393.620, Finance Code, is amended to  
5 read as follows:

6           Sec. 393.620. TRANSFER OR ASSIGNMENT OF LICENSE PROHIBITED.  
7 A license may not be transferred or assigned [~~only with the approval~~  
8 ~~of the commissioner~~].

9           SECTION 8. Subchapter G, Chapter 393, Finance Code, is  
10 amended by adding Section 393.629 to read as follows:

11           Sec. 393.629. MAINTENANCE OF RECORDS. (a) A credit access  
12 business shall maintain a complete set of records of all extensions  
13 of consumer credit obtained for consumers by the business or that  
14 the business assisted consumers in obtaining. The record  
15 pertaining to each extension of consumer credit must be retained  
16 until the third anniversary of the date the extension of consumer  
17 credit was obtained and must include:

18                   (1) the name and address of the consumer;  
19                   (2) the principal amount of the cash advance or loan;  
20                   (3) the length of the original term of the extension of  
21 consumer credit, the number of installments or renewals, and the  
22 length of the term of any renewal or refinance;

23                   (4) the fees charged by the credit access business for  
24 obtaining for a consumer or assisting the consumer in obtaining the  
25 extension of consumer credit; and

26                   (5) the documentation used to establish a consumer's  
27 income under Section 393.308.

1       (b) A credit access business shall retain a copy of each  
2 written agreement between the business and a consumer pertaining to  
3 an extension of consumer credit, including any agreement regarding  
4 refinancing or renewing an extension of consumer credit, until the  
5 third anniversary of the date on which the agreement was entered  
6 into.

7       (c) A credit access business shall retain a copy of each  
8 report filed under Section 393.627 until the third anniversary of  
9 the date on which the report was filed.

10       (d) A record described by this section must be available for  
11 inspection on request by the office during the normal business  
12 hours of the credit access business.

13       SECTION 9. The changes in law made by this Act apply only to  
14 an extension of consumer credit made on or after the effective date  
15 of this Act. An extension of consumer credit made before the  
16 effective date of this Act is governed by the law in effect on the  
17 date the extension of consumer credit was made, and the former law  
18 is continued in effect for that purpose.

19       SECTION 10. (a) The change in law made by this Act to  
20 Section 393.223, Finance Code, applies only to a disclosure or  
21 notice provided by a credit access business on or after January 1,  
22 2016. A disclosure or notice provided by a credit access business  
23 before January 1, 2016, is governed by Section 393.223, Finance  
24 Code, as that section existed immediately before the effective date  
25 of this Act, and that law is continued in effect for that purpose.

26       (b) The Finance Commission of Texas shall adopt rules  
27 prescribing forms under Section 393.223(a), Finance Code, as

1 amended by this Act, not later than November 1, 2015.

2           SECTION 11. Section 393.629, Finance Code, as added by this  
3 Act, applies only to a record created on or after the effective date  
4 of this Act. A record created before the effective date of this Act  
5 is governed by the law in effect when the record was created, and  
6 the former law is continued in effect for that purpose.

7           SECTION 12. This Act takes effect September 1, 2015.