

By: Eltife
(Parker)

S.B. No. 1282

Substitute the following for S.B. No. 1282:

By: Parker

C.S.S.B. No. 1282

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of consumer credit transactions and the regulatory authority of the Office of Consumer Credit Commissioner.

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

SECTION 1. Section 11.305(a), Finance Code, is amended to read as follows:

(a) The ~~[finance commission shall instruct the]~~ consumer credit commissioner shall ~~[to]~~ establish a program to address alternatives to high-cost lending in this state. The program shall:

(1) study and report on ~~[the problem of]~~ high-cost lending, including without limitation the availability, quality, and prices of financial services~~[, including lending and depository services,]~~ offered in this state to ~~[agricultural businesses, small businesses, and]~~ individual consumers in this state; and

(2) evaluate alternatives to high-cost lending and the practices of business entities in this state that provide financial services to ~~[agricultural businesses, small businesses, and]~~ individual consumers in this state~~[,~~

~~[(3) develop models to provide lower-cost alternatives to assist borrowers who contract for high-cost loans, and~~

~~[(4) track the location of lenders who enter into loan contracts providing for an interest charge authorized by Section~~

1 ~~342.201, map the location of the lenders by senatorial district and~~
2 ~~by any other appropriate areas, provide other demographic~~
3 ~~information relating to the loans and the location of the lenders,~~
4 ~~and provide information on the changes in the distribution of the~~
5 ~~lenders from 1997 through the date of the report].~~

6 SECTION 2. 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
25 purposes of an examination or investigation [~~conducted under~~
26 ~~Section 339.001, Subtitle B or C, Title 4, Chapter 393 with~~
27 ~~respect to a credit access business, or Chapter 394]~~;

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

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

11 (b) The commissioner or the commissioner's representative
12 may disclose the confidential information or material described by
13 Subsection (a):

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

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

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

25 SECTION 3. Section 14.251, Finance Code, is amended by
26 adding Subsection (c) to read as follows:

27 (c) An order of restitution under Subsection (b) is subject

1 to the notice, procedure, and enforcement provisions of Sections
2 14.253 through 14.260 applicable to an administrative penalty.

3 SECTION 4. Section 14.256, Finance Code, is amended to read
4 as follows:

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

10 SECTION 5. Section 14.257(a), Finance Code, is amended to
11 read as follows:

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

16 SECTION 6. Section 180.002(5), Finance Code, is amended to
17 read as follows:

18 (5) "Dwelling" has the meaning assigned by Section
19 103(w) [103(v)] of the Truth in Lending Act (15 U.S.C. Section
20 1602(w) [1602(v)]).

21 SECTION 7. Section 303.015(c), Finance Code, is amended to
22 read as follows:

23 (c) A variable rate agreement for credit extended primarily
24 for personal, family, or household use must include the disclosures
25 identified for variable rate contracts required by regulations
26 issued by the Federal Reserve Board and the Bureau of Consumer
27 Financial Protection under the Truth in Lending Act (15 U.S.C.

1 Section 1601 et seq.), as amended, except that if that Act does not
2 apply because of the amount of the transaction, the following
3 disclosure must be included in a size equal to at least 10-point
4 type that is boldface, capitalized, underlined, or otherwise set
5 out from surrounding material so as to be conspicuous:

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

9 SECTION 8. Section 303.402(a), Finance Code, is amended to
10 read as follows:

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

19 SECTION 9. Sections 308.002(c) and (e), Finance Code, are
20 amended to read as follows:

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

24 (1) Part C of the Truth in Lending Act [~~15 U.S.C.~~
25 ~~Chapter 41, Subchapter I~~] (15 U.S.C. Section 1661 [~~1601~~] et seq.);

26 (2) Regulation Z (12 C.F.R. Parts 226 and 1026) [~~12~~
27 ~~C.F.R. Part 226~~] adopted by the Board of Governors of the Federal

1 Reserve System and the Bureau of Consumer Financial Protection; and
2 (3) the Official Staff Commentary and other
3 interpretations of that statute and regulation by the Board of
4 Governors of the Federal Reserve System, the Bureau of Consumer
5 Financial Protection, and the staff of those agencies [~~its staff~~].

6 (e) A creditor who complies with the Truth in Lending Act
7 (15 U.S.C. Section 1601 et seq.) and [~~Federal Reserve~~] Regulation Z
8 (12 C.F.R. Parts [~~Part~~] 226 and 1026) in advertising a credit
9 transaction is considered to have fully complied with this section.

10 SECTION 10. Section 341.301(a), Finance Code, is amended to
11 read as follows:

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

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

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

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

21 (2) if the advertisement is broadcast by radio or
22 television, shall:

23 (A) disclose the telephone number of the
24 advertiser; and

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

1 SECTION 11. Section 341.401(b), Finance Code, is amended to
2 read as follows:

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

10 SECTION 12. Section 341.402(b), Finance Code, is amended to
11 read as follows:

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

20 SECTION 13. Section 341.502(a-1), Finance Code, is amended
21 to read as follows:

22 (a-1) If the terms of the agreement for a loan under
23 Subsection (a) were negotiated in Spanish, a copy of a summary of
24 those terms and other pertinent information shall be provided to
25 the debtor in Spanish in a form identical to disclosures required
26 for a closed-end transaction under 12 C.F.R. Sections [~~Section~~]
27 226.18 and 1026.18.

1 SECTION 14. Section 342.001, Finance Code, is amended by
2 adding Subdivisions (5) and (6) to read as follows:

3 (5) "Consumer civil justice lender" means a person
4 that enters into a consumer civil justice lending transaction with
5 a consumer. The term does not include an attorney who, at the time
6 money is provided to or on behalf of a consumer in a consumer civil
7 justice lending transaction, has an attorney-client relationship
8 with the consumer concerning the consumer's dispute.

9 (6) "Consumer civil justice lending transaction"
10 means a non-recourse transaction in which a consumer civil justice
11 lender purchases, and a consumer assigns to the lender, a
12 contingent right to receive an amount of the potential proceeds of a
13 settlement, judgment, award, or verdict obtained in the consumer's
14 legal claim.

15 SECTION 15. Section 342.005, Finance Code, is amended to
16 read as follows:

17 Sec. 342.005. APPLICABILITY OF CHAPTER. (a) Except as
18 provided by Sections 302.001(d) and 342.004(c), a loan is subject
19 to this chapter if the loan:

20 (1) provides for interest in excess of 10 percent a
21 year;

22 (2) is extended primarily for personal, family, or
23 household use;

24 (3) is made by a person engaged in the business of
25 making, arranging, or negotiating those types of loans; and

26 (4) either:

27 (A) is not secured by a lien on real property; or

1 (B) is described by Section 342.001(4), 342.301,
2 or 342.456 and is predominantly payable in monthly installments.

3 (b) A consumer civil justice lending transaction is subject
4 to this chapter. The amounts provided by the consumer civil justice
5 lender to the consumer in a consumer civil justice lending
6 transaction are considered to be amounts extended primarily for
7 personal, family, or household use, may not be paid to any other
8 person who is not the sole payee of the transaction, and may not
9 provide for interest in excess of 36 percent a year.

10 SECTION 16. Section 342.156, Finance Code, is amended to
11 read as follows:

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

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

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

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

25 (4) the license holder has failed to ensure that an
26 individual acting as a residential mortgage loan originator, as
27 defined by Section 180.002, in the making, transacting, or

1 negotiating of a loan subject to this chapter is licensed under this
2 chapter in accordance with Section 342.0515.

3 SECTION 17. Section 342.201, Finance Code, is amended by
4 adding Subsection (e-1) to read as follows:

5 (e-1) The interest charge under Subsection (e) must be
6 contracted for, charged, or received using the scheduled
7 installment earnings method or the true daily earnings method under
8 one of the following methods:

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

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

20 SECTION 18. Section 343.201, Finance Code, is amended to
21 read as follows:

22 Sec. 343.201. DEFINITIONS. In this subchapter:

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

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

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

27 (i) a manufactured home, as defined by

1 Section 347.002, used or to be used as the borrower's principal
2 residence; or

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

6 (C) has a principal amount equal to or less than
7 one-half of the maximum conventional loan amount for first
8 mortgages as established and adjusted by the Federal National
9 Mortgage Association;

10 (D) is not:

11 (i) a reverse mortgage; or

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

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

19 (i) the annual percentage rate exceeds the
20 rate indicated in 12 C.F.R. Section 1026.32(a)(1)(i)
21 [~~226.32(a)(1)(i)~~], as amended; or

22 (ii) the total points and fees payable by
23 the consumer at or before loan closing will exceed the amount
24 indicated in 12 C.F.R. Section 1026.32(a)(1)(ii)
25 [~~226.32(a)(1)(ii)~~], as amended.

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

1 SECTION 19. Section 345.106, Finance Code, is amended to
2 read as follows:

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

5 (1) charge the retail buyer, on return of a dishonored
6 check given in payment under the agreement, a reasonable processing
7 fee that does not exceed the amount prescribed by Section 3.506,
8 Business & Commerce Code [~~is not more than \$15~~]; and

9 (2) add the fee to the unpaid balance under the
10 agreement.

11 SECTION 20. Section 347.002(b), Finance Code, is amended to
12 read as follows:

13 (b) To the extent possible, a word or phrase used in this
14 chapter, other than a term defined by this section, has the meaning
15 assigned by the Truth in Lending [~~Part I, Consumer Credit~~
16 ~~Protection~~] Act (15 U.S.C. Section 1601 et seq.) and its subsequent
17 amendments, as implemented by Regulation Z (12 C.F.R. Part 1026)
18 [~~12 C.F.R. 226.1 et seq.~~].

19 SECTION 21. Section 347.004(a), Finance Code, is amended to
20 read as follows:

21 (a) A creditor shall comply with all applicable
22 requirements, including required disclosures, under the Truth in
23 Lending [~~Part I, Consumer Credit Protection~~] Act (15 U.S.C. Section
24 1601 et seq.) and its subsequent amendments, as implemented by
25 Regulation Z (12 C.F.R. Part 1026) [~~12 C.F.R. 226.1 et seq.~~
26 ~~(Regulation Z)~~] adopted under that Act.

27 SECTION 22. Section 347.056, Finance Code, is amended to

1 read as follows:

2 Sec. 347.056. AUTHORITY OF CONSUMER CREDIT COMMISSIONER
3 RELATING TO A CREDIT DOCUMENT. Except as provided by Section
4 347.004(a), the ~~[The]~~ commissioner may not require the inclusion of
5 any specific language or a disclosure on a credit document that is
6 not expressly required by:

- 7 (1) this chapter; or
8 (2) a regulation of the Office of the Comptroller of
9 the Currency ~~[Thrift Supervision]~~.

10 SECTION 23. Section 347.155(b), Finance Code, is amended to
11 read as follows:

12 (b) On prepayment, after deduction of an acquisition charge
13 that does not exceed \$50, the consumer is entitled to a refund
14 credit of the time price differential or interest. The amount of
15 the credit is computed on an actuarial basis in accordance with
16 regulations of the Office of the Comptroller of the Currency
17 ~~[Thrift Supervision]~~ adopted under the Depository Institutions
18 Deregulation and Monetary Control Act of 1980 (12 U.S.C. Section
19 1735f-7a ~~[4a]~~ et seq.) for the prepayment of a mortgage loan that is
20 secured by a first lien on a residential manufactured home.

21 SECTION 24. Section 347.356, Finance Code, is amended to
22 read as follows:

23 Sec. 347.356. REQUIREMENTS FOR ACTION TO REPOSSESS,
24 FORECLOSE, OR ACCELERATE PAYMENT OF ENTIRE DEBT. An action to
25 repossess a manufactured home, foreclose a lien on a manufactured
26 home, or accelerate payment of the entire unpaid balance of a credit
27 transaction must comply with the regulations of the Office of the

1 Comptroller of the Currency [~~Thrift Supervision~~] relating to the
2 disclosure required for repossession, foreclosure, or acceleration
3 except in extreme circumstances, including abandonment or
4 voluntary surrender of the manufactured home.

5 SECTION 25. Section 347.455(b), Finance Code, is amended to
6 read as follows:

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

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

16 (2) elect to treat the manufactured home as if it were
17 residential real property for all purposes in connection with the
18 credit transaction by conspicuously disclosing that election to the
19 consumer.

20 SECTION 26. Section 348.005, Finance Code, as amended by
21 Chapters 355 (H.B. 2462), 1135 (H.B. 2741), and 1287 (H.B. 2202),
22 Acts of the 83rd Legislature, Regular Session, 2013, is reenacted
23 and amended to read as follows:

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

27 (1) the price of accessories;

1 (1-a) the price of services related to the sale;

2 (1-b) fees for registration, certificate of title, and
3 license and any additional registration fees charged by a deputy as
4 authorized by rules adopted under Section 520.0071 [~~520.008~~],
5 Transportation Code;

6 (2) any taxes;

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

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

12 SECTION 27. Section 348.009(a), Finance Code, is amended to
13 read as follows:

14 (a) The disclosure requirements of Regulation Z (12 C.F.R.
15 Parts 226 and 1026) [~~12 C.F.R. Part 226 (Regulation Z)~~] adopted
16 under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and
17 specifically 12 C.F.R. Sections [~~Section~~] 226.18(f) and
18 1026.18(f), regarding variable rate disclosures, apply according
19 to their terms to retail installment transactions.

20 SECTION 28. Section 348.208(b), Finance Code, is amended to
21 read as follows:

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

24 (1) motor vehicle property damage or bodily injury
25 liability insurance;

26 (2) mechanical breakdown insurance;

27 (3) participation in a [~~motor~~] vehicle [~~theft~~]

1 protection product authorized under Chapter 2306, Occupations Code
2 [~~plan~~];

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

7 (5) a warranty or service contract relating to the
8 motor vehicle;

9 (6) an identity recovery service contract; or

10 (7) a debt cancellation agreement if the agreement is
11 included as a term of a retail installment contract under Section
12 [348.124](#).

13 SECTION 29. Section [348.404](#)(d), Finance Code, is amended to
14 read as follows:

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

25 SECTION 30. Section [348.508](#), Finance Code, is amended to
26 read as follows:

27 Sec. 348.508. LICENSE SUSPENSION OR REVOCATION. After

1 notice and an opportunity for a hearing the commissioner may
2 suspend or revoke a license if the commissioner finds that:

3 (1) the license holder failed to pay the annual
4 license fee, an examination fee, an investigation fee, or another
5 charge imposed by the commissioner;

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

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

13 SECTION 31. Section [351.0022](#), Finance Code, is amended to
14 read as follows:

15 Sec. 351.0022. WAIVER PROHIBITED. Except as specifically
16 permitted by this chapter or Chapter 32, Tax Code, a property owner
17 may not waive or limit a requirement imposed on a property tax
18 lender by this chapter or Chapter 32, Tax Code.

19 SECTION 32. Subchapter A, Chapter 351, Finance Code, is
20 amended by adding Section 351.0081 to read as follows:

21 Sec. 351.0081. LENDER'S RECORDS; DOCUMENT RETENTION
22 REQUIREMENTS. (a) A property tax lender shall maintain a record of
23 each property tax loan made under this chapter as necessary to
24 enable the commissioner to determine whether the lender is
25 complying with this chapter.

26 (b) A property tax lender shall keep the record until the
27 later of:

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

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

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

7 (d) The commissioner shall accept a lender's system of
8 records if the system discloses the information reasonably required
9 under Subsection (a).

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

14 SECTION 33. Section 351.156, Finance Code, is amended to
15 read as follows:

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

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

22 (2) the license holder, knowingly or without the
23 exercise of due care, violated this chapter or Section 32.06 or
24 32.065, Tax Code, or a rule adopted or an order issued under this
25 chapter or Section 32.06 or 32.065, Tax Code;

26 (3) a fact or condition exists that, if it had existed
27 or had been known to exist at the time of the original application

1 for the license, clearly would have justified the commissioner's
2 denial of the application; or

3 (4) the license holder has failed to ensure that an
4 individual acting as a residential mortgage loan originator, as
5 defined by Section 180.002, in the making, transacting, or
6 negotiating of a property tax loan for a principal dwelling is
7 licensed under this chapter in accordance with Section 351.0515.

8 SECTION 34. Section 352.006(b), Finance Code, is amended to
9 read as follows:

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

19 SECTION 35. Section 353.508, Finance Code, is amended to
20 read as follows:

21 Sec. 353.508. 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 investigation fee, or another charge imposed by the
26 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 36. Section 371.157, Finance Code, is amended to
8 read as follows:

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

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

13 (2) the pledgor's name, address, and physical
14 description and a driver's license number, military identification
15 number, identification certificate number, or other official
16 number that can identify the pledgor;

17 (3) the date of the transaction;

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

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

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

24 (7) the total amount, consisting of the amount
25 financed plus the finance charge, that must be paid to redeem the
26 pledged goods on the maturity date, designated as "Total of
27 Payments";

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

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

7 (10) a statement that:

8 (A) the pledgor is not obligated to redeem the
9 pledged goods; and

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

12 SECTION 37. Section [371.251\(a\)](#), Finance Code, is amended to
13 read as follows:

14 (a) After notice and an opportunity for a hearing, the
15 commissioner may revoke or suspend a pawnshop license if the
16 commissioner finds that:

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

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

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

26 (4) the pawnbroker has established an association with
27 an unlicensed person who, with the knowledge of the pawnbroker, has

1 violated this chapter;

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

4 (6) the pawnbroker or a legal or beneficial owner of
5 the pawnbroker is not of good moral character or has been convicted
6 of a crime that the commissioner finds directly relates to the
7 duties and responsibilities of the occupation of pawnbroker or
8 would otherwise make the person unfit for a pawnshop license under
9 Section 371.052;

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

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

17 SECTION 38. Section 371.255, Finance Code, is amended to
18 read as follows:

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

23 (1) the license holder knowingly or recklessly
24 violated this chapter or a rule adopted or order issued under this
25 chapter;

26 (2) a fact or condition exists that, if it had existed
27 or had been known to exist at the time of the original license

1 application, clearly would have justified refusal to issue the
2 license; or

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

7 SECTION 39. Section 393.614(a), Finance Code, is amended to
8 read as follows:

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

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

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

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

22 SECTION 40. Section 394.204(k), Finance Code, is amended to
23 read as follows:

24 (k) In addition to the power to refuse an initial
25 application as specified in this section, the commissioner may
26 suspend or revoke a provider's registration after notice and an
27 opportunity for a hearing if the commissioner finds that any of the

1 following conditions are met:

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

5 (2) a fact or condition exists that the commissioner
6 was not aware of when the provider applied for registration and
7 would have been grounds for denying registration;

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

10 (4) the provider is insolvent;

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

13 (6) the provider fails to respond within a reasonable
14 time and in an appropriate manner to communications from the
15 commissioner;

16 (7) the provider has received money from or on behalf
17 of a consumer for disbursement to a creditor under a debt management
18 plan that provides for regular periodic payments to creditors in
19 full repayment of the principal amount of the debts and the provider
20 has failed to disburse money to the creditor on behalf of the
21 consumer within a reasonable time, normally 30 days;

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

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

1 SECTION 41. Section 394.212(a), Finance Code, is amended to
2 read as follows:

3 (a) A provider may not:

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

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

7 (3) lend money or provide credit to the consumer;

8 (4) obtain a mortgage or other security interest in
9 property owned by a consumer;

10 (5) engage in business with a for-profit business [~~an~~
11 entity described by Section 394.204(c)(7) [~~394.204(c)(3)~~] without
12 prior consent of the commissioner, except that unless denied,
13 consent is considered granted 30 days after the date the provider
14 notifies the commissioner of the intent to engage in business with
15 the for-profit business entity [~~an organization~~] described by
16 Section 394.204(c)(7) [~~394.204(c)(3)~~];

17 (6) offer, pay, or give a gift, bonus, premium,
18 reward, or other compensation to a person for entering into a debt
19 management services agreement;

20 (7) represent that the provider is authorized or
21 competent to furnish legal advice or perform legal services unless
22 supervised by an attorney as required by State Bar of Texas rules;

23 (8) use an unconscionable means to obtain a contract
24 with a consumer;

25 (9) engage in an unfair, deceptive, or unconscionable
26 act or practice in connection with a service provided to a consumer;

27 or

1 (10) require or attempt to require payment of an
2 amount that the provider states, discloses, or advertises to be a
3 voluntary contribution from the consumer.

4 SECTION 42. Section 1956.0614(b), Occupations Code, is
5 amended to read as follows:

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

14 SECTION 43. Sections 32.06(d-1) and (f-3), Tax Code, are
15 amended to read as follows:

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

22 (f-3) Notwithstanding any contractual agreement with the
23 property owner, the transferee of a tax lien must provide the payoff
24 information required by this section to the greatest extent
25 permitted by the Gramm-Leach-Bliley Act (15 U.S.C. Section 6802)
26 and Regulation P (12 C.F.R. Section 1016) [~~15 U.S.C. Section 6802~~
27 and ~~12 C.F.R. Part 216~~]. The payoff statement must meet the

1 requirements of a payoff statement defined by Section 12.017,
2 Property Code. A transferee may charge a reasonable fee for a
3 payoff statement that is requested after an initial payoff
4 statement is provided. However, a transferee is not required to
5 release payoff information pursuant to a notice under Subsection
6 (f-1) unless the notice contains the information prescribed by the
7 Finance Commission of Texas.

8 SECTION 44. To the extent of any conflict, this Act prevails
9 over another Act of the 84th Legislature, Regular Session, 2015,
10 relating to nonsubstantive additions to and corrections in enacted
11 codes.

12 SECTION 45. This Act takes effect September 1, 2015.