86R20064 GRM-D

By:  Paddie, Flynn, Thompson of Harris, H.B. No. 1442

     Lambert

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Office of Consumer Credit Commissioner and the licensing and registration of persons regulated by that state agency.

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

SECTION 2.  Section 14.059(b), Finance Code, is amended to read as follows:

(b)  The program must require intra-agency posting of all nonentry level positions concurrently with any [~~for at least 10 days before~~] public posting.

SECTION 3.  Section 14.062, Finance Code, is amended to read as follows:

Sec. 14.062.  CONSUMER INFORMATION AND COMPLAINTS. (a) The office shall maintain a system to promptly and efficiently act on complaints [~~file on each written complaint~~] filed with the office. The office shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition [~~The file must include:~~

[~~(1)  the name of the person who filed the complaint;~~

[~~(2)  the date the complaint is received by the office;~~

[~~(3)  the subject matter of the complaint;~~

[~~(4)  the name of each person contacted in relation to the complaint;~~

[~~(5)  a summary of the results of the review or investigation of the complaint; and~~

[~~(6)  an explanation of the reason the file was closed, if the office closed the file without taking action other than to investigate the complaint~~].

(b)  The office shall make information available describing its procedures for [~~provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's policies and procedures relating to~~] complaint investigation and resolution.

(c)  The office[~~, at least quarterly until final disposition of the complaint,~~] shall periodically notify the complaint parties [~~person filing the complaint and each person who is a subject of the complaint~~] of the status of the complaint until final disposition [~~investigation unless the notice would jeopardize an undercover investigation~~].

SECTION 4.  Section 14.066, Finance Code, is amended to read as follows:

Sec. 14.066.  SUNSET PROVISION. The office is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2031 [~~2019~~].

SECTION 5.  Section 14.107(b), Finance Code, is amended to read as follows:

(b)  The finance commission by rule shall set the fees for licensing and examination, as applicable, under Chapter 393 with respect to a credit access business or Chapter 342, 347, 348, 351, 353, or 371 at amounts or rates necessary to recover the costs of administering those chapters. The rules may provide that the amount of a fee charged to a license holder is based on the volume of the license holder's regulated business and other key factors. The commissioner may provide for collection of a single [~~annual~~] fee for the term of the license from a person licensed under Subchapter G of Chapter 393 or Chapter 342, 347, 348, 351, or 371. The fee must [~~to~~] include amounts due for both licensing and examination.

SECTION 6.  Subchapter C, Chapter 14, Finance Code, is amended by adding Sections 14.110, 14.111, and 14.112 to read as follows:

Sec. 14.110.  ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. (a) The finance commission by rule shall develop a policy to encourage the use of:

(1)  negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of rules by the finance commission applicable to the office; and

(2)  appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the office's jurisdiction.

(b)  The procedures applicable to the office relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c)  The office shall:

(1)  coordinate the implementation of the policy adopted under Subsection (a);

(2)  provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3)  collect data concerning the effectiveness of those procedures.

Sec. 14.111.  ADVISORY COMMITTEES. (a) The commissioner may appoint advisory committees to assist the office and commissioner in performing their duties.

(b)  The commissioner shall specify each committee's purpose, powers, and duties and shall require each committee to report to the commissioner or office in the manner specified by the commissioner concerning the committee's activities and the results of its work.

Sec. 14.112.  LICENSING AND REGISTRATION TERMS. (a) The finance commission by rule shall prescribe the licensing or registration period for licenses and registrations issued under Chapters 342, 345, 347, 348, 351, 352, 353, 371, 393, and 394 of this code and Chapter 1956, Occupations Code, not to exceed two years.

(b)  In adopting rules under Subsection (a), the finance commission shall set terms for licenses that comply with Chapter 180 and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(c)  If the finance commission prescribes the term of a license or registration under Subsection (a) for a period other than one year, the commissioner shall prorate the applicable fee required under a chapter specified in Subsection (a) as necessary to reflect the term of the license or registration.

SECTION 7.  Section 14.201, Finance Code, is amended to read as follows:

Sec. 14.201.  INVESTIGATION AND ENFORCEMENT AUTHORITY. Investigative and enforcement authority under this subchapter applies only to:

(1)  this chapter;

(2)  [~~,~~] Subtitles B and C, [~~of~~] Title 4;

(3)  [~~,~~] Chapter 393 with respect to a credit access business;

(4)  [~~, and~~] Chapter 394; and

(5)  Subchapter B, Chapter 1956, Occupations Code.

SECTION 8.  Section 14.2015, Finance Code, is amended to read as follows:

Sec. 14.2015.  CONFIDENTIALITY OF CERTAIN INFORMATION. (a) Except as provided by Subsection (b), information or material obtained or compiled by the commissioner in relation to an examination or investigation by the commissioner or the commissioner's representative of a license holder, registrant, applicant, or other person under Subtitle B or C, Title 4, Subchapter G of Chapter 393, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code, is confidential and may not be disclosed by the commissioner or an officer or employee of the office [~~Office of Consumer Credit Commissioner~~], including:

(1)  information obtained from a license holder, registrant, applicant, or other person examined or investigated under Subtitle B or C, Title 4, Subchapter G of Chapter 393, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code;

(2)  work performed by the commissioner or the commissioner's representative on information obtained from a license holder, registrant, applicant, or other person for the purposes of an examination or investigation conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code;

(3)  a report on an examination or investigation of a license holder, registrant, applicant, or other person conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code; and

(4)  any written communications between the license holder, registrant, applicant, or other person, as applicable, and the commissioner or the commissioner's representative relating to or referencing an examination or investigation conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code.

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

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

(2)  if the information was previously provided to or provided by the license holder, registrant, applicant, or other person, and the person consents to the release of the information or has published the information contained in the release; [~~or~~]

(3)  if the commissioner determines that release of the information is required for an administrative hearing; or

(4)  to provide a summary of investigation information to the person who filed the complaint with the office.

SECTION 9.  Section 14.202, Finance Code, is amended to read as follows:

Sec. 14.202.  REQUEST FOR INFORMATION; INVESTIGATION AUTHORITY [~~FAILURE TO COMPLY~~]. [~~(a)~~] On receipt of a written complaint or other reasonable cause to believe that a person is violating a statute listed by Section 14.201, the commissioner may:

(1)  require the person to furnish information regarding a specific loan, retail transaction, or business practice to which the violation relates; and[~~.~~]

(2)  [~~(b) If a person fails to furnish the information requested by the commissioner, the commissioner may~~] conduct an investigation to determine whether a violation exists.

SECTION 10.  Sections 14.208(a) and (b), Finance Code, are amended to read as follows:

(a)  If the commissioner has reasonable cause to believe that a person is violating a statute to which this chapter applies, the commissioner, in addition to any other authorized action, may issue an order to cease and desist from the violation or an order to take affirmative action, or both, to enforce compliance. [~~A person may appeal the order to the finance commission as provided by Subsection (d) or directly to district court in accordance with Chapter 2001, Government Code.~~]

(b)  If a person against whom an order under this section is made requests a hearing not later than the 30th day after the date the order is served, the commissioner shall set and give notice of a hearing before a hearings officer. [~~The hearing is governed by~~] Chapter 2001, Government Code, governs the hearing and the right to judicial review in district court. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the commissioner by order may find whether a violation has occurred.

SECTION 11.  Section 14.251(b), Finance Code, is amended to read as follows:

(b)  The commissioner may order the following businesses or other persons [~~a person who violates or causes a violation of this chapter, Chapter 394, or Subtitle B, Title 4, or a rule adopted under this chapter, Chapter 394, or Subtitle B, Title 4, or a credit access business who violates or causes a violation of Chapter 393 or a rule adopted under Chapter 393,~~] to pay [~~make~~] restitution to an identifiable person:

(1)  a person who violates or causes a violation of this chapter, Chapter 394, or Subtitle B, Title 4, or a rule adopted under this chapter, Chapter 394, or Subtitle B, Title 4;

(2)  a credit access business who violates or causes a violation of Chapter 393 or a rule adopted under Chapter 393; or

(3)  a person who violates or causes a violation of Subchapter B, Chapter 1956, Occupations Code, or a rule adopted under that subchapter [~~injured by the violation~~].

SECTION 12.  Section 14.256, Finance Code, is amended to read as follows:

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

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

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

SECTION 14.  Section 342.0515(c), Finance Code, is amended to read as follows:

(c)  Subject to Section 14.112, the [~~The~~] finance commission shall adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1)  the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;

(2)  the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and

(3)  the applicant pays:

(A)  an investigation fee in a reasonable amount determined by the commissioner; and

(B)  a [~~an annual~~] license fee in an amount determined as provided by Section 14.107.

SECTION 15.  Section 342.101(c), Finance Code, is amended to read as follows:

(c)  On the filing of each license application, the applicant shall pay to the commissioner [~~for the license's year of issuance~~] a license fee in an amount determined as provided by Section 14.107.

SECTION 16.  Section 342.102(c), Finance Code, is amended to read as follows:

(c)  The bond must be conditioned on:

(1)  the license holder's faithful performance under this chapter and rules adopted under this chapter; and

(2)  the payment of all amounts that become due to the state or another person under this chapter during the period [~~calendar year~~] for which the bond is given.

SECTION 17.  Subchapter C, Chapter 342, Finance Code, is amended by adding Section 342.106 to read as follows:

Sec. 342.106.  LICENSE TERM. A license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 18.  Section 342.154, Finance Code, is amended to read as follows:

Sec. 342.154.  [~~ANNUAL~~] LICENSE FEE. Not later than 30 days before the date the license expires [~~December 1~~], a license holder shall pay to the commissioner for each license held a [~~an annual~~] fee [~~for the year beginning the next January 1,~~] in an amount determined as provided by Section 14.107.

SECTION 19.  Section 342.155, Finance Code, is amended to read as follows:

Sec. 342.155.  EXPIRATION OF LICENSE ON FAILURE TO PAY [~~ANNUAL~~] FEE. If the [~~annual~~] fee for a license is not paid before the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, the license expires on [~~the later of:~~

[~~(1)~~]  that day[~~; or~~

[~~(2)  December 31 of the last year for which an annual fee was paid~~].

SECTION 20.  Subchapter D, Chapter 342, Finance Code, is amended by adding Section 342.1555 to read as follows:

Sec. 342.1555.  GROUNDS FOR REFUSING RENEWAL. The commissioner may refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 21.  Section 342.156, Finance Code, is amended to read as follows:

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

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

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

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

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

SECTION 22.  Section 345.157(d), Finance Code, is amended to read as follows:

(d)  The holder shall remit 50 cents of each delinquency charge in excess of $10 collected under this section to the comptroller, in the time and manner established by the comptroller, for deposit to the credit of an account in the general revenue fund. One-half of the money in the account may be appropriated only to finance research conducted by the commissioner [~~finance commission~~] under Section 11.305 and the other one-half of the money in the account may be appropriated only to finance educational activities and counseling services under Section 394.001.

SECTION 23.  Section 345.351, Finance Code, is amended to read as follows:

Sec. 345.351.  REGISTRATION OF HOLDER. (a) A holder who is not an authorized lender under Chapter 342 or a credit union shall:

(1)  register with the Office of Consumer Credit Commissioner; and

(2)  pay a [~~an annual~~] fee of $10 for each location at which a retail installment transaction is originated, serviced, or collected.

(b)  Subject to Section 14.112, the [~~The~~] finance commission by rule may establish procedures to facilitate the registration and collection of fees under this section[~~, including rules staggering throughout the year the dates on which fees are due~~].

(c)  A registration issued under this section is valid for the period prescribed by finance commission rule adopted under Section 14.112.

(d)  The commissioner may refuse to renew the registration of a holder who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 24.  Section 347.451, Finance Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (a-1) and (e) to read as follows:

(a)  A creditor who is not an authorized lender under Chapter 342 or a credit union shall:

(1)  register with the Office of Consumer Credit Commissioner; and

(2)  pay a [~~an annual~~] fee of $15 for each location at which a credit transaction is originated, serviced, or collected.

(a-1)  A registration issued under this section is valid for the period prescribed by finance commission rule adopted under Section 14.112.

(b)  Subject to Section 14.112, the [~~The~~] finance commission by rule may establish procedures to facilitate the registration and collection of fees under this section[~~, including rules staggering the due dates of the fees throughout the year~~].

(d)  A creditor shall file the registration renewal and pay the [~~annual~~] registration fee to the commissioner not later than the 30th day after the date on which the creditor receives the notice under Subsection (c).

(e)  The commissioner may refuse to renew the registration of a creditor who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 25.  Section 347.4515, Finance Code, is amended by adding Subsections (a-1) and (e) and amending Subsection (c) to read as follows:

(a-1)  A license issued under this section is valid for the period prescribed by finance commission rule adopted under Section 14.112.

(c)  Subject to Section 14.112, the [~~The~~] finance commission shall adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1)  the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;

(2)  the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and

(3)  the applicant pays:

(A)  an investigation fee in a reasonable amount determined by the commissioner; and

(B)  a [~~an annual~~] license fee in an amount determined as provided by Section 14.107.

(e)  The commissioner may refuse to renew the license of an individual described by Subsection (b) who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 26.  Section 348.5015(c), Finance Code, is amended to read as follows:

(c)  Subject to Section 14.112, the [~~The~~] finance commission shall adopt rules establishing procedures for applying for issuing, renewing, and enforcing a license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1)  the minimum eligibility requirements for issuance of a license are the same as the requirements of Section 180.055;

(2)  the minimum eligibility requirements for renewal of a license are the same as the requirements of Section 180.059; and

(3)  the applicant pays:

(A)  an investigation fee in a reasonable amount determined by the commissioner; and

(B)  a [~~an annual~~] license fee in an amount determined as provided by Section 14.107.

SECTION 27.  Section 348.502(b), Finance Code, is amended to read as follows:

(b)  On the filing of a license application, the applicant shall pay to the commissioner:

(1)  an investigation fee not to exceed $200; and

(2)  [~~for the license's year of issuance,~~] a license fee in an amount determined as provided by Section 14.107.

SECTION 28.  Subchapter F, Chapter 348, Finance Code, is amended by adding Section 348.5055 to read as follows:

Sec. 348.5055.  LICENSE TERM. A license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 29.  Section 348.506, Finance Code, is amended to read as follows:

Sec. 348.506.  [~~ANNUAL~~] LICENSE FEE. Not later than the 30th day before the date the license expires [~~December 1~~], a license holder shall pay to the commissioner for each license held a [~~an annual~~] fee [~~for the year beginning the next January 1,~~] in an amount determined as provided by Section 14.107.

SECTION 30.  Subchapter F, Chapter 348, Finance Code, is amended by adding Section 348.5065 to read as follows:

Sec. 348.5065.  GROUNDS FOR REFUSAL TO RENEW. The commissioner may refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 31.  Section 348.507, Finance Code, is amended to read as follows:

Sec. 348.507.  EXPIRATION OF LICENSE ON FAILURE TO PAY [~~ANNUAL~~] FEE. If the [~~annual~~] fee for a license is not paid before the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, the license expires on [~~the later of:~~

[~~(1)~~]  that day[~~; or~~

[~~(2)  December 31 of the last year for which an annual fee was paid~~].

SECTION 32.  Section 348.508, Finance Code, is amended to read as follows:

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

(1)  the license holder failed to pay the [~~annual~~] license fee, an examination fee, an investigation fee, or another charge imposed by the commissioner;

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

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

SECTION 33.  Section 349.301, Finance Code, is amended to read as follows:

Sec. 349.301.  PAYMENT OF FEES. A person who registers or obtains or renews a license under this title after the date on which the person was required to register or to obtain or renew the license may limit the person's liability as provided by this subchapter by paying to the commissioner:

(1)  all prior registration or license fees that the person should have paid under this title [~~for prior years~~]; and

(2)  except as provided by Section 349.302(a), a late filing fee as provided by this subchapter.

SECTION 34.  Section 351.0515(c), Finance Code, is amended to read as follows:

(c)  Subject to Section 14.112, the [~~The~~] finance commission shall adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1)  the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;

(2)  the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and

(3)  the applicant pays:

(A)  an investigation fee in a reasonable amount determined by the commissioner; and

(B)  a [~~an annual~~] license fee in an amount determined as provided by Section 14.107.

SECTION 35.  Section 351.101(c), Finance Code, is amended to read as follows:

(c)  On the filing of each license application, the applicant shall pay to the commissioner [~~for the license's year of issuance~~] a license fee in an amount determined as provided by Section 14.107.

SECTION 36.  Section 351.102(c), Finance Code, is amended to read as follows:

(c)  The bond must be conditioned on:

(1)  the license holder's faithful performance under this chapter and rules adopted under this chapter; and

(2)  the payment of all amounts that become due to the state or another person under this chapter during the period [~~calendar year~~] for which the bond is given.

SECTION 37.  Subchapter C, Chapter 351, Finance Code, is amended by adding Section 351.106 to read as follows:

Sec. 351.106.  LICENSE TERM. A license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 38.  Subchapter D, Chapter 351, Finance Code, is amended by adding Section 351.1535 to read as follows:

Sec. 351.1535.  GROUNDS FOR REFUSAL TO RENEW. The commissioner may refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 39.  Section 351.154, Finance Code, is amended to read as follows:

Sec. 351.154.  [~~ANNUAL~~] LICENSE FEE. Not later than the 30th day before the date the license expires [~~December 1~~], a license holder shall pay to the commissioner for each license held a [~~an annual~~] fee [~~for the year beginning the next January 1,~~] in an amount determined as provided by Section 14.107.

SECTION 40.  Section 351.155, Finance Code, is amended to read as follows:

Sec. 351.155.  EXPIRATION OF LICENSE ON FAILURE TO PAY [~~ANNUAL~~] FEE. If the [~~annual~~] fee for a license is not paid before the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, the license expires on [~~the later of:~~

[~~(1)~~]  that day[~~; or~~

[~~(2)  December 31 of the last year for which an annual fee was paid~~].

SECTION 41.  Section 351.156, Finance Code, is amended to read as follows:

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

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

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

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

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

SECTION 42.  Section 352.003, Finance Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1), (c-1), and (f) to read as follows:

(a)  To register as a facilitator, a person must provide to the commissioner[~~, on or before December 31 preceding each calendar year in which the person seeks to act as a facilitator~~]:

(1)  a list of each location in this state at which e-file providers authorized by the Internal Revenue Service file tax returns on behalf of borrowers for whom the facilitator acts to allow the making of a refund anticipation loan; and

(2)  a processing fee for each location included on the list furnished under Subdivision (1).

(a-1)  A registration issued under this section is valid for the period prescribed by finance commission rule adopted under Section 14.112.

(c)  The finance commission by rule shall establish a deadline for the submission of the information and fee required by Subsection (a) for initial issuance and renewal of registrations under this section.

(c-1)  After the applicable [~~December 31~~] deadline for initial or renewal registrations, a facilitator may amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.

(f)  The commissioner may refuse to renew the registration of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 43.  Section 352.006(b), Finance Code, is amended to read as follows:

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

SECTION 44.  Section 353.502(b), Finance Code, is amended to read as follows:

(b)  On the filing of a license application, the applicant shall pay to the commissioner:

(1)  an investigation fee not to exceed $200; and

(2)  [~~for the license's year of issuance,~~] a license fee in an amount determined as provided by Section 14.107.

SECTION 45.  Subchapter F, Chapter 353, Finance Code, is amended by adding Section 353.5055 to read as follows:

Sec. 353.5055.  LICENSE TERM. A license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 46.  Section 353.506, Finance Code, is amended to read as follows:

Sec. 353.506.  [~~ANNUAL~~] LICENSE FEE. Not later than the 30th day before the date the license expires [~~December 1~~], a license holder shall pay to the commissioner for each license held a [~~an annual~~] fee [~~for the year beginning the next January 1,~~] in an amount determined as provided by Section 14.107.

SECTION 47.  Subchapter F, Chapter 353, Finance Code, is amended by adding Section 353.5065 to read as follows:

Sec. 353.5065.  GROUNDS FOR REFUSAL OF RENEWAL. The commissioner may refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 48.  Section 353.507, Finance Code, is amended to read as follows:

Sec. 353.507.  EXPIRATION OF LICENSE ON FAILURE TO PAY [~~ANNUAL~~] FEE. If the [~~annual~~] fee for a license is not paid before the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, the license expires on [~~the later of:~~

[~~(1)~~]  that day[~~; or~~

[~~(2)  December 31 of the last year for which an annual fee was paid~~].

SECTION 49.  Section 353.508, Finance Code, is amended to read as follows:

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

(1)  the license holder failed to pay the [~~annual~~] license fee, an investigation fee, or another charge imposed by the commissioner;

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

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

SECTION 50.  Section 354.005(d), Finance Code, is amended to read as follows:

(d)  The commissioner may deny approval of a form only if the form excludes the language required by Sections 354.003 and 354.004 or contains any inconsistent or misleading provisions. All form denials, after an opportunity for a hearing under Chapter 2001, Government Code, may be appealed to a district court in accordance with that chapter [~~the finance commission~~].

SECTION 51.  Section 371.002, Finance Code, is amended to read as follows:

Sec. 371.002.  PURPOSES. The purposes of this chapter are to:

(1)  prevent fraud, unfair practices, discrimination, imposition, and abuse of state residents;

(2)  exercise the state's police power to ensure a sound system of making pawn loans and transfers of personal property by and through pawnshops;

(3)  prevent transactions in stolen property and other unlawful property transactions by licensing and regulating pawnbrokers [~~and pawnshop employees~~];

(4)  provide for licensing and investigation fees;

(5)  provide minimum capital requirements for pawnbrokers;

(6)  ensure financial responsibility to the state and its residents and compliance with federal, state, and local law, including rules and ordinances; and

(7)  assist local governments in the exercise of their police power.

SECTION 52.  Section 371.052(a), Finance Code, is amended to read as follows:

(a)  To be eligible for a pawnshop license, an applicant must:

(1)  [~~be of good moral character;~~

[~~(2)~~]  meet the net assets requirement of Section 371.072; and

(2) [~~(3)~~]  show that:

(A)  the pawnshop will be operated lawfully and fairly under this chapter; and

(B)  the applicant or the applicant's owners and managers have the financial responsibility, experience, character, and general fitness to command the confidence of the public in the pawnshop's operations.

SECTION 53.  Section 371.055, Finance Code, is amended to read as follows:

Sec. 371.055.  FEES; PROOF OF INSURANCE. An applicant must submit with the application:

(1)  an investigation fee of:

(A)  $500 if the applicant does not hold a license; or

(B)  $250 if the application:

(i)  is for an additional license for a separate location; or

(ii)  involves substantially identical principals and owners of a licensed pawnshop at a separate location;

(2)  a [~~an annual~~] fee in an amount determined as provided by Section 14.107; and

(3)  proof of general liability and fire insurance in a reasonable amount and form required by the commissioner.

SECTION 54.  Section 371.062, Finance Code, is amended to read as follows:

Sec. 371.062.  DISPOSITION OF FEES ON DENIAL OF APPLICATION. If the commissioner denies the application, the commissioner shall retain the investigation fee and shall return to the applicant the [~~annual~~] license fee submitted with the application.

SECTION 55.  Subchapter B, Chapter 371, Finance Code, is amended by adding Section 371.0625 to read as follows:

Sec. 371.0625.  LICENSE TERM. A license issued under this subchapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 56.  Section 371.064, Finance Code, is amended to read as follows:

Sec. 371.064.  [~~ANNUAL~~] LICENSE FEE; EXPIRATION. (a) Not later than the 30th day before the date the license expires [~~December 1~~], a pawnbroker shall pay to the commissioner for each license held a [~~an annual~~] fee in an amount determined as provided by Section 14.107 [~~for the year beginning the next January 1~~].

(b)  If the [~~annual~~] fee for a license is not paid before the 16th day after the date on which written notice of delinquency of payment has been given to the pawnbroker by the commissioner, the license expires on [~~the later of:~~

[~~(1)~~]  that day[~~; or~~

[~~(2)  December 31 of the last year for which an annual fee was paid~~].

SECTION 57.  Subchapter B, Chapter 371, Finance Code, is amended by adding Section 371.0645 to read as follows:

Sec. 371.0645.  GROUNDS FOR REFUSAL TO RENEW. The commissioner may refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 58.  Subchapter B, Chapter 371, Finance Code, is amended by adding Section 371.074 to read as follows:

Sec. 371.074.  PAWNBROKER RESPONSIBLE FOR EMPLOYEES AND AGENTS. A license holder under this subchapter is responsible for all acts of the license holder's officers, directors, employees, and agents acting on behalf of the pawnshop.

SECTION 59.  The heading to Subchapter C, Chapter 371, Finance Code, is amended to read as follows:

SUBCHAPTER C. PAWNSHOP EMPLOYEE LICENSE PROGRAM

SECTION 60.  Section 371.101, Finance Code, is amended to read as follows:

Sec. 371.101.  PAWNSHOP EMPLOYEE LICENSE PROGRAM [~~REQUIRED~~]. (a) A pawnbroker may, but is not required to, participate in the pawnshop employee license program by notifying the commissioner in writing on a form prescribed by the commissioner.

(a-1)  A pawnbroker may submit a written notification to participate in the pawnshop employee license program under Subsection (a):

(1)  at the time of the pawnbroker's original license application;

(2)  at the time of a renewal of the pawnbroker's license; or

(3)  at another time prescribed by the commissioner.

(a-2)  A pawnbroker may notify the commissioner in writing of the pawnbroker's intention to no longer participate in the pawnshop employee license program at any time notification is permitted under Subsection (a-1). On receipt by the commissioner of a pawnbroker's notification under this subsection, the pawnbroker will no longer be a part of the pawnshop employee license program unless the pawnbroker resubmits a new notification for participation under Subsection (a-1).

(b)  An individual who begins employment at a pawnshop for a pawnbroker that participates in the pawnshop employee license program under Subsection (a), as a condition of employment, must apply to the commissioner for a pawnshop employee license not later than the 75th day after the date employment begins.

[~~(b)~~]  The individual may continue employment until the license is issued or denied.

(c)  If a pawnbroker participates in the pawnshop employee license program under Subsection (a), the participating [~~A~~] pawnbroker may not employ an individual to write a pawn transaction, buy or sell merchandise, or supervise another employee who writes pawn transactions or buys or sells merchandise unless the individual:

(1)  has complied with Subsection (b) [~~(a)~~] but has not been issued or denied a license; or

(2)  holds a pawnshop employee license.

(d)  Subsection (c) does not apply to an individual who:

(1)  has an ownership interest in the pawnshop license; and

(2)  is named on the application.

(e)  Subject to Section 14.112, the Finance Commission of Texas shall adopt rules to administer the pawnshop employee license program.

SECTION 61.  Section 371.102(a), Finance Code, is amended to read as follows:

(a)  To be eligible for a pawnshop employee license, an individual must:

(1)  be of [~~good moral character and~~] good business repute; [~~and~~]

(2)  possess the character and general fitness necessary to warrant belief that the individual will operate the business lawfully and fairly under this chapter; and

(3)  be employed by a pawnbroker that participates in the pawnshop employee license program under Section 371.101.

SECTION 62.  Section 371.103(b), Finance Code, is amended to read as follows:

(b)  The application must be accompanied by an investigation and annual fee in an amount determined as provided by Section 14.107 [~~of $25~~].

SECTION 63.  Section 371.105, Finance Code, is amended to read as follows:

Sec. 371.105.  LICENSE TERM. A pawnshop employee license is valid for the period prescribed by finance commission rule adopted under Section 14.112 [~~effective until the license expires or is surrendered, suspended, or revoked~~].

SECTION 64.  Section 371.106, Finance Code, is amended to read as follows:

Sec. 371.106.  [~~ANNUAL~~] LICENSE FEE; EXPIRATION. (a) Not later than the 30th day before the date the license expires [~~December 1~~], a pawnshop employee license holder shall pay to the commissioner a [~~an annual~~] fee in an amount determined as provided by Section 14.107 [~~of $15 for the year beginning the next January 1~~].

(b)  The commissioner shall send written notice of delinquency to a license holder who does not pay the fee on or before the 30th day before the date the license expires [~~December 1~~].

(c)  If the [~~annual~~] fee for a license is not paid before the 16th day after the date of the delinquency notice, the license expires on [~~the later of:~~]

[~~(1)~~] that day[~~; or~~

[~~(2) January 1 of the first year for which the annual fee was not paid~~].

(d)  A pawnshop employee license expires on the 30th day after the last day of employment if the license holder:

(1)  ceases to be employed by a pawnbroker that participates in the pawnshop employee license program under Section 371.101; and

(2)  is not employed within that time by another pawnbroker that participates in the pawnshop employee license program.

SECTION 65.  Subchapter C, Chapter 371, Finance Code, is amended by adding Section 371.107 to read as follows:

Sec. 371.107.  GROUNDS FOR REFUSAL TO RENEW. The commissioner may refuse to renew the pawnshop employee license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 66.  Section 371.251(a), Finance Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

SECTION 67.  Section 371.255, Finance Code, is amended to read as follows:

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

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

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

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

SECTION 68.  Section 371.258(c), Finance Code, is amended to read as follows:

(c)  The commissioner shall reinstate an expired pawnbroker license if, not later than the 180th day after the date on which the license expired, the pawnbroker pays the commissioner the delinquent $125 [~~annual~~] fee plus a reinstatement fee of $1,000. After a pawnbroker's license has expired, the commissioner shall promptly send notice of reinstatement rights to the delinquent pawnbroker by certified mail.

SECTION 69.  Section 393.604(c), Finance Code, is amended to read as follows:

(c)  On the filing of each license application, the applicant shall pay to the commissioner [~~for the license's year of issuance~~] a license fee in an amount determined as provided by Section 14.107.

SECTION 70.  Section 393.605(c), Finance Code, is amended to read as follows:

(c)  The bond must be conditioned on:

(1)  the license holder's faithful performance under this subchapter and rules adopted under this subchapter; and

(2)  the payment of all amounts that become due to this state or another person under this subchapter during the period [~~calendar year~~] for which the bond is given.

SECTION 71.  Subchapter G, Chapter 393, Finance Code, is amended by adding Sections 393.6085 and 393.6115 to read as follows:

Sec. 393.6085.  LICENSE TERM. A license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

Sec. 393.6115.  GROUNDS FOR REFUSAL TO RENEW. The commissioner may refuse to renew the license of a credit access business who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 72.  Section 393.612, Finance Code, is amended to read as follows:

Sec. 393.612.  [~~ANNUAL~~] LICENSE FEE. Not later than the 30th day before the date the license expires [~~December 1~~], a license holder shall pay to the commissioner for each license held a [~~an annual~~] fee [~~for the year beginning the next January 1,~~] in an amount determined as provided by Section 14.107.

SECTION 73.  Section 393.613, Finance Code, is amended to read as follows:

Sec. 393.613.  EXPIRATION OF LICENSE ON FAILURE TO PAY [~~ANNUAL~~] FEE. If the [~~annual~~] fee for a license is not paid before the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, the license expires on [~~the later of:~~

[~~(1)~~]  that day[~~; or~~

[~~(2)  December 31 of the last year for which an annual fee was paid~~].

SECTION 74.  Section 393.614(a), Finance Code, is amended to read as follows:

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

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

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

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

SECTION 75.  Section 394.204, Finance Code, is amended by amending Subsections (b), (f), (g), and (k) and adding Subsection (j-1) to read as follows:

(b)  A registration issued under this section is valid for the period prescribed by finance commission rule adopted under Section 14.112 [~~Registration expires on December 31 of the year in which the registration occurs and must be renewed annually~~].

(f)  Subject to Subsection (j-1), a [~~A~~] person may renew a registration by paying the appropriate fee and completing all required documents.

(g)  Subject to Section 14.112, the [~~The~~] finance commission by rule may establish procedures to facilitate the registration and collection of fees under this section[~~, including rules staggering throughout the year the dates on which fees are due~~].

(j-1)  The commissioner may refuse to renew the registration of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

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

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

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

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

(4)  the provider is insolvent;

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

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

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

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

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

SECTION 76.  Section 394.205(b), Finance Code, is amended to read as follows:

(b)  Each provider shall file a report with the commissioner at each renewal of the provider's registration. The report must at a minimum disclose in detail and under appropriate headings:

(1)  the assets and liabilities of the provider at the beginning and end of the period, if the provider is a nonprofit or tax exempt organization;

(2)  the total number of debt management plans the provider has initiated on behalf of consumers in this state during that period [~~year~~]; and

(3)  records of total and average fees charged to consumers, including all voluntary contributions received from consumers.

SECTION 77.  Section 394.214(e), Finance Code, is amended to read as follows:

(e)  The commissioner may enforce this subchapter and rules adopted under this subchapter by:

(1)  ordering the violator to cease and desist from the violation and any similar violations;

(2)  ordering the violator to take affirmative action to correct the violation, including the restitution of money or property to a person aggrieved by the violation;

(3)  imposing an administrative penalty not to exceed $1,000 for each violation as provided by Subchapter F, Chapter 14; or

(4)  rejecting an initial application, refusing to renew a registration, or revoking or suspending a registration as provided by Section 394.204.

SECTION 78.  Section 1956.0612, Occupations Code, is amended by amending Subsections (b) and (d) and adding Subsections (b-1), (d-1), and (h) to read as follows:

(b)  To register as a dealer, a person must provide to the commissioner[~~, on or before December 31 preceding each calendar year in which the person seeks to act as a dealer~~]:

(1)  a list of each location in this state at which the person will conduct business as a dealer; and

(2)  a processing fee for each location included on the list furnished under Subdivision (1).

(b-1)  A registration issued under this section is valid for the period prescribed by commission rule adopted under Section 14.112, Finance Code.

(d)  The commission by rule shall establish a deadline for the submission of the information and fee required by Subsection (b) for initial issuance and renewal of registrations under this section.

(d-1)  After the applicable [~~December 31~~] deadline for initial or renewal registrations, a dealer may amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.

(h)  The commissioner may refuse to renew the registration of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 79.  Section 1956.0614(a), Occupations Code, is amended to read as follows:

(a)  The commissioner may revoke the registration of a dealer if the commissioner concludes that the dealer has violated this chapter or an order issued by the commissioner to enforce this chapter. The commissioner shall recite the basis of the decision in an order revoking the registration.

SECTION 80.  Section 1956.063, Occupations Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c)  For each transaction regulated by this subchapter, the dealer shall submit a report on a preprinted and prenumbered form prescribed by the commissioner or in the manner described by Subsection (c-1). The form must include the following:

(1)  the date of the transaction;

(2)  a description of the crafted precious metal purchased by the dealer;

(3)  the name and physical address of the dealer; and

(4)  the name, physical description, and physical address of the seller or transferor.

(c-1)  A dealer may submit a list required by Section 1956.062(b) to satisfy the reporting requirement under this section if the list contains the information described by Subsection (c).

SECTION 81.  The following provisions of the Finance Code are repealed:

(1)  Section 14.208(d);

(2)  Section 371.052(b); and

(3)  Sections 371.304(b), (c), and (d).

SECTION 82.  Section 14.112, Finance Code, as added by this Act, applies only to a license or registration issued or renewed on or after September 1, 2019. A license or registration issued or renewed before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 83.  A license issued under Section 371.104, Finance Code, before the effective date of this Act expires on December 31, 2019.

SECTION 84.  The changes in law made by this Act do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on that date.

SECTION 85.  The changes in law made by this Act to Section 371.304, Finance Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 86.  (a) Not later than November 1, 2019, the Finance Commission of Texas shall adopt rules to implement the pawnshop employee license program under Section 371.101, Finance Code, as amended by this Act.

(b)  Not later than December 1, 2019, the Office of Consumer Credit Commissioner shall be prepared to accept applications for licenses under the pawnshop employee license program described by Section 371.101, Finance Code, as amended by this Act.

SECTION 87.  This Act takes effect September 1, 2019.