86R9729 GRM-D

By:  West S.B. No. 1761

A BILL TO BE ENTITLED

AN ACT

relating to credit services organizations and extensions of consumer credit facilitated by credit services organizations; providing civil and administrative penalties.

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

SECTION 1.  Section 392.301(a), Finance Code, is amended to read as follows:

(a)  In debt collection, a debt collector may not use threats, coercion, or attempts to coerce that employ any of the following practices:

(1)  using or threatening to use violence or other criminal means to cause harm to a person or property of a person;

(2)  accusing falsely or threatening to accuse falsely a person of fraud or any other crime;

(3)  representing or threatening to represent to any person other than the consumer that a consumer is wilfully refusing to pay a nondisputed consumer debt when the debt is in dispute and the consumer has notified in writing the debt collector of the dispute;

(4)  threatening to sell or assign to another the obligation of the consumer and falsely representing that the result of the sale or assignment would be that the consumer would lose a defense to the consumer debt or would be subject to illegal collection attempts;

(5)  threatening that the debtor will be arrested for nonpayment of a consumer debt without proper court proceedings;

(6)  threatening to file a charge, complaint, or criminal action against a debtor when the debtor has not violated a criminal law;

(7)  threatening that nonpayment of a consumer debt will result in the seizure, repossession, or sale of the person's property without proper court proceedings;

(8)  referencing a certification signed by the consumer as required by Section 393.630(b) or any penalties associated with a violation of that section; or

(9) [~~(8)~~]  threatening to take an action prohibited by law.

SECTION 2.  Section 393.001, Finance Code, is amended by amending Subdivisions (1) and (3) and adding Subdivisions (1-a), (2-a), (3-a), (4-a), (5), (6), (7), (8), (9), (10), (11), (12), and (13) to read as follows:

(1)  "Commissioner" means the consumer credit commissioner.

(1-a)  "Consumer" means an individual who is solicited to purchase or who purchases the services of a credit services organization.

(2-a)  "Credit access business" means a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit.

(3)  "Credit services organization" means a person who provides, or represents that the person can or will provide, for the payment of valuable consideration any of the following services with respect to the extension of consumer credit by others:

(A)  improving a consumer's credit history or rating;

(B)  obtaining an extension of consumer credit for a consumer in the form of a single-payment deferred presentment transaction, a multiple-payment deferred presentment transaction, a single-payment motor vehicle title loan, or a multiple-payment motor vehicle title loan; or

(C)  providing advice or assistance to a consumer with regard to Paragraph (A) or (B).

(3-a)  "Deferred presentment transaction" means a single-payment or multiple-payment transaction defined as a deferred presentment transaction by Section 341.001 in connection with which the consumer is not required to provide real or personal property as security.

(4-a)  "Finance commission" means the Finance Commission of Texas.

(5)  "Military borrower" includes a "covered member" or a "dependent" of a covered member, as those terms are defined by 10 U.S.C. Section 987 or a successor statute.

(6)  "Motor vehicle title loan" means a single-payment or multiple-payment loan in which an unencumbered motor vehicle is given as the only security for the loan. The term does not include a retail installment transaction under Chapter 348 or another loan made to finance the purchase of a motor vehicle.

(7)  "Multiple-payment deferred presentment transaction" means a deferred presentment transaction that is not a single-payment deferred presentment transaction.

(8)  "Multiple-payment motor vehicle title loan" means a motor vehicle title loan that is not a single-payment motor vehicle title loan.

(9)  "Office" means the Office of Consumer Credit Commissioner.

(10)  "Refinance" means a rollover, renewal, or other type of transaction in which all or a portion of the principal, fees, or interest due under an outstanding extension of consumer credit becomes due on a later date. The term does not include an extended payment plan described by Section 393.636. The term includes a new extension of consumer credit that:

(A)  consists of debt arising from principal, fees, or interest that was not paid in full under an outstanding or previous extension of consumer credit; or

(B)  is made on or before the seventh day after the date a previous extension of consumer credit that a credit access business obtained for a consumer or assisted a consumer in obtaining was paid in full.

(11)  "Service" means an act, conduct, or activity that is performed or to be performed for a consumer's benefit or that involves assisting a consumer in obtaining an extension of consumer credit, including:

(A)  negotiating or closing a loan or other extension of consumer credit;

(B)  issuing a guaranty, letter of credit, or other credit enhancement; and

(C)  servicing an extension of consumer credit.

(12)  "Single-payment deferred presentment transaction" means a deferred presentment transaction for which the entire cash advance, interest, and fees are required under the terms of the transaction to be payable in a single payment.

(13)  "Single-payment motor vehicle title loan" means a motor vehicle title loan for which the entire principal, interest, and fees are required under the terms of the loan to be payable in a single payment.

SECTION 3.  Section 393.201, Finance Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b)  In addition to the notice required by Section 393.202, the contract must:

(1)  contain the payment terms, including the total payments to be made by the consumer, whether to the organization or to another person;

(2)  fully describe the services the organization shall [~~is to~~] perform for the consumer or on behalf of a third party, including each guarantee and each promise of a full or partial refund and the estimated period for performing and completing all of the services, not to exceed 180 days or the period permitted under an extended payment plan authorized by Subchapter G;

(3)  contain the address of the organization's principal place of business; and

(4)  contain the name and address of the organization's agent in this state authorized to receive service of process.

(c)  A contract with a credit access business[~~, as defined by Section 393.601,~~] for the performance of services [~~described by Section 393.602(a)~~] must, in addition to the requirements of Subsection (b) and Section 393.302:

(1)  contain a statement that there is no prepayment penalty;

(2)  contain a statement that a credit access business must comply with Chapter 392 and the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692 et seq.) with respect to an extension of consumer credit [~~described by Section 393.602(a)~~];

(3)  contain a statement that a person may not threaten or pursue criminal charges against a consumer related to a check or other debit authorization provided by the consumer as security for a transaction in the absence of forgery, fraud, theft, or other criminal conduct;

(4)  contain a statement that a credit access business must comply, to the extent applicable, with 10 U.S.C. Section 987 and any regulations adopted under that law with respect to an extension of consumer credit [~~described by Section 393.602(a)~~];

(5)  disclose to the consumer:

(A)  the lender from whom the extension of consumer credit is obtained;

(B)  the interest paid or to be paid to the lender; and

(C)  the specific fees that will be paid to the credit access business for the business's services and to any third party; [~~and~~]

(6)  contain the name and address of the office, the office's website address, [~~Office of Consumer Credit Commissioner~~] and the telephone number of the office's consumer helpline; and

(7)  use model contract clauses adopted by rule of the finance commission.

(d)  The finance commission shall adopt rules to implement this section.

SECTION 4.  Section 393.203, Finance Code, is amended to read as follows:

Sec. 393.203.  ISSUANCE OF CONTRACT AND OTHER DOCUMENTS. (a) A credit services organization shall give to the consumer, when the document is signed, a copy of the completed contract and any other document the organization requires the consumer to sign.

(b)  The contract and other documents provided by a credit access business to a consumer under this section in relation to an extension of consumer credit must be:

(1)  provided, before signing, wholly written in both English and Spanish;

(2)  written in plain language designed to be easily understood by the average consumer; and

(3)  printed in an easily readable font and type size.

(c)  The finance commission shall adopt rules to implement this section.

SECTION 5.  Section 393.223(a), Finance Code, is amended to read as follows:

(a)  Before performing services described by Section 393.001(2-a) [~~393.221(1)~~], a credit access business must provide to a consumer a disclosure adopted by rule of the finance commission [~~Finance Commission of Texas~~] that discloses the following in a form prescribed by the commission:

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

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

(3)  information regarding the typical pattern of repayment of deferred presentment transactions and motor vehicle title loans.

SECTION 6.  Subchapter D, Chapter 393, Finance Code, is amended by adding Section 393.308 to read as follows:

Sec. 393.308.  EVASION OF MUNICIPAL ORDINANCE PROHIBITED. (a) A credit access business that is subject to the regulation of a municipal ordinance may not, to evade the municipal ordinance:

(1)  require, as a condition of obtaining for a consumer or assisting a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or motor vehicle title loan or a renewal, rollover, or refinance of such an extension of consumer credit, that any part of the transaction occur in a location outside the municipality; or

(2)  transfer the business's obligations and rights under a contract to obtain for a consumer or assist a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or motor vehicle title loan or a renewal, rollover, or refinance of such an extension of consumer credit to a branch of the business or another business located outside the municipality.

(b)  For purposes of Subsection (a), "renewal," "rollover," or "refinance" have any meanings assigned to those terms by the municipal ordinance.

(c)  If a credit access business violates Subsection (a), the contract between the business and the consumer for the performance of services to which the violation relates is void and unenforceable, including any requirement under the contract that the consumer pay fees or other consideration.

SECTION 7.  Sections 393.602(a) and (b), Finance Code, are amended to read as follows:

(a)  This subchapter applies only to a credit services organization that, with respect to a consumer who is a resident of this state or is located in this state at the time of the transaction, obtains for a consumer or assists a consumer in obtaining an extension of consumer credit [~~in the form of:~~

[~~(1)  a deferred presentment transaction; or~~

[~~(2)  a motor vehicle title loan~~].

(b)  A credit access business may assess fees as agreed to between the parties for [~~its~~] services performed to obtain an extension of consumer credit for a consumer or assist a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or motor vehicle title loan or a refinance of such an extension of consumer credit [~~as agreed to between the parties~~]. A credit access business fee may be calculated daily, biweekly, monthly, or on another periodic basis. A credit access business is permitted to charge amounts allowed by other laws, as applicable. A fee may not be charged unless it is disclosed.

SECTION 8.  Section 393.604(a), Finance Code, is amended to read as follows:

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

(1)  be under oath;

(2)  give the approximate location from which the business is to be conducted;

(3)  identify the business's principal parties in interest;

(4)  contain the name, physical address, and telephone number of all third-party lender organizations:

(A)  with which the business contracts to provide services; [~~described by Section 393.602(a)~~] or

(B)  from which the business arranges extensions of consumer credit [~~described by Section 393.602(a)~~]; [~~and~~]

(5)  include a copy of each agreement between the business and a third-party lender organization:

(A)  with which the business contracts to provide services; or

(B)  from which the business arranges extensions of consumer credit; and

(6)  contain other relevant information that the commissioner requires for the findings required under Section 393.607.

SECTION 9.  Sections 393.622(a) and (b), Finance Code, are amended to read as follows:

(a)  The finance commission may:

(1)  adopt rules necessary to enforce and administer this subchapter;

(2)  adopt rules with respect to the quarterly reporting by a licensed credit access business under Section 393.627 [~~licensed under this subchapter of summary business information relating to extensions of consumer credit described by Section 393.602(a)~~]; and

(3)  adopt rules with respect to periodic examination by the office relating to extensions of consumer credit the business obtained for a consumer or assisted a consumer in obtaining [~~described by Section 393.602(a)~~], including rules related to charges for defraying the reasonable cost of conducting the examinations.

(b)  The finance commission may adopt rules under this section to allow the commissioner to review, as part of a periodic examination, any relevant contracts between the credit access business and the third-party lender organizations with which the credit access business contracts to provide services [~~described by Section 393.602(a)~~] or from which the business arranges extensions of consumer credit [~~described by Section 393.602(a)~~]. A contract or information obtained by the commissioner under this section is considered proprietary and confidential to the respective parties to the contract, and is not subject to disclosure under Chapter 552, Government Code.

SECTION 10.  Section 393.625, Finance Code, is amended to read as follows:

Sec. 393.625.  MILITARY BORROWERS. (a)  An extension of consumer credit [~~described by Section 393.602(a)~~] that is obtained by a credit access business for a military borrower [~~member of the United States military or a dependent of a member of the United States military~~] or that the business assisted a military borrower [~~that person~~] in obtaining must comply with 10 U.S.C. Section 987 and any regulations adopted under that law, to the extent applicable.

(b)  The term of an extension of consumer credit, including all renewals and refinances, obtained for a military borrower by a credit access business or that a credit access business assists a military borrower in obtaining may not exceed:

(1)  90 days, if the debt is a deferred presentment transaction or single-payment motor vehicle title loan; or

(2)  180 days, if the debt is a multiple-payment motor vehicle title loan.

(c)  The finance commission shall adopt a disclosure relating to the provisions of state and federal law applicable to a military borrower who obtains an extension of consumer credit from or with the assistance of a credit access business. A credit access business shall provide this disclosure to military borrowers for whom the credit access business seeks to obtain an extension of consumer credit.

(d)  Notwithstanding Section 14.252, the commissioner may assess an administrative penalty in an amount not to exceed $5,000 for each violation against a credit access business that violates this section, regardless of whether the violation is knowing or wilful.

SECTION 11.  Section 393.626, Finance Code, is amended to read as follows:

Sec. 393.626.  DEBT COLLECTION PRACTICES. A violation of Chapter 392 by a credit access business with respect to obtaining for a consumer or assisting a consumer in obtaining an extension of consumer credit [~~described by Section 393.602(a)~~] constitutes a violation of this subchapter.

SECTION 12.  Section 393.627, Finance Code, is amended to read as follows:

Sec. 393.627.  QUARTERLY REPORT TO COMMISSIONER. A credit access business shall file a quarterly report with the commissioner on a form prescribed by the commissioner that provides the following information relating to extensions of consumer credit [~~described by Section 393.602(a)~~] during the preceding quarter:

(1)  the number of consumers for whom the business obtained or assisted in obtaining those extensions of consumer credit;

(2)  the number of those extensions of consumer credit obtained by the business or that the business assisted consumers in obtaining;

(3)  the number of refinancing transactions of the extensions of consumer credit described by Subdivision (2);

(4)  the number of consumers refinancing the extensions of consumer credit described by Subdivision (2);

(5)  the number of consumers refinancing more than once the extensions of consumer credit described by Subdivision (2);

(6)  the average amount of the extensions of consumer credit described by Subdivision (2);

(7)  the total amount of fees charged by the business for the activities described by Subdivision (1);

(8)  the number of vehicles surrendered or repossessed under the terms of an extension of consumer credit in the form of a motor vehicle title loan obtained by the business or that the business assisted a consumer in obtaining;

(9)  the mean, median, and mode of the number of extensions of consumer credit obtained by consumers as a result of entering into the extensions of consumer credit described by Subdivision (2); and

(10)  any related information the commissioner determines necessary.

SECTION 13.  Subchapter G, Chapter 393, Finance Code, is amended by adding Sections 393.629 through 393.638 to read as follows:

Sec. 393.629.  GENERAL LIMITATIONS ON EXTENSIONS OF CONSUMER CREDIT; PAYMENT METHOD. (a)  The provisions of this chapter applicable to a credit access business apply to any consumer physically located in this state at the time the extension of consumer credit is made, regardless of whether the extension of consumer credit was made in person in this state.

(b)  A credit access business shall accept a payment made in cash or by electronic transfer, cashier's check, teller's check, or money order offered by the consumer or another party, to retire or otherwise pay down debt incurred under an extension of consumer credit that a credit access business obtained for a consumer or assisted a consumer in obtaining under this chapter. For a motor vehicle title loan, a consumer may also grant a security interest in an authorized debit of a bank account.

(c)  The term of an extension of consumer credit obtained for a consumer by a credit access business or that a credit access business assists a consumer in obtaining may not exceed 180 days. If a term of less than 180 days for an extension of consumer credit is specified under this chapter, the shorter term applies.

Sec. 393.630.  LIMITATION ON OUTSTANDING DEBT. (a) A consumer may not have more than two outstanding debts from extensions of consumer credit that a credit access business obtained for the consumer or assisted the consumer in obtaining.

(b)  To obtain an extension of consumer credit facilitated through the services of a credit access business, a consumer must sign a written certification stating that the consumer at that time has not more than one other outstanding debt from an extension of consumer credit that any credit access business obtained for the consumer or assisted the consumer in obtaining.

(c)  A credit access business shall in good faith verify that a consumer is not falsifying the certification required by Subsection (b), to the best knowledge and ability of the person acting on behalf of the credit access business for that transaction. A person acting on behalf of a credit access business has satisfied this requirement if the person considers all information that the consumer shares with the person in negotiating the transaction and if the person makes a reasonable effort to verify the consumer's representations with any records that the credit access business typically consults in the normal course of its business.

(d)  A credit access business that violates this section is subject to a civil penalty in an amount not to exceed $1,000 for each violation.

Sec. 393.631.  CERTAIN LOCAL ORDINANCES NOT PREEMPTED. This chapter does not preempt a local ordinance regulating a credit access business or an extension of consumer credit obtained for a consumer by a credit access business or that a credit access business assists a consumer in obtaining, if the ordinance is compatible with and equal to or more stringent than a requirement prescribed by this chapter.

Sec. 393.632.  SINGLE-PAYMENT DEFERRED PRESENTMENT TRANSACTION. (a)  The term of an original or refinanced extension of consumer credit in the form of a single-payment deferred presentment transaction that a credit access business obtains for a consumer or assists a consumer in obtaining may not be less than 10 days or longer than 35 days.

(b)  An extension of consumer credit in the form of a single-payment deferred presentment transaction that a credit access business obtains for a consumer or assists a consumer in obtaining may not be refinanced more than three times.

(c)  If a consumer who has not entered into an extended payment plan with the credit access business in the preceding 12 months refinances a single-payment deferred presentment transaction for the third time:

(1)  the credit access business must offer at least one extended payment plan to the consumer before initiating any debt collection activities;

(2)  the consumer may request, prior to the offer required by Subdivision (1) being made, an extended payment plan at any time on or after the date the consumer refinances the deferred presentment transaction for the third time and on or before the fifth day after the date on which the third refinance must be repaid in full;

(3)  to comply with the requirement of Subdivision (1), the credit access business shall send a written notice to the consumer disclosing the following:

(A)  the amount due under the current terms of the extension of consumer credit if the consumer declines an extended payment plan;

(B)  the amounts due on each of the installment dates of an extended payment plan; and

(C)  the date by which the consumer must accept the extended payment plan in writing, which date shall be at least five days after the date of such notice;

(4)  the credit access business may not initiate debt collection activities unless:

(A)  the consumer fails to accept the extended payment plan in writing on or before the deadline contained in the notice required by Subdivision (3);

(B)  the consumer declines the extended payment plan; or

(C)  the consumer fails to make a payment required by an extended payment plan that the consumer accepted; and

(5)  if the consumer declines an extended payment plan that a credit access business is required to offer under Subdivision (1), the consumer must sign an extended payment plan waiver on a form prescribed by the finance commission.

(d)  An extended payment plan required to be offered under Subsection (c) must comply with Section 393.636.

(e)  A credit access business may offer a consumer an extended payment plan that provides the consumer with additional time to repay the debts obtained through a single-payment deferred presentment transaction, either before or after the consumer refinances the single-payment deferred presentment transaction for the third time, more than once in a 12-month period so long as the credit access business does not assess additional fees under the extended payment plan and the credit access business fully describes the terms of the extended payment plan, including all due dates and the amount due on each due date, to the consumer before the consumer enters into the extended payment plan. An extended payment plan offered under this subsection is not required to comply with Section 393.636.

(f)  A credit access business shall accept a partial payment that complies with Section 393.629(b) paid by a consumer or on behalf of a consumer to pay down outstanding principal owed under a single-payment deferred presentment transaction that the credit access business obtained for the consumer or assisted the consumer in obtaining.

Sec. 393.633.  MULTIPLE-PAYMENT DEFERRED PRESENTMENT TRANSACTION. (a)  An extension of consumer credit in the form of a multiple-payment deferred presentment transaction that a credit access business obtains for a consumer or assists a consumer in obtaining may not be payable by the consumer in more than 12 installments or have an original term of more than 180 days, and the loan agreement must specify the number, date, and total amount due with regard to each installment.

(b)  An original or refinanced extension of consumer credit in the form of a multiple-payment deferred presentment transaction that a credit access business obtains for a consumer or assists a consumer in obtaining must be payable on a fully amortizing, declining-principal-balance basis with substantially equal payments. If a credit access business precomputes its fees under a multiple-payment deferred presentment transaction and a consumer prepays in full the extension of consumer credit in that form, the credit access business shall refund any unearned fees to the consumer.

(c)  The first installment of an extension of consumer credit in the form of a multiple-payment deferred presentment transaction that a credit access business obtains for a consumer or assists a consumer in obtaining may not be due before the 10th day after the date the consumer enters into the loan agreement. An installment may not be due before the 14th day or after the 31st day after the date a previous installment is due.

(d)  An extension of consumer credit in the form of a multiple-payment deferred presentment transaction that a credit access business obtains for a consumer or assists a consumer in obtaining may not be refinanced, may not include more than 12 installments, and may not have a term that exceeds 180 days, excluding an extended payment plan offered in compliance with Section 393.636.

(e)  A credit access business may offer a consumer an extended payment plan if the extended payment plan complies with Section 393.636 and if the credit access business fully describes the terms of the extended payment plan, including all due dates and the amount due on each due date, to the consumer before the consumer enters into the extended repayment plan.

Sec. 393.634.  SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN. (a)  The term of an original or refinanced extension of consumer credit in the form of a single-payment motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining may not be less than 30 days or longer than 35 days.

(b)  An extension of consumer credit in the form of a single-payment motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining may not be refinanced more than three times. The combined terms of the original extension of consumer credit and any refinanced extensions of consumer credit, excluding an extended payment plan offered in compliance with Subsection (e) or Section 393.636, may not exceed 90 days. The credit access business shall fully describe the terms of an extended payment plan, including all due dates and the amount due on each due date, to the consumer before the consumer enters into the extended payment plan.

(c)  If a consumer who has not entered into an extended payment plan with the credit access business in the preceding 12 months refinances a single-payment motor vehicle title loan for the third time:

(1)  the credit access business must offer at least one extended payment plan to the consumer before initiating any activities to repossess the vehicle securing the debt;

(2)  the consumer may request, prior to the offer required by Subdivision (1) being made, an extended payment plan at any time on or after the date the consumer refinances the motor vehicle title loan for the third time and on or before the fifth day after the date on which the third refinance must be repaid in full;

(3)  to comply with the requirement of Subdivision (1), the credit access business shall send a written notice to the consumer disclosing the following:

(A)  the amount due under the current terms of the extension of consumer credit if the consumer declines an extended payment plan;

(B)  the amounts due on each of the installment dates of an extended payment plan; and

(C)  the date by which the consumer must accept the extended payment plan in writing, which date shall be at least five days after the date of such notice;

(4)  the credit access business may not repossess the vehicle securing the debt unless:

(A)  the consumer fails to accept the extended payment plan in writing on or before the deadline contained in the notice required by Subdivision (3);

(B)  the consumer declines the extended payment plan; or

(C)  the consumer fails to make a payment required by an extended payment plan that the consumer accepted; and

(5)  if the consumer declines an extended payment plan that a credit access business is required to offer under Subdivision (1), the consumer must sign an extended payment plan waiver on a form prescribed by the finance commission.

(d)  An extended payment plan required to be offered under Subsection (c) must comply with Section 393.636.

(e)  A credit access business may offer a consumer an extended payment plan that provides the consumer with additional time to repay the debts obtained through a single-payment motor vehicle title loan, either before or after the consumer refinances the single-payment motor vehicle title loan for the third time, more than once in a 12-month period so long as the credit access business does not assess additional fees under the extended payment plan and the credit access business fully describes the terms of the extended payment plan, including all due dates and the amount due on each due date, to the consumer before the consumer enters into the extended payment plan. An extended payment plan offered under this subsection is not required to comply with Section 393.636.

(f)  A credit access business shall accept a partial payment that complies with Section 393.629(b) paid by a consumer or on behalf of a consumer to pay down outstanding principal owed under a single-payment motor vehicle title loan that the credit access business obtained for the consumer or assisted the consumer in obtaining.

Sec. 393.635.  MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN. (a)  An extension of consumer credit in the form of a multiple-payment motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining must be payable on a fully amortizing, declining-principal-balance basis with substantially equal payments. If a credit access business precomputes its fees under a multiple-payment motor vehicle title loan and a consumer prepays the loan in full, the credit access business shall refund any unearned fees to the consumer.

(b)  An extension of consumer credit in the form of a multiple-payment motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining may not be payable by the consumer in more than six installments, and the loan agreement must specify the number, date, and total amount due with regard to each installment.

(c)  The first installment of an extension of consumer credit in the form of a multiple-payment motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining may not be due before the 10th day after the date the consumer enters into the loan agreement. A subsequent installment may not be due before the 28th day after the date the previous installment of the loan is due.

(d)  An extension of consumer credit in the form of a multiple-payment motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining may not be refinanced and the loan term may not exceed 180 days, except as provided by Subsection (e).

(e)  A credit access business may not initiate any activities to repossess the vehicle securing the debt under a multiple-payment motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining before offering the consumer at least one extended payment plan. An extended payment plan may cause the extension of consumer credit to extend beyond 180 days so long as the extended payment plan complies with Section 393.636 and the credit access business fully describes the terms of the extended payment plan, including all due dates and the amount due on each due date, to the consumer before the consumer enters into the extended payment plan.

(f)  If the credit access business is required to offer a consumer an extended payment plan under Subsection (e), the credit access business shall send a written notice to the consumer disclosing the following:

(1)  the amount due under the current terms of the extension of consumer credit if the consumer declines an extended payment plan;

(2)  the amounts due on each of the installment dates of an extended payment plan; and

(3)  the date by which the consumer must accept the extended payment plan in writing, which date shall be at least five days after the date of such notice.

(g)  The credit access business may not repossess the vehicle securing the debt unless:

(1)  the consumer fails to accept the extended payment plan in writing on or before the deadline contained in the notice required by Subsection (f)(3);

(2)  the consumer declines the extended payment plan; or

(3)  the consumer fails to make a payment required by an extended payment plan that the consumer accepted.

(h)  If the consumer declines the extended payment plan, the consumer must sign an extended payment plan waiver on a form prescribed by the finance commission.

Sec. 393.636.  EXTENDED PAYMENT PLAN REQUIREMENTS. (a)  This section applies to extended payment plans required to be offered under Sections 393.632, 393.633, 393.634, and 393.635.

(b)  An extended payment plan must provide for payment in at least:

(1)  four substantially equal installments, after which the outstanding balance will be paid in full, with respect to a single-payment deferred presentment transaction or single-payment motor vehicle title loan; or

(2)  two substantially equal installments added to the original and refinanced term of the extension of consumer credit, after which the outstanding balance, including only the fees that would have been due under the original extension of consumer credit, will be paid in full, with respect to a multiple-payment deferred presentment transaction or multiple-payment motor vehicle title loan.

(c)  The period between installment payments on an extended payment plan may not be shorter than:

(1)  10 days, with respect to a single-payment deferred presentment transaction; or

(2)  30 days, with respect to a multiple-payment deferred presentment transaction, a single-payment motor vehicle title loan, or a multiple-payment motor vehicle title loan.

(d)  The first payment owed under an extended payment plan may not be due before the 10th day after the date the consumer requests an extended payment plan.

(e)  A credit access business may not assess additional fees or assist a consumer in obtaining additional extensions of consumer credit if the consumer is paying an extension of credit under an extended payment plan.

(f)  A consumer may pay in full a debt subject to an extended payment plan at any time without prepayment penalties.

(g)  A person may not engage in debt collection or vehicle repossession activities for a debt subject to an extended payment plan if the consumer is in compliance with the extended payment plan.

(h)  A person may not use a device, subterfuge, or pretense to evade the extended payment plan requirements and limitations imposed on a credit access business under this subchapter.

Sec. 393.637.  REFINANCES. (a)  Any refinance of an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining:

(1)  must be authorized under this subchapter;

(2)  must be in the same form as the original extension of consumer credit; and

(3)  must meet all the requirements applicable to the original extension of consumer credit, including the duration, transaction, and extended payment plan requirements under this subchapter, except as otherwise provided by this chapter.

(b)  For purposes of this section, a single-payment deferred presentment transaction, a multiple-payment deferred presentment transaction, a single-payment motor vehicle title loan, and a multiple-payment motor vehicle title loan are the different forms of extensions of consumer credit that a credit access business may obtain for a consumer or assist a consumer in obtaining.

(c)  The terms of a refinanced extension of consumer credit may be the same as or different from the terms of the original extension of consumer credit.

(d)  A person may not use a device, subterfuge, or pretense to evade the refinance requirements and limitations imposed on a credit access business under this subchapter.

Sec. 393.638.  RULES. The finance commission shall adopt any rules necessary to implement Sections 393.629-393.637.

SECTION 14.  Sections 393.221 and 393.601, Finance Code, are repealed.

SECTION 15.  The changes in law made by this Act apply only to an extension of consumer credit made on or after the effective date of this Act. An extension of consumer credit made before the effective date of this Act is governed by the law in effect on the date the extension of consumer credit was made, and the former law is continued in effect for that purpose. For purposes of this section, a refinance or renewal of an extension of consumer credit is considered made on the date the extension of consumer credit being refinanced or renewed was made.

SECTION 16.  Section 393.308, Finance Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 17.  This Act takes effect September 1, 2019.