

By: West

S.B. No. 1761

A BILL TO BE ENTITLED

AN ACT

1
2 relating to credit services organizations and extensions of
3 consumer credit facilitated by credit services organizations;
4 providing civil and administrative penalties.

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

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

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

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

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

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

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

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

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

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

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

12 (9) [~~8~~] threatening to take an action prohibited by
13 law.

14 SECTION 2. Section 393.001, Finance Code, is amended by
15 amending Subdivisions (1) and (3) and adding Subdivisions (1-a),
16 (2-a), (3-a), (4-a), (5), (6), (7), (8), (9), (10), (11), (12), and
17 (13) to read as follows:

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

20 (1-a) "Consumer" means an individual who is solicited
21 to purchase or who purchases the services of a credit services
22 organization.

23 (2-a) "Credit access business" means a credit services
24 organization that obtains for a consumer or assists a consumer in
25 obtaining an extension of consumer credit.

26 (3) "Credit services organization" means a person who
27 provides, or represents that the person can or will provide, for the

1 payment of valuable consideration any of the following services
2 with respect to the extension of consumer credit by others:

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

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

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

12 (3-a) "Deferred presentment transaction" means a
13 single-payment or multiple-payment transaction defined as a
14 deferred presentment transaction by Section 341.001 in connection
15 with which the consumer is not required to provide real or personal
16 property as security.

17 (4-a) "Finance commission" means the Finance
18 Commission of Texas.

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

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

27 (7) "Multiple-payment deferred presentment

1 transaction" means a deferred presentment transaction that is not a
2 single-payment deferred presentment transaction.

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

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

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

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

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

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

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

27 (B) issuing a guaranty, letter of credit, or

1 other credit enhancement; and

2 (C) servicing an extension of consumer credit.

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

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

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

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

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

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

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

27 (4) contain the name and address of the organization's

1 agent in this state authorized to receive service of process.

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

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

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

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

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

21 (5) disclose to the consumer:

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

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

26 (C) the specific fees that will be paid to the
27 credit access business for the business's services and to any third

1 party; [and]

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

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

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

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

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

12 (a) A credit services organization shall give to the consumer, when
13 the document is signed, a copy of the completed contract and any
14 other document the organization requires the consumer to sign.

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

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

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

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

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

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

27 (a) Before performing services described by Section

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

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

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

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

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

19 Sec. 393.308. EVASION OF MUNICIPAL ORDINANCE PROHIBITED.

20 (a) A credit access business that is subject to the regulation of a
21 municipal ordinance may not, to evade the municipal ordinance:

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

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

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

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

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

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

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

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

25 (b) A credit access business may assess fees as agreed to
26 between the parties for [~~its~~] services performed to obtain an
27 extension of consumer credit for a consumer or assist a consumer in

1 obtaining an extension of consumer credit in the form of a deferred
2 presentment transaction or motor vehicle title loan or a refinance
3 of such an extension of consumer credit [~~as agreed to between the~~
4 ~~parties~~]. A credit access business fee may be calculated daily,
5 biweekly, monthly, or on another periodic basis. A credit access
6 business is permitted to charge amounts allowed by other laws, as
7 applicable. A fee may not be charged unless it is disclosed.

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

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

11 (1) be under oath;

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

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

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

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

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

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

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

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

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

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

6 (a) The finance commission may:

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

9 (2) adopt rules with respect to the quarterly
10 reporting by a licensed credit access business under Section
11 [393.627](#) [~~licensed under this subchapter of summary business~~
12 ~~information relating to extensions of consumer credit described by~~
13 ~~Section [393.602](#)(a)]~~; and

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

20 (b) The finance commission may adopt rules under this
21 section to allow the commissioner to review, as part of a periodic
22 examination, any relevant contracts between the credit access
23 business and the third-party lender organizations with which the
24 credit access business contracts to provide services [~~described by~~
25 ~~Section [393.602](#)(a)] or from which the business arranges extensions
26 of consumer credit [~~described by Section [393.602](#)(a)]~~. A contract
27 or information obtained by the commissioner under this section is~~

1 considered proprietary and confidential to the respective parties
2 to the contract, and is not subject to disclosure under Chapter 552,
3 Government Code.

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

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

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

18 (1) 90 days, if the debt is a deferred presentment
19 transaction or single-payment motor vehicle title loan; or

20 (2) 180 days, if the debt is a multiple-payment motor
21 vehicle title loan.

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

1 consumer credit.

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

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

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

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

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

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

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

27 (3) the number of refinancing transactions of the

1 extensions of consumer credit described by Subdivision (2);

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

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

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

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

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

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

18 (10) any related information the commissioner
19 determines necessary.

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

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

1 consumer credit was made in person in this state.

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

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

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

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

25 (c) A credit access business shall in good faith verify that
26 a consumer is not falsifying the certification required by
27 Subsection (b), to the best knowledge and ability of the person

1 acting on behalf of the credit access business for that
2 transaction. A person acting on behalf of a credit access business
3 has satisfied this requirement if the person considers all
4 information that the consumer shares with the person in negotiating
5 the transaction and if the person makes a reasonable effort to
6 verify the consumer's representations with any records that the
7 credit access business typically consults in the normal course of
8 its business.

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

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

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

25 (b) An extension of consumer credit in the form of a
26 single-payment deferred presentment transaction that a credit
27 access business obtains for a consumer or assists a consumer in

1 obtaining may not be refinanced more than three times.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (f) A credit access business shall accept a partial payment

1 that complies with Section 393.629(b) paid by a consumer or on
2 behalf of a consumer to pay down outstanding principal owed under a
3 single-payment deferred presentment transaction that the credit
4 access business obtained for the consumer or assisted the consumer
5 in obtaining.

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

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

24 (c) The first installment of an extension of consumer credit
25 in the form of a multiple-payment deferred presentment transaction
26 that a credit access business obtains for a consumer or assists a
27 consumer in obtaining may not be due before the 10th day after the

1 date the consumer enters into the loan agreement. An installment
2 may not be due before the 14th day or after the 31st day after the
3 date a previous installment is due.

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

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

17 Sec. 393.634. SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN.

18 (a) The term of an original or refinanced extension of consumer
19 credit in the form of a single-payment motor vehicle title loan that
20 a credit access business obtains for a consumer or assists a
21 consumer in obtaining may not be less than 30 days or longer than 35
22 days.

23 (b) An extension of consumer credit in the form of a
24 single-payment motor vehicle title loan that a credit access
25 business obtains for a consumer or assists a consumer in obtaining
26 may not be refinanced more than three times. The combined terms of
27 the original extension of consumer credit and any refinanced

1 extensions of consumer credit, excluding an extended payment plan
2 offered in compliance with Subsection (e) or Section 393.636, may
3 not exceed 90 days. The credit access business shall fully describe
4 the terms of an extended payment plan, including all due dates and
5 the amount due on each due date, to the consumer before the consumer
6 enters into the extended payment plan.

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

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

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

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

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

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

27 (C) the date by which the consumer must accept

1 the extended payment plan in writing, which date shall be at least
2 five days after the date of such notice;

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

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

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

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

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

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

18 (e) A credit access business may offer a consumer an
19 extended payment plan that provides the consumer with additional
20 time to repay the debts obtained through a single-payment motor
21 vehicle title loan, either before or after the consumer refinances
22 the single-payment motor vehicle title loan for the third time,
23 more than once in a 12-month period so long as the credit access
24 business does not assess additional fees under the extended payment
25 plan and the credit access business fully describes the terms of the
26 extended payment plan, including all due dates and the amount due on
27 each due date, to the consumer before the consumer enters into the

1 extended payment plan. An extended payment plan offered under this
2 subsection is not required to comply with Section 393.636.

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

9 Sec. 393.635. MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN.

10 (a) An extension of consumer credit in the form of a
11 multiple-payment motor vehicle title loan that a credit access
12 business obtains for a consumer or assists a consumer in obtaining
13 must be payable on a fully amortizing, declining-principal-balance
14 basis with substantially equal payments. If a credit access
15 business precomputes its fees under a multiple-payment motor
16 vehicle title loan and a consumer prepays the loan in full, the
17 credit access business shall refund any unearned fees to the
18 consumer.

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

25 (c) The first installment of an extension of consumer credit
26 in the form of a multiple-payment motor vehicle title loan that a
27 credit access business obtains for a consumer or assists a consumer

1 in obtaining may not be due before the 10th day after the date the
2 consumer enters into the loan agreement. A subsequent installment
3 may not be due before the 28th day after the date the previous
4 installment of the loan is due.

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

10 (e) A credit access business may not initiate any activities
11 to repossess the vehicle securing the debt under a multiple-payment
12 motor vehicle title loan that a credit access business obtains for a
13 consumer or assists a consumer in obtaining before offering the
14 consumer at least one extended payment plan. An extended payment
15 plan may cause the extension of consumer credit to extend beyond 180
16 days so long as the extended payment plan complies with Section
17 393.636 and the credit access business fully describes the terms of
18 the extended payment plan, including all due dates and the amount
19 due on each due date, to the consumer before the consumer enters
20 into the extended payment plan.

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

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

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

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

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

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

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

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

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

18 Sec. 393.636. EXTENDED PAYMENT PLAN REQUIREMENTS.

19 (a) This section applies to extended payment plans required to be
20 offered under Sections 393.632, 393.633, 393.634, and 393.635.

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

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

27 (2) two substantially equal installments added to the

1 original and refinanced term of the extension of consumer credit,
2 after which the outstanding balance, including only the fees that
3 would have been due under the original extension of consumer
4 credit, will be paid in full, with respect to a multiple-payment
5 deferred presentment transaction or multiple-payment motor vehicle
6 title loan.

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

9 (1) 10 days, with respect to a single-payment deferred
10 presentment transaction; or

11 (2) 30 days, with respect to a multiple-payment
12 deferred presentment transaction, a single-payment motor vehicle
13 title loan, or a multiple-payment motor vehicle title loan.

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

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

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

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

27 (h) A person may not use a device, subterfuge, or pretense

1 to evade the extended payment plan requirements and limitations
2 imposed on a credit access business under this subchapter.

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

6 (1) must be authorized under this subchapter;

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

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

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

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

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

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

27 SECTION 14. Sections [393.221](#) and [393.601](#), Finance Code, are

1 repealed.

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

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

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