By: Bernal H.B. No. 1114

A BILL TO BE ENTITLED

AN ACT

relating to credit services organizations and extensions of consumer credit facilitated by credit services organizations; increasing a criminal penalty.

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

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

(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:

(i) a single-payment deferred presentment transaction;

(ii) a multiple-payment deferred presentment transaction;

(iii) a single-payment motor vehicle title

loan; or

(iv) 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.

(5) "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.

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

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

(8) "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 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.

(9) "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.

(10) "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 2. Subchapter A, Chapter 393, Finance Code, is amended by adding Section 393.004 to read as follows:

Sec. 393.004. EFFECT ON MUNICIPAL ORDINANCES. (a) This chapter does not preempt a municipal ordinance regulating:

(1) a credit access business; or

(2) any form of an extension of consumer credit that a credit access business is authorized to obtain for a consumer or assist a consumer in obtaining as provided by Section 393.308.

(b) If a municipal ordinance described by Subsection (a) conflicts with a provision of this chapter, the more stringent regulation controls to the extent of the conflict.

SECTION 3. Section 393.201(c), Finance Code, is amended to read as follows:

(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

(6) <u>contain</u> the name and address of the Office of

Consumer Credit Commissioner and the telephone number of the office's consumer helpline.

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:

(A) in English; and

(B) if the contract negotiations are not conducted in English, in the language in which the contract is negotiated; and

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

SECTION 5. Section 393.223, Finance Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

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

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

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

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

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

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

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

Sec. 393.308. PROHIBITION ON OBTAINING CERTAIN EXTENSIONS OF CONSUMER CREDIT. A credit services organization may not obtain

for a consumer or assist a consumer in obtaining an extension of consumer credit in any form other than in the form of:

(1) a single-payment deferred presentment transaction;

(2) a multiple-payment deferred presentment transaction;

(3) a single-payment motor vehicle title loan; or

(4) a multiple-payment motor vehicle title loan.

SECTION 7. Section 393.501, Finance Code, is amended by adding Subsection (c) to read as follows:

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

SECTION 8. Section 393.602(a), Finance Code, is amended to read as follows:

(a) This subchapter applies only to a credit services organization that [~~, with respect to a consumer who 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~~].

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

(a) An application for a license under this subchapter must be under oath and contain:

(1) the applicant's name and the street address, mailing address, facsimile number, and telephone number of the

applicant at the location for which the license is sought [~~be under oath~~];

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

(3) the identities of [~~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) [~~contain~~] other relevant information that the commissioner requires for the findings required under Section 393.607.

SECTION 10. Section 393.620, Finance Code, is amended to read as follows:

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

SECTION 11. 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 credit access business licensed under this

subchapter of summary business information relating to extensions of consumer credit the business obtained for a consumer or assisted a consumer in obtaining [~~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 12. Sections 393.625, 393.626, and 393.627, Finance Code, are amended to read as follows:

Sec. 393.625. MILITARY BORROWERS. An extension of consumer credit [~~described by Section 393.602(a)~~] that is obtained by a credit access business for a member of the United States military or a dependent of a member of the United States military or that the business assisted that person in obtaining must comply with 10

U.S.C. Section 987 and any regulations adopted under that law, to the extent applicable.

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

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 393.637 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.

Sec. 393.630. ESTABLISHMENT OF INCOME. A credit access

business must require documentation to establish a consumer's income for purposes of this subchapter. The only acceptable forms of documentation are paper, facsimile, or electronic copies of:

(1) a payroll document;

(2) a paycheck;

(3) a bank, credit union, debit card, or other account statement;

(4) a report from a nationally or regionally recognized credit and data reporting company;

(5) Internal Revenue Service Form W-2 from the preceding year;

(6) the federal income tax return from the preceding tax year; or

(7) a signed letter from the consumer's employer at the time the extension of consumer credit is sought.

Sec. 393.631. SINGLE-PAYMENT DEFERRED PRESENTMENT TRANSACTION. (a) The sum of all fees, principal, interest, and other amounts due under 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 exceed 20 percent of the consumer's gross monthly income.

(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. An amount from each payment of a refinanced deferred presentment transaction

described by this subsection must be used to repay at least 25 percent of the principal amount of the original debt.

Sec. 393.632. MULTIPLE-PAYMENT DEFERRED PRESENTMENT TRANSACTION. (a) The sum of all fees, principal, interest, and other amounts due under all scheduled payments 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 exceed 20 percent of the consumer's gross monthly income.

(b) 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 and all fees associated with the debt may not be payable by the consumer in more than four installments. An amount from each payment must be used to repay at least 25 percent of the principal amount of the debt.

(c) 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.

Sec. 393.633. SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN. (a) The sum of all fees, principal, interest, and other amounts due under 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 exceed the lesser of:

(1) three percent of the consumer's gross annual

income; or

(2) 70 percent of the retail value of the motor vehicle securing the debt.

(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. An amount from each payment of a refinanced motor vehicle title loan described by this subsection must be used to repay at least 25 percent of the principal amount of the original debt.

Sec. 393.634. MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN. (a) The sum of all fees, principal, interest, and other amounts due under all scheduled payments 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 exceed the lesser of:

(1) three percent of the consumer's gross annual income; or

(2) 70 percent of the retail value of the motor vehicle securing the debt.

(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 and all fees associated with the debt may not be payable by the consumer in more than four installments. An amount from each payment must be used to repay at least 25 percent of the principal amount of the debt.

(c) 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.

Sec. 393.635. 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 applicable income-based or vehicle value-based limitations under Section 393.631(a) or 393.633(a).

(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) 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. 393.636. MAINTENANCE OF RECORDS. (a) A credit access business shall maintain a complete set of records of all extensions of consumer credit obtained for consumers by the business or that the business assisted consumers in obtaining. The record pertaining

to each extension of consumer credit must be retained until the third anniversary of the date the extension of consumer credit was obtained and must include:

(1) the name and address of the consumer;

(2) the principal amount of the cash advance or loan;

(3) the length of the original term of the extension of consumer credit, the number of installments or refinances, if applicable, and the length of the term of any refinance;

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

(5) the documentation used to establish a consumer's income under Section 393.630.

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

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

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

Sec. 393.637. RULES. The finance commission shall adopt any rules necessary to implement Sections 393.629-393.636.

SECTION 14. The following laws are repealed:

(1) Section 393.221, Finance Code; and

(2) Sections 393.601(2), (3), and (5), Finance Code.

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 of an extension of consumer credit is considered made on the date the extension of consumer credit being refinanced was made.

SECTION 16. (a) The change in law made by this Act to Section 393.223, Finance Code, applies only to a disclosure or notice provided by a credit access business on or after January 1, 2028. A disclosure or notice provided by a credit access business before January 1, 2028, is governed by Section 393.223, Finance Code, as that section existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) The Finance Commission of Texas shall adopt rules prescribing forms under Section 393.223(a), Finance Code, as amended by this Act, not later than November 1, 2027.

SECTION 17. Section 393.636, Finance Code, as added by this Act, applies only to a record created on or after the effective date of this Act. A record created before the effective date of this Act is governed by the law in effect when the record was created, and the former law is continued in effect for that purpose.

SECTION 18. This Act takes effect September 1, 2027.