

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1247  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, credit access businesses (CAB) arrange short-term consumer loans known as deferred presentment transactions, or "payday loans," and motor vehicle title loans, or "auto title loans." These loans are financed through an independent, third-party lender who collects interest, while CABs assess fees that are not limited by usury laws.

In 2011, the 82nd Legislature passed H.B. 2592 and H.B. 2594, which set forth requirements for CABs. Pursuant to Chapter 393 (Credit Services Organizations) of the Finance Code, CABs must comply with certain licensing, disclosure, and data reporting requirements in order to operate in the state. Aside from these basic regulatory requirements, however, CABs currently operate with very little regulatory oversight in terms of transaction requirements or limitations.

Many believe that under current market conditions CABs are predatory lenders that benefit from a phenomenon known as the "cycle of debt." The cycle of debt refers to an instance where a consumer struggles to retire the debt obtained through a CAB loan despite the fact that the consumer has paid the CAB multiple fee payments that may even exceed the original balance owed. This occurs primarily as a result of the high number of refinances and rollovers that consumers obtain while utilizing these products, and as a result of these payments, the annual percentage rate applicable to these loans can be as high as 600 percent.

C.S.S.B. 1247 places meaningful transaction limits on the payday and auto title loans that CABs offer consumers. Specifically, C.S.S.B. 1247 ensures that the size of a loan corresponds to a customer's income or vehicle value, limits the number of times consumers may refinance a loan, and mandates the use of extended payment plans, which give consumers an opportunity to retire debt without accumulating additional fees.

C.S.S.B. 1247 amends current law relating to credit services organizations and extensions of consumer credit facilitated by credit services organizations, and provides a civil penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Finance Commission of Texas (finance commission) in SECTION 3 (Section 393.201, Finance Code), SECTION 6 (Section 393.308, Finance Code), SECTION 9 (Section 393.622, Finance Code), and SECTION 14 (Sections 393.629, 393.630, 393.632, 393.640, Finance Code) of this bill.

Rulemaking authority previously granted to the finance commission is modified in SECTION 5 (Section 393.223, Finance Code) and SECTION 9 (Section 393.622, Finance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 392.301(a), Finance Code, to prohibit a debt collector, in debt collection, from using threats, coercion, or attempts to coerce that employ any of certain practices, including by referencing a certification signed by the consumer as required by Section 393.630(b) or any penalties associated with a violation of that section and to make nonsubstantive changes.

**SECTION 2.** Amends Section 393.001, Finance Code, by amending Subdivisions (1) and (3) to define "commissioner" and to redefine "credit services organization" and adding Subdivisions (1-a), (2-a), (3-a), (4-a), (5), (6), (7), (8), (9), (10), (11), (12), and (13) to define "consumer," "credit access business," "deferred presentment transaction," "finance commission," "military borrower," "motor vehicle title loan," "multiple-payment deferred presentment transaction," "multiple-payment motor vehicle title loan," "office," "refinance," "service," "single-payment deferred presentment transaction" and "single-payment motor vehicle title loan."

**SECTION 3.** Amends Section 393.201, Finance Code, by amending Subsections (b) and (c) and adding Subsection (d), as follows:

(b) Requires that the contract for the purchase of the services of a credit services organization by a consumer (contract), in addition to the notice required by Section 393.202 (Notice of Cancellation), among other requirements, fully describe the services the organization is required to perform for the consumer, 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, unless otherwise permitted under this chapter.

(c) Requires that a contract with a credit access business for the performance of services, rather than a contract with a credit access business as defined by Section 393.601 (Definitions) for the performance of services described by Section 393.602(a) (relating to a credit services organization that obtains an extension of consumer credit), in addition to the requirements of Subsection (b) and Section 393.302 (Charge or Receipt of Consideration Before Completion of Services):

(1) Makes no change to this subdivision;

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

(3) Makes no change to this subdivision;

(4) contain a statement that a credit access business is required to 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;

(5) disclose to the consumer certain information, including the specific fees that will be paid to the credit access business for the business's services and to any third party;

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

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

Makes a conforming and a nonsubstantive change.

(d) Requires the finance commission to adopt rules to implement this section.

**SECTION 4.** Amends Section 393.222, Finance Code, by adding Subsection (a-1), to require a credit access business to post, in the same manner as a notice required under Subsection (a) (relating to a credit access business providing a disclosure), and provide as a separate document to a consumer, a notice prescribed by the finance commission regarding the availability of extended payment plans that describes the basic features of the plans.

**SECTION 5.** Amends Section 393.223(a), Finance Code, to require a credit access business, before performing services described by Section 393.001(2-a), rather than Section 393.221(1), to provide to a consumer a disclosure adopted by rule of the finance commission that discloses certain information in a form prescribed by the finance commission to provide certain information, including the name of the credit access business and any unique number assigned to the license issued to the business under Subchapter G (Licensing and Regulation of Certain Credit Services Organizations).

**SECTION 6.** Amends Subchapter D, Chapter 393, Finance Code, by adding Section 393.308, as follows:

**Sec. 393.308. PROHIBITION ON OBTAINING CERTAIN LOANS OR EXTENSIONS OF CREDIT.** (a) Prohibits a credit services organization from obtaining for a consumer or assisting a consumer in obtaining an extension of consumer credit in any form other than 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.

- (b) Authorizes a credit services organization to obtain for a consumer or assist a consumer in obtaining a loan or other extension of consumer credit only if the loan or extension of consumer credit is in the form of a deferred presentment transaction or motor vehicle title loan described by Subsection (a) made by a third-party lender that is unaffiliated with the credit services organization and does not have any ownership, directors, officers, members, or employees in common with the credit services organization.
- (c) Prohibits a credit services organization from charging or receiving from a consumer a fee or other valuable consideration in connection with a loan or other extension of consumer credit that is not a deferred presentment transaction or motor vehicle title loan described by Subsection (b).
- (d) Authorizes the finance commission to adopt rules to implement this section.

**SECTION 7.** Amends Section 393.602, Finance Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

- (a) Provides that this subchapter applies only to a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit, rather than an extension of consumer credit in the form of a deferred presentment transaction, or a motor vehicle title loan.
- (b) Authorizes a credit access business to assess fees as agreed to between the parties for 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, rather than authorizing a credit access business to assess fees for its services as agreed to between the parties.
- (b-1) Authorizes a credit services organization that is not obtaining for a consumer or assisting a consumer in obtaining an extension of consumer credit, notwithstanding Subsection (a) or (b), to also charge or receive from a consumer a fee or other valuable consideration in connection with advice, assistance, or other services that the credit services organization provides to improve a consumer's credit history or rating.

**SECTION 8.** Amends Section 393.604(a), Finance Code, to require that an application for a license under this subchapter, among other requirements, contain the name, physical address, and telephone number of all third-party lender organizations with which the business contracts to provide services, rather than to provide services described by Section 393.602(a), or from which the business arranges extensions of consumer credit, rather than extensions of consumer credit described by Section 393.602(a).

**SECTION 9.** Amends Sections 393.622(a) and (b), Finance Code, as follows:

(a) Authorizes the finance commission to:

- (1) adopt rules necessary to enforce and administer this subchapter;
- (2) adopt rules with respect to reports of summary business information required to be submitted by a licensed credit access business under Section 393.627 (Quarterly Report to Commissioner);
- (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, including rules related to charges for defraying the reasonable cost of conducting the examinations; and
- (4) adopt rules identifying extensions of consumer credit that are refinances.

Makes a conforming change.

Deletes existing text authorizing the finance commission to 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 described by Section 393.602(a).

(b) Authorizes the finance commission to 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 or from which the business arranges extensions of consumer credit. Makes conforming changes.

**SECTION 10.** Amends Subchapter G, Chapter 393, Finance Code, by adding Section 393.6221, as follows:

**Sec. 393.6221. EXAMINATION OR INVESTIGATION BY COMMISSIONER; OATHS.** Authorizes the consumer credit commissioner (commissioner) or the commissioner's representative, during an examination or an investigation, to administer oaths and examine a person under oath on a subject pertinent to a matter that the commissioner is authorized or required to consider, investigate, or secure information about under this chapter.

**SECTION 11.** Amends Section 393.625, Finance Code, as follows:

**Sec. 393.625. MILITARY BORROWERS.** (a) Creates this subsection from existing text. Requires that an extension of consumer credit that is obtained by a credit access business for a military borrower or that the business assisted a military borrower in obtaining comply with 10 U.S.C. Section 987 and any regulations adopted under that law, to the extent applicable, rather requiring than 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 to comply with 10 U.S.C. Section 987 and any regulations adopted under that law, to the extent applicable.

(b) Prohibits 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 from exceeding 90 days, if the debt is a deferred presentment transaction, or 180 days, if the debt is a motor vehicle title loan.

**SECTION 12.** Amends Section 393.626, Finance Code, to provide that 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, rather than an extension of consumer credit described by Section 393.602(a), constitutes a violation of this subchapter.

**SECTION 13.** Amends Section 393.627, Finance Code, as follows:

Sec. 393.627. New heading: REPORTS TO COMMISSIONER. (a) Creates this subsection from existing text. Requires a credit access business to file quarterly and annual reports with the commissioner on forms prescribed by the commissioner that provide certain information relating to extensions of consumer credit, rather than extensions of consumer credit described by Section 393.602(a), during the preceding quarter or year, as applicable, including the number of extended payment plans offered by the credit access business and entered into by consumers, for each product, rather than including 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). Makes conforming and nonsubstantive changes.

- (b) Provides that all information submitted by a credit access business to the commissioner for inclusion in a report under this section is confidential.
- (c) Requires the commissioner to publish a statewide consolidated analysis and recapitulation of reports filed under this section. Authorizes the commissioner to also publish a consolidated analysis and recapitulation of the reports that provides an analysis of the 15 largest metropolitan statistical areas and the five largest counties of this state.

**SECTION 14.** Amends Subchapter G, Chapter 393, Finance Code, by adding Sections 393.629 through 393.640, as follows:

Sec. 393.629. GENERAL LIMITATIONS ON EXTENSIONS OF CONSUMER CREDIT; LANGUAGE REQUIREMENTS; PAYMENT METHOD. (a) Provides that 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) Requires the finance commission by rule to adopt Spanish versions of the model contract clauses and all notices that a credit access business is required to give to a consumer under this chapter. Requires a credit access business to provide to the consumer a contract that uses the adopted Spanish clauses and notices to the consumer if in the process of obtaining an extension of consumer credit the consumer requests that the documents be provided in Spanish or if the contract is negotiated in Spanish. Requires that the executed contract and any other binding and controlling document between the credit access business and the consumer be written in English.
- (c) Requires a credit access business to 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. Authorizes a consumer, for a motor vehicle title loan, to also grant a security interest in an authorized debit of a bank account.

Sec. 393.630. LIMITATION ON OUTSTANDING DEBT. (a) Authorizes a consumer, at any one time, to have only one outstanding debt from a deferred presentment transaction that a credit access business obtained for the consumer or assisted the consumer in obtaining and one outstanding debt from a motor vehicle title loan that a credit access business obtained for the consumer or assisted the consumer in obtaining.

- (b) Requires a consumer, to obtain an extension of consumer credit in the form of a deferred presentment transaction facilitated through the services of a credit access business, to sign a written certification on a form adopted by finance commission rule stating that the consumer has no other outstanding debt from an extension of consumer credit in the form of a deferred presentment transaction.
- (c) Prohibits a credit access business from obtaining for a consumer or assisting a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction if the consumer fails to provide the written certification required by Subsection (b) or if the business has evidence in its possession indicating that the consumer has an outstanding extension of consumer credit in the form of a deferred presentment transaction that the credit access business previously obtained for the consumer or assisted the consumer in obtaining. Provides that this subsection does not prohibit a credit access business from advancing additional funds under a refinance otherwise permitted under this chapter.
- (d) Provides that 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. LIMITATIONS RELATING TO MOTOR VEHICLE SECURING DEBT.**

(a) Requires that the proceeds of the sale of a repossessed motor vehicle that secured a motor vehicle title loan satisfy all outstanding and unpaid indebtedness under that extension of consumer credit, and the consumer is not liable for any deficiency resulting from the sale unless the consumer has committed fraud or has committed a wilful act of misconduct that damages or impairs the value of the motor vehicle.

- (b) Requires that any fee charged to a consumer for the repossession of a motor vehicle given as security for a motor vehicle title loan be reasonable and prohibits it from exceeding the amount actually paid by the credit access business or the lender to a third party for the repossession.
- (c) Requires that a repossession under this chapter comply with Chapter 9 (Secured Transactions), Business & Commerce Code, except as otherwise provided by this section.

**Sec. 393.632. ESTABLISHMENT OF INCOME OR VALUE; REFERENCE AMOUNT.**

(a) Requires a credit access business to require documentation to establish a consumer's income for purposes of this subchapter. Provides that acceptable forms of documentation include paper, facsimile, or electronic copies of a payroll document; a paycheck; a bank statement; a report from a nationally or regionally recognized credit and data reporting company; Internal Revenue Service Form W-2 from the preceding year; the income tax return from the preceding tax year; a signed letter from the consumer's employer at the time the extension of consumer credit is sought; an executed certification on a form adopted by finance commission rule that attests to the consumer's monthly or annual income; or any other document approved by finance commission rule.

- (b) Requires a credit access business to retain a copy of the documentation used to establish a consumer's income under Subsection (a) according to the business's standard records retention policy and any applicable rule or regulation establishing a record retention period.
- (c) Provides that a credit access business that relies in good faith on a document presented by the consumer under Subsection (a) to establish a consumer's income has complied with this section to the extent the income established under that document meets the applicable requirements under this chapter.
- (d) Authorizes a credit access business that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit through the Internet or other electronic means to rely on nationally or regionally recognized database

reporting systems and to maintain a record of the database reporting system results used to comply with Subsections (a) and (b).

(e) Requires a credit access business, to establish the retail value of a motor vehicle for purposes of this subchapter, to rely on a nationally or regionally recognized vehicle appraisal guide or agree in good faith with the consumer to the vehicle's retail value, and record the recognized or agreed-on value.

(f) Provides that, for purposes of this chapter, \$28,000 is the initial reference amount with respect to a consumer's income, and the commissioner is required to adjust this amount annually in accordance with the Consumer Price Index.

**Sec. 393.633. LOCAL ORDINANCES PREEMPTED.** (a) Provides that, except as provided by Subsection (b), a local ordinance, order, or rule regulating a credit access business or an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining is preempted by this chapter.

(b) Provides that nothing in this section affects the validity of a zoning ordinance adopted under Chapter 211, Local Government Code.

**Sec. 393.634. SINGLE-PAYMENT DEFERRED PRESENTMENT TRANSACTION.**

(a) Prohibits the amount advanced to a consumer 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, excluding fees, from exceeding:

(1) 25 percent of the consumer's gross monthly income, if the consumer's gross annual income is less than the reference amount; or

(2) 35 percent of the consumer's gross monthly income, if the consumer is not described by Subdivision (1) and is not a military borrower to whom a different limit applies under federal law.

(b) Prohibits 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 from being less than 10 days or longer than 35 days.

(c) Prohibits 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 from being refinanced more than four times.

(d) Provides that, 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 fourth time:

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

(2) the consumer is authorized to 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 fourth time and on or before the fifth day after the date on which the fourth refinance must be repaid in full;

(3) to comply with the requirement of Subdivision (1), the credit access business is required to 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 is prohibited from initiating 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 is required to sign an extended payment plan waiver on a form prescribed by the finance commission.

(e) Requires that an extended payment plan required to be offered under Subsection (d) comply with Section 393.638.

(f) Authorizes a credit access business to 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 fourth 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. Provides that an extended payment plan offered under this subsection is not required to comply with Section 393.638.

Sec. 393.635. MULTIPLE-PAYMENT DEFERRED PRESENTMENT TRANSACTION. (a) Prohibits the sum of all fees, principal, interest, and other amounts due under any scheduled payment 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 from exceeding:

- (1) 10 percent of the consumer's gross monthly income, if the consumer's gross annual income is less than the reference amount; or
  - (2) 15 percent of the consumer's gross monthly income, if the consumer is not described by Subdivision (1) and is not a military borrower to whom a different limit applies under federal law.
- (b) Prohibits 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 from being payable by the consumer

in more than 12 installments or have an original term of more than 180 days, and requires that the loan agreement specify the number, date, and total amount due with regard to each installment.

- (c) Requires that 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 be payable on a fully amortizing, declining-principal-balance basis with substantially equal payments. Requires the credit access business, 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, to refund any unearned fees to the consumer.
- (d) Prohibits 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 from being due before the 10th day after the date the consumer enters into the loan agreement. Prohibits an installment from being due before the 14th day or after the 31st day after the date a previous installment is due.
- (e) Authorizes 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 to be refinanced only one time, and the combined terms of the original extension of consumer credit and the refinanced extension of consumer credit is prohibited from exceeding 365 days or include more than 24 installments.
- (f) Authorizes a credit access business, notwithstanding Subsection (e), to offer a consumer an extended payment plan in which the extension of consumer credit is extended beyond 365 days if the extended payment plan complies with Section 393.638 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. 393.636. SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN. (a) Prohibits the amount advanced to a consumer 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, excluding fees, from exceeding the lesser of:

- (1) six percent of the consumer's gross annual income, if the consumer's gross annual income is less than the reference amount;
  - (2) eight percent of the consumer's gross annual income, if the consumer is not described by Subdivision (1) and is not a military borrower to whom a different limit applies under federal law; or
  - (3) 70 percent of the retail value of the motor vehicle securing the debt.
- (b) Prohibits 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 from being less than 30 days or longer than 60 days.
  - (c) Prohibits 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 from being refinanced more than six times.

(d) Provides that, 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 sixth time:

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

(2) the consumer is authorized to 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 sixth time and on or before the fifth day after the date on which the sixth refinance must be repaid in full;

(3) to comply with the requirement of Subdivision (1), the credit access business is required to 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 is prohibited from repossessing 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 is required to sign an extended payment plan waiver on a form prescribed by the finance commission.

(e) Requires that an extended payment plan required to be offered under Subsection (d) comply with Section 393.638.

(f) Authorizes a credit access business to 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 sixth 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. Provides that an extended payment plan offered under this subsection is not required to comply with Section 393.638.

**Sec. 393.637. MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN.** (a) Prohibits the amount advanced to a consumer under 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, excluding fees, from exceeding 70 percent of the retail value of the motor vehicle securing the debt.

(b) Prohibits the sum of all fees, principal, interest, and other amounts due under any scheduled payment 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 from exceeding:

(1) 20 percent of the consumer's gross monthly income, if the consumer's gross annual income is less than the reference amount; or

(2) 30 percent of the consumer's gross monthly income, if the consumer is not described by Subdivision (1) and is not a military borrower to whom a different limit applies under federal law.

(c) Requires that 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 be payable on a fully amortizing, declining-principal-balance basis with substantially equal payments. Requires a credit access business, if the credit access business precomputes its fees under a multiple-payment motor vehicle title loan and a consumer prepays the loan in full, to refund any unearned fees to the consumer.

(d) Prohibits 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 from being payable by the consumer in more than 12 installments, and requires that the loan agreement specify the number, date, and total amount due with regard to each installment.

(e) Prohibits 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 from being due before the 10th day after the date the consumer enters into the loan agreement. Prohibits a subsequent installment from being due before the 28th day after the date the previous installment of the loan is due.

(f) Prohibits 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 from being refinanced, and prohibits the loan term from exceeding 365 days, except as provided by Subsection (g).

(g) Prohibits a credit access business from initiating 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. Authorizes an extended payment plan to cause the extension of consumer credit to extend beyond 365 days so long as the extended payment plan complies with Section 393.638 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.

(h) Requires the credit access business, if the credit access business is required to offer a consumer an extended payment plan under Subsection (g), to 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.
- (i) Prohibits the credit access business from repossessing 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 (h)(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.
  - (j) Requires the consumer, if the consumer declines the extended payment plan, to sign an extended payment plan waiver on a form prescribed by the finance commission.

Sec. 393.638. EXTENDED PAYMENT PLAN REQUIREMENTS. (a) Provides that this section applies to extended payment plans required to be offered under Sections 393.634, 393.635, 393.636, and 393.637.

- (b) Requires that an extended payment plan 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) Prohibits the period between installment payments on an extended payment plan from being 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) Prohibits the first payment owed under an extended payment plan from being due before the 10th day after the date the consumer requests an extended payment plan.
- (e) Prohibits a credit access business from assessing additional fees or assisting a consumer in obtaining additional extensions of consumer credit if the consumer is paying an extension of credit under an extended payment plan.

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

(g) Prohibits a person from engaging 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) Prohibits a person from using a device, subterfuge, or pretense to evade the extended payment plan requirements and limitations imposed on a credit access business under this subchapter.

Sec. 393.639. REFINANCES. (a) Requires that any refinance of an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining:

(1) be authorized under this subchapter;

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

(3) meet all the requirements applicable to the original extension of consumer credit, including the duration, transaction, and extended payment plan requirements under this subchapter, including the applicable income-based or vehicle value-based limitations under Section 393.634(a), 393.635(a), 393.636(a), or 393.637(b), except as otherwise provided by this chapter.

(b) Provides that, 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 is authorized to obtain for a consumer or assist a consumer in obtaining.

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

(d) Prohibits a person from using a device, subterfuge, or pretense to evade the refinance requirements and limitations imposed on a credit access business under this subchapter.

Sec. 393.640. RULES. Requires the finance commission to adopt any rules necessary to implement Sections 393.629-393.639.

SECTION 15. Amends Section 411.095, Government Code, as follows:

Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. Entitles the commissioner to obtain from the Department of Public Safety of the State of Texas criminal history record information that relates to a person who is an applicant for or holder of a license under Chapter 342 (Consumer Loans), 347 (Manufactured Home Credit Transactions), 348 (Motor Vehicle Installment Sales), 351 (Property Tax Lenders), 353 (Commercial Motor Vehicle Installment Sales), 371 (Pawnshops), or 393, Finance Code.

SECTION 16. Repealers: Sections 393.221 (Definitions) and 393.601 (Definitions), Finance Code.

SECTION 17. Makes application of the changes in law made by this Act prospective.

SECTION 18. Effective date: September 1, 2013.