By: Truitt H.B. No. 2593
Substitute the following for H.B. No. 2593:
By: Truitt C.S.H.B. No. 2593

A BILL TO BE ENTITLED

AN ACT

relating to certain restrictions on deferred presentment transactions and motor vehicle certificate of title loans that a credit services organization obtains for a consumer or assists a consumer in obtaining.

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

SECTION 1. Chapter 393, Finance Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. CERTAIN EXTENSIONS OF CONSUMER CREDIT OBTAINED BY CERTAIN CREDIT SERVICES ORGANIZATIONS

Sec. 393.651. DEFINITIONS. In this subchapter:

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

(2) "Credit access business" means a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle certificate of title loan.

(3) "Deferred presentment transaction" has the meaning assigned by Section 341.001.

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

(5) "Motor vehicle certificate of title loan" means a loan in which a motor vehicle certificate of title is given as
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) "Office" means the Office of Consumer Credit
Commissioner.

Sec. 393.652. APPLICABILITY. This subchapter applies only
to an extension of consumer credit in the form of a deferred
presentment transaction or motor vehicle certificate of title loan
that a credit access business obtains for a consumer or that a
credit access business assists a consumer in obtaining.

Sec. 393.653. PAYMENT FOR CERTAIN EXTENSIONS OF CONSUMER
CREDIT. (a) An extension of consumer credit to which this
subchapter applies must be payable in two-week or one-month
increments or payable in a single payment.

(b) A credit access business may not obtain or assist in
obtaining for a consumer an extension of consumer credit in the form
of a deferred presentment transaction or motor vehicle certificate
of title loan for which partial payment of the principal amount is
not accepted.

Sec. 393.654. ADVANCE AMOUNT RESTRICTED. (a) The cash
advanced under an extension of consumer credit that is in the form
of a deferred presentment transaction may not exceed:

(1) 25 percent of the borrower's gross monthly family
income, if the borrower's gross monthly family income is not more
than 100 percent of the federal poverty level for a family of four;
or

(2) 32 percent of the borrower's gross monthly family
(b) The cash advanced under an extension of consumer credit that is in the form of a motor vehicle certificate of title loan may not exceed the lesser of:

(1) as applicable, either:

(A) three percent of the borrower's gross annual family income, if the borrower's gross annual family income is not more than 100 percent of the federal poverty level for a family of four; or

(B) five percent of the borrower's gross annual family income, if the borrower's gross annual family income exceeds 100 percent of the federal poverty level for a family of four; or

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

(c) A credit access business shall keep a record of the document used to establish a borrower's family income under this section. A credit access business may use an affidavit signed by the borrower to establish the borrower's family income if a paycheck or other documentation establishing income is unavailable. An affidavit used for purposes of this subsection must state in bold letters the applicable advance limits provided by this section.

Sec. 393.655. RENEWAL OR REFINANCE. For purposes of this subchapter, an extension of consumer credit described by Section 393.652 that is made by a person to a consumer not later than the seventh day after a previous extension of consumer credit made by
the same person is paid by the consumer is considered to be a
renewal or refinance of the previous extension of credit.

Sec. 393.656. RESTRICTIONS APPLICABLE TO EXTENSIONS OF
CONSUMER CREDIT SECURED BY CERTIFICATE OF TITLE. (a) This section
applies only to an extension of consumer credit in the form of a
motor vehicle certificate of title loan.

(b) The extension of consumer credit may not be refinanced
or renewed or payable in installments more than:

(1) five times, if the debt is payable monthly or has a
term of one month; or

(2) eight times, if the debt is payable biweekly, or

has a term of two weeks.

(c) For purposes of Subsection (b), the charging of a fee on
late payment of the debt or on failure to make a payment is
considered to be a refinance of the extension of consumer credit.

(d) A credit access business may obtain for a consumer or
assist a consumer in obtaining an extended repayment plan for the
extension of consumer credit if the debt is not paid in full after
the applicable number of refinances, renewals, or installment
payments provided by Subsection (b), but may not charge the
consumer fees in connection with the making of payments of
principal and interest under an extended repayment plan.

(e) A single consumer may enter into only one extended
repayment plan in a 14-month period with respect to an extension of
consumer credit to which this section applies. If a credit access
business enters into an agreement to obtain or assist in the
obtaining of an extension of consumer credit with a consumer who
during the preceding 14 months has entered into an extended repayment plan with respect to the debt and obtains for the consumer or assists the consumer in obtaining extensions of consumer credit in the form of refinances, renewals, or installment payments of the extension up to the maximum limits provided by Subsection (b), the lender has forfeited any claim to the principal amount of the debt and must return the certificate of title to the consumer.

(f) An extended repayment plan must provide for four equal or nearly equal payments of principal and interest, with all principal and interest to be paid in full in the fourth payment. The intervals between payments must be the same as the initial term of the original extension of consumer credit. A borrower is considered to have defaulted if the borrower fails to make any scheduled payment under the extended repayment plan.

(g) A credit access business may seek reimbursement from a consumer on behalf of a lender for reasonable and documented costs and fees in association with the sale of a vehicle surrendered in connection with the consumer's default on a debt, except to the extent limited or prohibited by finance commission rule. The finance commission by rule may limit or prohibit unreasonable fees associated with the cost of selling such a vehicle. Notwithstanding any other provision of law, the proceeds of the sale of a motor vehicle, the certificate of title of which is given as security for an extension of consumer credit under this section, shall satisfy all outstanding and unpaid indebtedness under that extension of credit, and the borrower is not liable for any deficiency resulting from the sale. The lender shall pay to the borrower any surplus
(h) The finance commission by rule may require that an automobile club membership offer made in connection with an extension of consumer credit to which this section applies be accompanied by a disclaimer plainly stating the benefits and limitations of the offer and that the customer's signature must be present on any contract documenting the customer's agreement to purchase an automobile club membership.

(i) It is a violation of this chapter to fail to return the motor vehicle certificate of title after an extension of consumer credit to which this section applies is paid in full.

Sec. 393.657. RESTRICTIONS APPLICABLE TO DEFERRED PRESENTMENT TRANSACTIONS. (a) This section applies only to an extension of consumer credit in the form of a deferred presentment transaction.

(b) The extension of consumer credit may not be refinanced or renewed or payable in installments more than:

(1) four times, if the debt is payable monthly or has a term of one month; or

(2) six times, if the debt is payable biweekly, or has a term of two weeks.

(c) For purposes of Subsection (b), the charging of a fee on late payment of the debt or on failure to make a payment is considered to be a refinance of the extension of consumer credit.

(d) A credit access business may obtain for a consumer or assist a consumer in obtaining an extended repayment plan if the
extension of consumer credit under this section is not paid in full after the applicable number of refinances, renewals, or installment payments provided by Subsection (b), but may not charge the consumer fees in connection with the making of payments of principal and interest to a lender under an extended repayment plan.

(e) A single consumer may enter into only one extended repayment plan in a 12-month period with respect to an extension of consumer credit to which this section applies. If a credit access business enters into an agreement to obtain or assist in the obtaining of an extension of consumer credit with a consumer who during the preceding 12 months has entered into an extended repayment plan with respect to the debt and obtains for the consumer or assists the consumer in obtaining extensions of consumer credit in the form of refinances, renewals, or installment payments of the debt up to the maximum limit provided by Subsection (b), the person making the cash advance has forfeited any claim to the principal amount of the debt.

(f) An extended repayment plan must provide for four equal or nearly equal payments of principal and interest, with all principal and interest to be paid in full in the fourth payment. The intervals between payments must be the same as the initial term of the original extension of consumer credit. A borrower is considered to have defaulted if the borrower fails to make any scheduled payment under the extended repayment plan.

SECTION 2. This Act takes effect September 1, 2011.