A BILL TO BE ENTITLED
AN ACT
relating to extensions of consumer credit 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. Section 393.001, Finance Code, is amended by amending Subdivision (3) and adding Subdivisions (3-a) and (5) to read as follows:

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

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

(B) obtaining an extension of consumer credit for a consumer in the form of a deferred presentment transaction or 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" has the meaning assigned by Section 341.001. For purposes of this chapter, this definition does not preclude repayment in more than one installment.

(5) "Motor vehicle title loan" means a loan in which an
unencumbered motor vehicle 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.

SECTION 2. Subchapter D, Chapter 393, Finance Code, is amended by adding Section 393.308 to read as follows:

Sec. 393.308. PROHIBITION ON OBTAINING CERTAIN LOANS OR EXTENSIONS OF CREDIT. A credit services organization may not:

(1) obtain for a consumer or assist a consumer in obtaining a loan or other extension of credit that is not in the form of a deferred presentment transaction or motor vehicle title loan; or

(2) charge or receive from a consumer a fee or other valuable consideration in connection with a loan or other extension of credit that is not a deferred presentment transaction or motor vehicle title loan.

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) contain the name and address of the Office of Consumer Credit Commissioner and the telephone number of the office's consumer helpline.

SECTION 4. Section 393.221, Finance Code, is amended to read as follows:

Sec. 393.221. DEFINITION [DEFINITIONS]. In this subchapter, "credit access business" [.

(1) "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
(2) "Deferred presentment transaction" has the meaning assigned by Section 341.001. For purposes of this chapter, this definition does not preclude repayment in more than one installment. The term is also referred to as a payday loan.

(3) "Motor vehicle title loan" or "auto title loan" means a loan in which an unencumbered motor vehicle 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.

SECTION 5. Section 393.601(2), Finance Code, is amended to read as follows:

(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 title loan].

SECTION 6. Sections 393.602(a) and (b), Finance Code, are amended to read as follows:

(a) This subchapter applies only to a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit [in the form of:

[(1) a deferred presentment transaction; or

(2) a motor vehicle title loan].

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

SECTION 7. Section 393.603, Finance Code, is amended to read as follows:

Sec. 393.603. LICENSE REQUIRED. A credit services organization must obtain a license under this subchapter for each location at which the organization operates as a credit access business in performing services described by Section 393.001(3)(B) [393.602(a)].

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

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

(1) be under oath;

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

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

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

(A) with which the business contracts to provide services described by Section 393.001(3)(B); [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
SECTION 9. Sections 393.622(a) and (b), Finance Code, are amended to read as follows:

(a) The finance commission may:

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

(2) adopt rules with respect to the quarterly reporting by a 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 393.001(3)(B) [393.602(a)] or from which the business arranges extensions of consumer credit [described by Section 393.602(a)]. A contract or information obtained by the commissioner under this section is considered proprietary and confidential to the respective parties to the contract, and is not
subject to disclosure under Chapter 552, Government Code.

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

Sec. 393.625. MILITARY BORROWERS. 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.

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

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

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

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

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

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

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

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

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

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

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

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

(10) any related information the commissioner determines necessary.

SECTION 13. Sections 393.601(3) and (5), Finance Code, are repealed.

SECTION 14. Section 393.308, Finance Code, as added by this Act, applies only to an extension of credit made on or after the
effective date of this Act. An extension of credit made before the
effective date of this Act is governed by the law in effect on the
date the extension of credit was made, and the former law is
continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2013.