A BILL TO BE ENTITLED

AN ACT

relating to requirements applicable to certain credit services
organizations and certain extensions of consumer credit the
organizations obtain for a consumer or assist 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.
"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. 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 3. 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 documents provided by a credit access business, as defined by Section 393.221, to a consumer under this section must be:
   (1) written in the language in which the contract is negotiated;
   (2) written in plain language designed to be easily understood by the average consumer; and
   (3) printed in an easily readable font and type size.

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 presentment transaction or a motor vehicle title loan].

(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 393.223(a), Finance Code, is amended to read as follows:

(a) Before performing services described by Section 393.221(1), a credit access business must provide to a consumer a disclosure written in English and Spanish 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 consumer credit counseling agencies that provide financial education and training or cash assistance to borrowers.

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 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 7. 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].
(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 and for services described by Section 393.001(3)(A) or (C) [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 9. 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 393.602(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. 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 11. Section 393.625, Finance Code, is amended to read as follows:

Sec. 393.625. MILITARY BORROWERS. (a) 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.

(b) With respect to a consumer who is a "covered member" or a "dependent" of a covered member, as those terms are defined by 10 U.S.C. Section 987, the term of an extension of consumer credit, including all renewals and refinances, obtained for the consumer by a credit access business or that a credit access business assists the consumer in obtaining may not exceed:

(1) 90 days, if the debt is a deferred presentment transaction; or

(2) 180 days, if the debt is a motor vehicle title loan.

SECTION 12. 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 13. 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 14. Subchapter G, Chapter 393, Finance Code, is amended by adding Sections 393.629 and 393.630 to read as follows:

Sec. 393.629. RESTRICTIONS ON AMOUNT ADVANCED UNDER CERTAIN EXTENSIONS OF CONSUMER CREDIT. (a) A credit services organization may not obtain for a consumer or assist a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction if the amount of cash advanced and all fees associated with the extension of consumer credit, including fees for arranging or assisting the borrower in arranging the extension of consumer credit, exceeds 20 percent of the borrower's gross monthly income.

(b) A credit services organization may not obtain for a consumer or assist a consumer in obtaining an extension of consumer credit in the form of a motor vehicle title loan if the amount of cash advanced and all fees associated with the extension of consumer credit, including fees for arranging or assisting the borrower in arranging the extension of consumer credit, exceeds the
lesser of:

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

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

(c) A credit services organization shall use a consumer's paycheck or other documentation establishing income to determine a consumer's income for purposes of this section.

Sec. 393.630. REPAYMENT OF EXTENSIONS OF CONSUMER CREDIT.

(a) An extension of consumer credit that a credit services organization obtains for a consumer or assists a consumer in obtaining may not be payable in more than four installments. Proceeds from each installment must be used to repay at least 25 percent of the principal amount of the debt so that the debt is paid in full in four or fewer installments. An extension of consumer credit described by this subsection that provides for repayment in installments may not be refinanced or renewed.

(b) An extension of consumer credit that a credit services organization obtains for a consumer or assists a consumer in obtaining and that provides for a single lump-sum payment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the original debt so that the debt is paid in full in four or fewer payments.

(c) For purposes of this section, an extension of consumer credit that is made to a consumer on or before the seventh day after the date the consumer has paid a previous extension of consumer credit.
credit made by the same person is considered a refinance or renewal of the previous debt.

SECTION 15. Sections 393.601(3) and (5), Finance Code, are repealed.

SECTION 16. 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.

SECTION 17. (a) The change in law made by this Act to Section 393.223(a), Finance Code, applies only to a disclosure provided by a credit access business on or after January 1, 2014. A disclosure provided by a credit access business before January 1, 2014, is governed by Section 393.223(a), 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, 2013.

SECTION 18. This Act takes effect September 1, 2013.