By: Carona  
S.B. No. 1247

A BILL TO BE ENTITLED

AN ACT

relating to credit services organizations and extensions of
consumer credit facilitated by credit services organizations;
providing civil and administrative penalties.

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

SECTION 1. Subchapter M, Chapter 342, Finance Code, is
amended by adding Section 342.607 to read as follows:

Sec. 342.607. DEFERRED PRESENTMENT TRANSACTION DATA
COLLECTION SYSTEM. (a) In this section, "credit access business"
has the meaning assigned by Section 393.001(2-a).

(b) The commissioner shall establish and implement a
database for the compilation of information relating to deferred
presentment transactions that allows the commissioner or persons
who offer, service, or broker the transactions, including a credit
access business, to determine:

(1) whether an individual seeking to enter into a
deferred presentment transaction with the person has any
outstanding deferred presentment transactions entered into with
other persons;

(2) the total number of outstanding deferred
presentment transactions entered into by the individual described
by Subdivision (1) with other persons; and

(3) whether the person is in compliance with this
section and other provisions of law governing deferred presentment
transactions.

(c) The commissioner shall contract with a third-party vendor to operate the database required by this section. In selecting the vendor, the commissioner shall:

1. Consider the vendor's ability to meet the requirements of this section;
2. Consider the cost of the vendor's services;
3. Give strong consideration to the vendor's ability to prevent fraud, abuse, and other unlawful activity associated with deferred presentment transactions;
4. Give strong consideration to whether the vendor operates a similar database in another state; and
5. Give strong consideration to whether the vendor's operation of the database would facilitate the enforcement of laws governing deferred presentment transactions and the persons who offer, service, or broker those transactions.

(d) The commissioner shall ensure that:

1. The third-party vendor operating the database operates the database in accordance with this section and rules adopted by the finance commission under this section; and
2. The database established under this section:
   A. Allows persons required to submit information to the database to submit and access the required information from any location in this state;
   B. Provides real-time access by the commissioner to information contained in the database from any location in this state; and
(C) contains safeguards to ensure that information contained in the database may not be accessed by an unauthorized person.

(e) A person who offers, services, or brokerson a deferred presentment transaction, including a credit access business, shall submit to the database at the time the transaction is entered into data relating to the transaction that the commissioner, by rule of the finance commission, determines necessary.

(f) Information in the database is confidential and is not subject to disclosure under Chapter 552, Government Code.

(g) The finance commission shall adopt rules as necessary to implement this section, including rules:

(1) relating to the form and content of information to be submitted to the database;

(2) prescribing a fee to be paid by persons required to submit information to be included in the database under Subsection (e); and

(3) establishing requirements for the retention, archiving, and deletion of information entered into or stored in the database.

(h) The third-party vendor shall charge a person who offers, services, or brokerson a deferred presentment transaction a fee to access or use the database under this section. The fee may be charged on a per-transaction basis and may be used only to pay the costs associated with the maintenance of the database under this section. The finance commission by rule must approve the amount of the fee, which may not exceed $1 per deferred presentment.
transaction.

(i) A person who ceases to offer, service, or broker deferred presentment transactions shall continue to submit information required by this section for any transactions that are outstanding and with respect to which the person continues collection efforts. Not later than the 10th day after the date the person ceases to offer deferred presentment transactions, the person shall submit to the commissioner for approval a plan for continuing compliance with this section. The commissioner shall promptly approve or disapprove the plan. The commissioner may require a person to whom this subsection applies to submit a new or modified plan.

SECTION 2. Subsection (a), Section 392.301, Finance Code, is amended to read as follows:

(a) In debt collection, a debt collector may not use threats, coercion, or attempts to coerce that employ any of the following practices:

   (1) using or threatening to use violence or other criminal means to cause harm to a person or property of a person;

   (2) accusing falsely or threatening to accuse falsely a person of fraud or any other crime;

   (3) representing or threatening to represent to any person other than the consumer that a consumer is wilfully refusing to pay a nondisputed consumer debt when the debt is in dispute and the consumer has notified in writing the debt collector of the dispute;

   (4) threatening to sell or assign to another the
obligation of the consumer and falsely representing that the result of the sale or assignment would be that the consumer would lose a defense to the consumer debt or would be subject to illegal collection attempts;

(5) threatening that the debtor will be arrested for nonpayment of a consumer debt without proper court proceedings;

(6) threatening to file a charge, complaint, or criminal action against a debtor when the debtor has not violated a criminal law;

(7) threatening that nonpayment of a consumer debt will result in the seizure, repossession, or sale of the person’s property without proper court proceedings;

(8) referencing a certification signed by the consumer as required by Section 393.630(b) or any penalties associated with a violation of that section; or

(9) threatening to take an action prohibited by law.

SECTION 3. Section 393.001, Finance Code, is amended by amending Subdivisions (1) and (3) and adding Subdivisions (1-a), (2-a), (3-a), (4-a), (5), (6), (7), (8), (9), (10), (11), (12), and (13) to read as follows:

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

(1-a) "Consumer" means an individual who is solicited to purchase or who purchases the services of a credit services organization.

(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 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; 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.

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

(5) "Military borrower" includes a "covered member" or a "dependent" of a covered member, as those terms are defined by 10 U.S.C. Section 987 or a successor statute.

(6) "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, except as provided by Section 393.629(c). The term does not include a retail installment transaction under Chapter 348 or another loan made to finance the purchase of a motor vehicle.

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

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

(9) "Office" means the Office of Consumer Credit Commissioner.

(10) "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 does not include an extended payment plan described by Section 393.638. 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.

(11) "Service" means an act, conduct, or activity that is performed or to be performed for a consumer's benefit or that
involves assisting a consumer in obtaining an extension of consumer credit, including:

(A) negotiating or closing a loan or other extension of consumer credit;

(B) issuing a guaranty, letter of credit, or other credit enhancement; and

(C) servicing an extension of consumer credit.

(12) "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.

(13) "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 4. Section 393.201, Finance Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) In addition to the notice required by Section 393.202, the contract must:

(1) contain the payment terms, including the total payments to be made by the consumer, whether to the organization or to another person;

(2) fully describe the services the organization shall perform for the consumer or on behalf of a third party, 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 or the period permitted
under an extended payment plan authorized by Subchapter G;
(3) contain the address of the organization's
principal place of business; and
(4) contain the name and address of the organization's
agent in this state authorized to receive service of process.

(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 to any third party; and

(6) contain the name and address of the 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.

(d) The finance commission shall adopt rules to implement this section.

SECTION 5. Section 393.222, Finance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A credit access business shall post, in the same manner as a notice required under Subsection (a), 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 6. Subsection (a), Section 393.223, Finance Code, is amended to read as follows:

(a) Before performing services described by Section 393.001(2-a) [393.221(1)], a credit access business must provide to a consumer a disclosure adopted by rule of the finance commission [Finance Commission of Texas] that discloses the following in a form prescribed by the commission:
S.B. No. 1247

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

(4) the name of the credit access business and any unique number assigned to the license issued to the business under Subchapter G.

SECTION 7. Subchapter D, Chapter 393, Finance Code, is amended by adding Sections 393.308 and 393.309 to read as follows:

Sec. 393.308. PROHIBITION ON OBTAINING CERTAIN LOANS OR EXTENSIONS OF CREDIT. (a) 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 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) A credit services organization may 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) A credit services organization may not charge or receive
from a consumer a fee or other valuable consideration in connection
with a loan or other extension of consumer credit that is not a
defined presentment transaction or motor vehicle title loan
described by Subsection (b).

(d) The finance commission may adopt rules to implement this
section.

(e) Notwithstanding Section 14.252, the commissioner may
assess an administrative penalty in an amount not to exceed $2,000
for each violation against a credit access business that violates
this section, regardless of whether the violation is knowing or
wilful.

(f) A consumer may maintain an action under this section for
any violation of this section. In any suit filed under this
section, a consumer may recover:

(1) damages in an amount not to exceed $10,000 for each
violation; and

(2) court costs and reasonable and necessary
attorney's fees.

Sec. 393.309. RESTRICTION ON AMOUNT CHARGED IN CONNECTION
WITH EXTENSION OF CONSUMER CREDIT. Total charges in connection
S.B. No. 1247

with an extension of consumer credit that a credit services organization obtains for a consumer or assists the consumer in obtaining, including interest, lender charges, and any valuable consideration received by the credit services organization, may not exceed the permissible interest and fee and other charges for a similar type of consumer loan under Subchapter F, Chapter 342.

SECTION 8. Section 393.602, Finance Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) 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) Subject to Section 393.309, 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 in the form of a deferred presentment transaction or motor vehicle title loan or a refinance of such 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.

(b-1) Notwithstanding Subsection (a) or (b), a credit services organization that is not obtaining for a consumer or
assisting a consumer in obtaining an extension of consumer credit
may 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 9. Section 393.604, Finance Code, is amended by
amending Subsection (a) and adding Subsection (d) 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) include a copy of each agreement between the
business and a third-party lender organization:

(A) with which the business contracts to provide
services; or

(B) from which the business arranges extensions
of consumer credit; and

(6) contain other relevant information that the
commissioner requires for the findings required under Section 393.607.

(d) Information provided by an applicant under this section is public information for the purposes of Chapter 552, Government Code.

SECTION 10. Subsections (a) and (b), Section 393.622, 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 reports of summary business information required to be submitted [the quarterly reporting] by a licensed credit access business under Section 393.627 [licensed under this subchapter of summary business information relating to extensions of consumer credit 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; and

(4) adopt rules identifying extensions of consumer credit that are refinances.

(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. Subchapter G, Chapter 393, Finance Code, is 
amended by adding Section 393.6221 to read as follows:

Sec. 393.6221. EXAMINATION OR INVESTIGATION BY 
COMMISSIONER; OATHS. During an examination or an investigation, 
the commissioner or the commissioner's representative may 
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 12. 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 military borrower [member of the 
United States military or a dependent of a member of the United 
States military] or that the business assisted a military borrower 
[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) 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 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.

(c) The finance commission shall adopt a disclosure relating to the provisions of state and federal law applicable to a military borrower who obtains an extension of consumer credit from or with the assistance of a credit access business. A credit access business shall provide this disclosure to military borrowers for whom the credit access business seeks to obtain an extension of consumer credit.

(d) Notwithstanding Section 14.252, the commissioner may assess an administrative penalty in an amount not to exceed $5,000 for each violation against a credit access business that violates this section, regardless of whether the violation is knowing or wilful.

SECTION 13. 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 14. Section 393.627, Finance Code, is amended to read as follows:

Sec. 393.627. REPORTS [QUARTERLY REPORT] TO COMMISSIONER.

(a) A credit access business shall file [a] quarterly and annual reports [report] with the commissioner on forms [a form] prescribed by the commissioner that provide [provides] the following information relating to extensions of consumer credit [described by Section 393.602(a)] during the preceding quarter or year, as applicable:

(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 number of extended payment plans offered by
the credit access business and entered into by consumers, for each
product [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.

(b) All information submitted by a credit access business to
the commissioner for inclusion in a report under this section is
confidential.

(c) The commissioner shall publish a statewide consolidated
analysis and recapitulation of reports filed under this section.
The commissioner may 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 15. Subchapter G, Chapter 393, Finance Code, is
amended by adding Sections 393.629 through 393.640 to read as
follows:

Sec. 393.629. GENERAL LIMITATIONS ON EXTENSIONS OF CONSUMER
CREDIT; LANGUAGE REQUIREMENTS; 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) The finance commission by rule shall 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. A credit access business shall 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. The executed
contract and any other binding and controlling document between the
credit access business and the consumer must be written in English.

(c) 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. For a motor
vehicle title loan, a consumer may also grant a security interest in
an authorized debit of a bank account.

(d) The term of an extension of consumer credit obtained for
a consumer by a credit access business or that a credit access
business assists a consumer in obtaining may not exceed 180 days.
If a term of less than 180 days for an extension of consumer credit
is specified under this chapter, the shorter term applies.

Sec. 393.630. LIMITATION ON OUTSTANDING DEBT. (a) At any
one time, a consumer may 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) To obtain an extension of consumer credit in the form of
a deferred presentment transaction facilitated through the
services of a credit access business, a consumer must 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) A credit access business shall in good faith verify that
a consumer is not falsifying the certification required by
Subsection (b), to the best knowledge and ability of the person
acting on behalf of the credit access business for that
transaction. A person acting on behalf of a credit access business
has satisfied this requirement if the person considers all
information that the consumer shares with the person in negotiating
the transaction and if the person makes a reasonable effort to
verify the consumer's representations with any records that the
credit access business typically consults in the normal course of
its business.

(d) 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) The proceeds of the sale of a repossessed motor
vehicle that secured a motor vehicle title loan shall 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) Any fee charged to a consumer for the repossession of a
motor vehicle given as security for a motor vehicle title loan must
be reasonable and may not exceed the amount actually paid by the
credit access business or the lender to a third party for the
repossession.

(c) A repossession under this chapter must comply with
Chapter 9, Business & Commerce Code, except as otherwise provided
by this section.

Sec. 393.632. ESTABLISHMENT OF INCOME OR VALUE; REFERENCE
AMOUNT. (a) A credit access business must require documentation
to establish a consumer's income for purposes of this subchapter.
Acceptable forms of documentation include paper, facsimile, or
electronic copies of:

(1) a payroll document;
(2) a paycheck;
(3) a bank 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 income tax return from the preceding tax year;
(7) a signed letter from the consumer's employer at the
time the extension of consumer credit is sought; or

(b) any other document approved by finance commission rule.

(b) A credit access business shall 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) 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) 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 may rely on nationally or regionally recognized database reporting systems and may maintain a record of the database reporting system results used to comply with Subsections (a) and (b).

(e) To establish the retail value of a motor vehicle for purposes of this subchapter, a credit access business must:

(1) 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

(2) record the recognized or agreed-on value.

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

Sec. 393.633. CERTAIN LOCAL ORDINANCES NOT PREEMPTED. This chapter does not preempt a local ordinance regulating a credit access business or an extension of consumer credit obtained for a consumer by a credit access business or that a credit access business assists a consumer in obtaining, if the ordinance is compatible with and equal to or more stringent than a requirement prescribed by this chapter.

Sec. 393.634. 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, excluding fees, may not exceed:

(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) 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 may not be less than 10 days or longer than 35 days.
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 four times.

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 must offer at least one extended payment plan to the consumer before initiating any debt collection activities;

(2) the consumer may 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 shall 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 may not initiate 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 must sign an extended payment plan waiver on a form prescribed by the finance commission.

(e) An extended payment plan required to be offered under Subsection (d) must comply with Section 393.638.

(f) A credit access business may 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. An extended
payment plan offered under this subsection is not required to comply with Section 393.638.

(g) A credit access business shall accept a partial payment that complies with Section 393.629(c) paid by a consumer or on behalf of a consumer to pay down outstanding principal owed under a single-payment deferred presentment transaction that the credit access business obtained for the consumer or assisted the consumer in obtaining.

Sec. 393.635. MULTIPLE-PAYMENT DEFERRED PRESENTMENT TRANSACTION. (a) 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 may not exceed:

(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) 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 payable by the consumer in more than 12 installments or have an original term of more than 180 days, and the loan agreement must specify the number, date, and total amount due
with regard to each installment.

(c) 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 must be payable on a fully amortizing, declining-principal-balance basis with substantially equal payments. 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, the credit access business shall refund any unearned fees to the consumer.

(d) 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 may not be due before the 10th day after the date the consumer enters into the loan agreement. An installment may not be due before the 14th day or after the 31st day after the date a previous installment is due.

(e) 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, may not include more than 12 installments, and may not have a term that exceeds 180 days, excluding an extended payment plan offered in compliance with Section 393.638.

(f) A credit access business may offer a consumer an extended payment plan 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) 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, excluding fees, may not exceed 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) 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 may not be less than 30 days or longer than 35 days.

(c) 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 six times. The combined terms of
the original extension of consumer credit and any refinanced
extensions of consumer credit, excluding an extended payment plan
offered in compliance with Subsection (f) or Section 393.638, may
not exceed 180 days. The credit access business shall fully
describe the terms of an 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.

(d) 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 must offer at least one
extended payment plan to the consumer before initiating any
activities to repossess the vehicle securing the debt;

(2) the consumer may 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 refines 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 shall 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 may not repossess 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 must sign an extended payment plan
waiver on a form prescribed by the finance commission.

(e) An extended payment plan required to be offered under
Subsection (d) must comply with Section 393.638.

(f) A credit access business may 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 refines 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. An extended payment plan offered under this
subsection is not required to comply with Section 393.638.

(g) A credit access business shall accept a partial payment
that complies with Section 393.629(c) paid by a consumer or on
behalf of a consumer to pay down outstanding principal owed under a
single-payment motor vehicle title loan that the credit access
business obtained for the consumer or assisted the consumer in
obtaining.

Sec. 393.637. MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN.

(a) 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, may not exceed 70
percent of the retail value of the motor vehicle securing the debt.

(b) 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 may not exceed:

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

(d) 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 payable by the consumer in more than six installments, and the loan agreement must specify the number, date, and total amount due with regard to each installment.

(e) 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 may not be due before the 10th day after the date the consumer enters into the loan agreement. A subsequent installment may not be due before the 28th day after the date the previous installment of the loan is due.

(f) 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 and the loan term may not exceed 180 days.
except as provided by Subsection (g).

(g) A credit access business may not initiate 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. An extended payment plan may cause the extension of consumer credit to extend beyond 180 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) If the credit access business is required to offer a consumer an extended payment plan under Subsection (g), the credit access business shall 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) The credit access business may not repossess the vehicle securing the debt unless:

(1) the consumer fails to accept the extended payment plan.
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) If the consumer declines the extended payment plan, the consumer must sign an extended payment plan waiver on a form prescribed by the finance commission.

Sec. 393.638. EXTENDED PAYMENT PLAN REQUIREMENTS.

(a) This section applies to extended payment plans required to be offered under Sections 393.634, 393.635, 393.636, and 393.637.  
(b) An extended payment plan must 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) The period between installment payments on an extended payment plan may not be 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) The first payment owed under an extended payment plan may not be due before the 10th day after the date the consumer requests an extended payment plan.

(e) A credit access business may not assess additional fees or assist a consumer in obtaining additional extensions of consumer credit if the consumer is paying an extension of credit under an extended payment plan.

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

(g) A person may not engage 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) A person may not use 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) 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
S.B. No. 1247

(3) must 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) 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) The terms of a refinanced extension of consumer credit may be the same as or different from the terms of the original extension of consumer credit.

(d) 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. 393.640. RULES. The finance commission shall adopt any rules necessary to implement Sections 393.629-393.639.

SECTION 16. Section 411.095, Government Code, is amended to read as follows:

Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. The consumer credit commissioner is entitled to obtain from the department criminal history record information that relates to a person who is an
applicants for or holders of a license under Chapter 342, 347, 348, 351, 353, [or 371, or 393, Finance Code.]

SECTION 17. Sections 393.221 and 393.601, Finance Code, are repealed.

SECTION 18. The consumer credit commissioner shall establish and implement the database under Section 342.607, Finance Code, as added by this Act, not later than January 1, 2014, and shall prescribe the date by which a person who offers, services, or brokers a deferred presentment transaction must begin submitting data as provided by that section.

SECTION 19. 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 or renewal of an extension of consumer credit is considered made on the date the extension of consumer credit being refinanced or renewed was made.

SECTION 20. This Act takes effect September 1, 2013.