

By: Rodriguez of Travis

H.B. No. 786

A BILL TO BE ENTITLED

1 AN ACT
2 relating to extensions of consumer credit a credit services
3 organization obtains for a consumer or assists a consumer in
4 obtaining.

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

6 SECTION 1. Section 393.001, Finance Code, is amended by
7 amending Subdivision (3) and adding Subdivisions (3-a) and (5) to
8 read as follows:

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

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

15 (B) obtaining an extension of consumer credit for
16 a consumer in the form of a deferred presentment transaction or
17 motor vehicle title loan; or

18 (C) providing advice or assistance to a consumer
19 with regard to Paragraph (A) or (B).

20 (3-a) "Deferred presentment transaction" has the
21 meaning assigned by Section 341.001. For purposes of this chapter,
22 this definition does not preclude repayment in more than one
23 installment.

24 (5) "Motor vehicle title loan" means a loan in which an

1 unencumbered motor vehicle is given as security for the loan. The
2 term does not include a retail installment transaction under
3 Chapter 348 or another loan made to finance the purchase of a motor
4 vehicle.

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

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

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

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

17 SECTION 3. Section 393.201(c), Finance Code, is amended to
18 read as follows:

19 (c) A contract with a credit access business, as defined by
20 Section 393.601, [~~for the performance of services described by~~
21 ~~Section 393.602(a)] must, in addition to the requirements of
22 Subsection (b) and Section 393.302:~~

23 (1) contain a statement that there is no prepayment
24 penalty;

25 (2) contain a statement that a credit access business
26 must comply with Chapter 392 and the federal Fair Debt Collection
27 Practices Act (15 U.S.C. Section 1692 et seq.) with respect to an

1 extension of consumer credit [~~described by Section 393.602(a)~~];

2 (3) contain a statement that a person may not threaten
3 or pursue criminal charges against a consumer related to a check or
4 other debit authorization provided by the consumer as security for
5 a transaction in the absence of forgery, fraud, theft, or other
6 criminal conduct;

7 (4) contain a statement that a credit access business
8 must comply, to the extent applicable, with 10 U.S.C. Section 987
9 and any regulations adopted under that law with respect to an
10 extension of consumer credit [~~described by Section 393.602(a)~~];

11 (5) disclose to the consumer:

12 (A) the lender from whom the extension of
13 consumer credit is obtained;

14 (B) the interest paid or to be paid to the lender;
15 and

16 (C) the specific fees that will be paid to the
17 credit access business for the business's services; and

18 (6) contain the name and address of the Office of
19 Consumer Credit Commissioner and the telephone number of the
20 office's consumer helpline.

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

23 Sec. 393.221. DEFINITION [~~DEFINITIONS~~]. In this
24 subchapter, "credit access business" [~~+~~

25 [~~(1) "Credit access business"~~] means a credit services
26 organization that obtains for a consumer or assists a consumer in
27 obtaining an extension of consumer credit [~~in the form of a deferred~~

1 ~~presentment transaction or a motor vehicle title loan].~~

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

6 ~~[(3) "Motor vehicle title loan" or "auto title loan"~~
7 ~~means a loan in which an unencumbered motor vehicle is given as~~
8 ~~security for the loan. The term does not include a retail~~
9 ~~installment transaction under Chapter 348 or another loan made to~~
10 ~~finance the purchase of a motor vehicle.]~~

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

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

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

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

22 ~~[(1) a deferred presentment transaction; or~~

23 ~~[(2) a motor vehicle title loan].~~

24 (b) A credit access business may assess fees as agreed to
25 between the parties for ~~[its]~~ services performed to obtain an
26 extension of consumer credit for a consumer or assist a consumer in
27 obtaining an extension of consumer credit ~~[as agreed to between the~~

1 ~~parties~~]. A credit access business fee may be calculated daily,
2 biweekly, monthly, or on another periodic basis. A credit access
3 business is permitted to charge amounts allowed by other laws, as
4 applicable. A fee may not be charged unless it is disclosed.

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

7 Sec. 393.603. LICENSE REQUIRED. A credit services
8 organization must obtain a license under this subchapter for each
9 location at which the organization operates as a credit access
10 business in performing services described by Section 393.001(3)(B)
11 [~~393.602(a)~~].

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

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

- 15 (1) be under oath;
- 16 (2) give the approximate location from which the
17 business is to be conducted;
- 18 (3) identify the business's principal parties in
19 interest;
- 20 (4) contain the name, physical address, and telephone
21 number of all third-party lender organizations:

22 (A) with which the business contracts to provide
23 services described by Section 393.001(3)(B); [~~393.602(a)~~] or

24 (B) from which the business arranges extensions
25 of consumer credit [~~described by Section 393.602(a)~~]; and

26 (5) contain other relevant information that the
27 commissioner requires for the findings required under Section

1 393.607.

2 SECTION 9. Sections 393.622(a) and (b), Finance Code, are
3 amended to read as follows:

4 (a) The finance commission may:

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

7 (2) adopt rules with respect to the quarterly
8 reporting by a credit access business licensed under this
9 subchapter of summary business information relating to extensions
10 of consumer credit the business obtained for a consumer or assisted
11 a consumer in obtaining [~~described by Section 393.602(a)~~]; and

12 (3) adopt rules with respect to periodic examination
13 by the office relating to extensions of consumer credit the
14 business obtained for a consumer or assisted a consumer in
15 obtaining [~~described by Section 393.602(a)~~], including rules
16 related to charges for defraying the reasonable cost of conducting
17 the examinations.

18 (b) The finance commission may adopt rules under this
19 section to allow the commissioner to review, as part of a periodic
20 examination, any relevant contracts between the credit access
21 business and the third-party lender organizations with which the
22 credit access business contracts to provide services described by
23 Section 393.001(3)(B) [~~393.602(a)~~] or from which the business
24 arranges extensions of consumer credit [~~described by Section~~
25 ~~393.602(a)~~]. A contract or information obtained by the
26 commissioner under this section is considered proprietary and
27 confidential to the respective parties to the contract, and is not

1 subject to disclosure under Chapter 552, Government Code.

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

4 Sec. 393.625. MILITARY BORROWERS. An extension of
5 consumer credit [~~described by Section 393.602(a)~~] that is obtained
6 by a credit access business for a member of the United States
7 military or a dependent of a member of the United States military or
8 that the business assisted that person in obtaining must comply
9 with 10 U.S.C. Section 987 and any regulations adopted under that
10 law, to the extent applicable.

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

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

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

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

25 (1) the number of consumers for whom the business
26 obtained or assisted in obtaining those extensions of consumer
27 credit;

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

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

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

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

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

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

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

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

22 (10) any related information the commissioner
23 determines necessary.

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

26 SECTION 14. Section 393.308, Finance Code, as added by this
27 Act, applies only to an extension of credit made on or after the

1 effective date of this Act. An extension of credit made before the
2 effective date of this Act is governed by the law in effect on the
3 date the extension of credit was made, and the former law is
4 continued in effect for that purpose.

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