

By: Thompson of Harris

H.B. No. 3812

A BILL TO BE ENTITLED

AN ACT

relating to extensions of consumer credit in the form of a motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining; providing a civil penalty.

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

SECTION 1. Section 393.601, Finance Code, is amended by amending Subdivision (5) and adding Subdivisions (5-a) and (7) to read as follows:

(5) "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 393.702. The term does not include a retail installment transaction under Chapter 348 or another loan made to finance the purchase of a motor vehicle.

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

(7) "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 2. Chapter 393, Finance Code, is amended by adding Subchapter G-1 to read as follows:

SUBCHAPTER G-1. REGULATIONS IN CONNECTION WITH MOTOR

VEHICLE TITLE LOANS

Sec. 393.701. DEFINITIONS. In this subchapter:

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

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

(3) "Motor vehicle title loan" has the meaning assigned by Section 393.601.

(4) "Multiple-payment motor vehicle title loan" has the meaning assigned by Section 393.601.

(5) "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 motor vehicle title loan becomes due on a later date. The term does not include an extended payment plan described by Section 393.709. 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 fifth 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.

(6) "Single-payment motor vehicle title loan" has the meaning assigned by Section 393.601.

1 Sec. 393.702. PAYMENT METHOD. (a) A credit access business
2 shall accept a payment made in cash or by electronic transfer,
3 cashier's check, teller's check, or money order offered by the
4 consumer or another party, to retire or otherwise pay down debt
5 incurred under an extension of consumer credit in the form of a
6 single-payment motor vehicle title loan or a multiple-payment motor
7 vehicle title loan that a credit access business obtained for a
8 consumer or assisted a consumer in obtaining under this chapter.

9 (b) For a single-payment or multiple-payment motor vehicle
10 title loan, a consumer may also grant a security interest in an
11 authorized debit of a bank account.

12 Sec. 393.703. TERM OF LOAN FOR MILITARY BORROWERS. The term
13 of an extension of consumer credit in the form of a motor vehicle
14 title loan, including all refinances, obtained for a military
15 borrower by a credit access business or that a credit access
16 business assists a military borrower in obtaining may not exceed
17 180 days.

18 Sec. 393.704. LIMITATION ON OUTSTANDING DEBT. (a) At any
19 one time, a consumer may have only one outstanding debt from a motor
20 vehicle title loan that a credit access business obtained for the
21 consumer or assisted the consumer in obtaining.

22 (b) A credit access business that violates this section is
23 subject to a civil penalty in an amount not to exceed \$1,000 for
24 each violation.

25 Sec. 393.705. LIMITATIONS RELATING TO MOTOR VEHICLE
26 SECURING DEBT. (a) The proceeds of the sale of a repossessed motor
27 vehicle that secured a motor vehicle title loan shall satisfy all

1 outstanding and unpaid indebtedness under that extension of
2 consumer credit, and the consumer is not liable for any deficiency
3 resulting from the sale unless the consumer has committed fraud or
4 has committed a wilful act of misconduct that damages or impairs the
5 value of the motor vehicle.

6 (b) Any fee charged to a consumer for the repossession of a
7 motor vehicle given as security for a motor vehicle title loan must
8 be reasonable and may not exceed the amount actually paid by the
9 credit access business or the lender to a third party for the
10 repossession.

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

14 Sec. 393.706. ESTABLISHMENT OF CONSUMER'S INCOME OR VEHICLE
15 VALUE; REFERENCE AMOUNT. (a) A credit access business must require
16 documentation to establish a consumer's income for purposes of this
17 subchapter. Acceptable forms of documentation include paper,
18 facsimile, or electronic copies of:

19 (1) a payroll document;
20 (2) a paycheck;
21 (3) a bank statement;
22 (4) a report from a nationally or regionally
23 recognized credit and data reporting company;

24 (5) Internal Revenue Service Form W-2 from the
25 preceding year;

26 (6) the income tax return from the preceding tax year;
27 (7) a signed letter from the consumer's employer at the

1 time the single-payment motor vehicle title loan or
2 multiple-payment motor vehicle title loan is sought;

3 (8) an executed certification on a form adopted by
4 finance commission rule that attests to the consumer's monthly or
5 annual income; or

6 (9) any other document approved by finance commission
7 rule.

8 (b) A credit access business shall retain a copy of the
9 documentation used to establish a consumer's income under
10 Subsection (a) according to the business's standard records
11 retention policy and any applicable rule or regulation establishing
12 a record retention period.

13 (c) A credit access business that relies in good faith on a
14 document presented by the consumer under Subsection (a) to
15 establish a consumer's income has complied with this section to the
16 extent the income established under that document meets the
17 applicable requirements under this subchapter.

18 (d) A credit access business that obtains for a consumer or
19 assists a consumer in obtaining an extension of consumer credit in
20 the form of a single-payment motor vehicle title loan or a
21 multiple-payment motor vehicle title loan through the Internet or
22 other electronic means may rely on nationally or regionally
23 recognized database reporting systems and may maintain a record of
24 the database reporting system results used to comply with
25 Subsections (a) and (b).

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

1 (1) rely on a nationally or regionally recognized
2 vehicle appraisal guide or agree in good faith with the consumer to
3 the vehicle's retail value; and

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

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

9 Sec. 393.707. SINGLE-PAYMENT MOTOR VEHICLE TITLE LOAN. (a)
10 The amount advanced to a consumer under an extension of consumer
11 credit in the form of a single-payment motor vehicle title loan that
12 a credit access business obtains for a consumer or assists a
13 consumer in obtaining, excluding fees, may not exceed the lesser
14 of:

15 (1) six percent of the consumer's gross annual income,
16 if the consumer's gross annual income is less than the reference
17 amount;

18 (2) eight percent of the consumer's gross annual
19 income, if the consumer is not described by Subdivision (1) and is
20 not a military borrower to whom a different limit applies under
21 federal law; or

22 (3) 70 percent of the retail value of the motor vehicle
23 securing the debt.

24 (b) The term of an original or refinanced extension of
25 consumer credit in the form of a single-payment motor vehicle title
26 loan that a credit access business obtains for a consumer or assists
27 a consumer in obtaining may not be less than 30 days or longer than

1 60 days.

2 (c) An extension of consumer credit in the form of a
3 single-payment motor vehicle title loan that a credit access
4 business obtains for a consumer or assists a consumer in obtaining
5 may not be refinanced more than six times.

6 (d) If a consumer who has not entered into an extended
7 payment plan with the credit access business in the preceding 12
8 months refinances a single-payment motor vehicle title loan for the
9 sixth time:

10 (1) the credit access business must offer at least one
11 extended payment plan to the consumer before initiating any
12 activities to repossess the vehicle securing the debt;

13 (2) the consumer may request, before the offer
14 required by Subdivision (1) is made, an extended payment plan at any
15 time on or after the date the consumer refinances the motor vehicle
16 title loan for the sixth time and on or before the fifth day after
17 the date on which the sixth refinance must be repaid in full;

18 (3) to comply with the requirement of Subdivision (1),
19 the credit access business shall send a written notice to the
20 consumer disclosing the following:

21 (A) the amount due under the current terms of the
22 extension of consumer credit if the consumer declines an extended
23 payment plan;

24 (B) the amounts due on each of the installment
25 dates of an extended payment plan; and

26 (C) the date by which the consumer must accept
27 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 393.709.

(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 refinances 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

1 subsection is not required to comply with Section 393.709.

2 Sec. 393.708. MULTIPLE-PAYMENT MOTOR VEHICLE TITLE LOAN.

3 (a) The amount advanced to a consumer under an extension of consumer
4 credit in the form of a multiple-payment motor vehicle title loan
5 that a credit access business obtains for a consumer or assists a
6 consumer in obtaining, excluding fees, may not exceed 70 percent of
7 the retail value of the motor vehicle securing the debt.

8 (b) The sum of all fees, principal, interest, and other
9 amounts due under any scheduled payment of an extension of consumer
10 credit in the form of a multiple-payment motor vehicle title loan
11 that a credit access business obtains for a consumer or assists a
12 consumer in obtaining may not exceed:

13 (1) 20 percent of the consumer's gross monthly income,
14 if the consumer's gross annual income is less than the reference
15 amount; or

16 (2) 30 percent of the consumer's gross monthly income,
17 if the consumer is not described by Subdivision (1) and is not a
18 military borrower to whom a different limit applies under federal
19 law.

20 (c) An extension of consumer credit in the form of a
21 multiple-payment motor vehicle title loan that a credit access
22 business obtains for a consumer or assists a consumer in obtaining
23 must be payable on a fully amortizing, declining-principal-balance
24 basis with substantially equal payments. If a credit access
25 business precomputes its fees under a multiple-payment motor
26 vehicle title loan and a consumer prepays the loan in full, the
27 credit access business shall refund any unearned fees to the

1 consumer.

2 (d) An extension of consumer credit in the form of a
3 multiple-payment motor vehicle title loan that a credit access
4 business obtains for a consumer or assists a consumer in obtaining
5 may not be payable by the consumer in more than 12 installments, and
6 the loan agreement must specify the number, date, and total amount
7 due with regard to each installment.

8 (e) The first installment of an extension of consumer credit
9 in the form of a multiple-payment motor vehicle title loan that a
10 credit access business obtains for a consumer or assists a consumer
11 in obtaining may not be due before the 10th day after the date the
12 consumer enters into the loan agreement. A subsequent installment
13 may not be due before the 28th day after the date the previous
14 installment of the loan is due.

15 (f) An extension of consumer credit in the form of a
16 multiple-payment motor vehicle title loan that a credit access
17 business obtains for a consumer or assists a consumer in obtaining
18 may not be refinanced and the loan term may not exceed 365 days,
19 except as provided by Subsection (g).

20 (g) A credit access business may not initiate any activities
21 to repossess the vehicle securing the debt under a multiple-payment
22 motor vehicle title loan that a credit access business obtains for a
23 consumer or assists a consumer in obtaining before offering the
24 consumer at least one extended payment plan. An extended payment
25 plan may cause the extension of consumer credit to extend beyond 365
26 days so long as the extended payment plan complies with Section
27 393.709 and the credit access business fully describes the terms of

1 the extended payment plan, including all due dates and the amount
2 due on each due date, to the consumer before the consumer enters
3 into the extended payment plan.

4 (h) If the credit access business is required to offer a
5 consumer an extended payment plan under Subsection (g), the credit
6 access business shall send a written notice to the consumer
7 disclosing the following:

8 (1) the amount due under the current terms of the
9 extension of consumer credit if the consumer declines an extended
10 payment plan;

11 (2) the amounts due on each of the installment dates of
12 an extended payment plan; and

13 (3) the date by which the consumer must accept the
14 extended payment plan in writing, which date shall be at least five
15 days after the date of such notice.

16 (i) The credit access business may not repossess the vehicle
17 securing the debt unless:

18 (1) the consumer fails to accept the extended payment
19 plan in writing on or before the deadline contained in the notice
20 required by Subsection (h)(3);

21 (2) the consumer declines the extended payment plan;
22 or

23 (3) the consumer fails to make a payment required by an
24 extended payment plan that the consumer accepted.

25 (j) If the consumer declines the extended payment plan, the
26 consumer must sign an extended payment plan waiver on a form
27 prescribed by the finance commission.

1 Sec. 393.709. EXTENDED PAYMENT PLAN REQUIREMENTS. (a) This
2 section applies to extended payment plans required to be offered
3 under Sections 393.707(d) and 393.708.

4 (b) An extended payment plan must provide for payment in at
5 least:

6 (1) four substantially equal installments, after
7 which the outstanding balance will be paid in full, with respect to
8 a single-payment motor vehicle title loan; or

9 (2) two substantially equal installments added to the
10 original and refinanced term of the extension of consumer credit,
11 after which the outstanding balance, including only the fees that
12 would have been due under the original extension of consumer
13 credit, will be paid in full, with respect to a multiple-payment
14 motor vehicle title loan.

15 (c) The period between installment payments on an extended
16 payment plan may not be shorter than 30 days, with respect to a
17 single-payment motor vehicle title loan or a multiple-payment motor
18 vehicle title loan.

19 (d) The first payment owed under an extended payment plan
20 may not be due before the 10th day after the date the consumer
21 requests an extended payment plan.

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

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

1 (g) A person may not engage in debt collection or vehicle
2 repossession activities for a debt subject to an extended payment
3 plan if the consumer is in compliance with the extended payment
4 plan.

5 (h) A person may not use a device, subterfuge, or pretense
6 to evade the extended payment plan requirements and limitations
7 imposed on a credit access business under this subchapter.

8 Sec. 393.710. REFINANCES. (a) Any refinance of an extension
9 of consumer credit in the form of a single-payment motor vehicle
10 title loan or multiple-payment motor vehicle title loan that a
11 credit access business obtains for a consumer or assists a consumer
12 in obtaining:

13 (1) must be authorized under this subchapter;
14 (2) must be in the same form as the original extension
15 of consumer credit; and

16 (3) must meet all the requirements applicable to the
17 original extension of consumer credit, including the duration,
18 transaction, and extended payment plan requirements under this
19 subchapter, including the applicable income-based or vehicle
20 value-based limitations under Section 393.707(a) or 393.708(b),
21 except as otherwise provided by this chapter.

22 (b) The terms of a refinanced extension of consumer credit
23 may be the same as or different from the terms of the original
24 extension of consumer credit.

25 (c) A person may not use a device, subterfuge, or pretense
26 to evade the refinance requirements and limitations imposed on a
27 credit access business with respect to a single-payment motor

1 vehicle title loan or multiple-payment motor vehicle title loan
2 under this subchapter.

3 Sec. 393.711. RULES. The finance commission shall adopt any
4 rules necessary to implement this subchapter.

5 SECTION 3. The changes in law made by this Act apply only to
6 an extension of consumer credit made on or after the effective date
7 of this Act. An extension of consumer credit made before the
8 effective date of this Act is governed by the law in effect on the
9 date the extension of consumer credit was made, and the former law
10 is continued in effect for that purpose. For purposes of this
11 section, a refinance of an extension of consumer credit is
12 considered made on the date the extension of consumer credit being
13 refinanced was made.

14 SECTION 4. This Act takes effect September 1, 2015.