

FINANCE CODE

TITLE 5. PROTECTION OF CONSUMERS OF FINANCIAL SERVICES

CHAPTER 393. CREDIT SERVICES ORGANIZATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 393.001. DEFINITIONS. In this chapter:

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

(2) "Consumer reporting agency" has the meaning assigned by Section 603(f), Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)).

(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; or

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

(4) "Extension of consumer credit" means the right to defer payment of debt offered or granted primarily for personal, family, or household purposes or to incur the debt and defer its payment.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.002. PERSONS NOT COVERED. (a) This chapter does not apply to:

(1) a person:

(A) authorized to make a loan or grant an extension of consumer credit under the laws of this state or the United States; and

(B) subject to regulation and supervision by this state or the United States;

(2) a lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the National Housing Act (12 U.S.C. Section 1701 et seq.);

(3) a bank or savings association the deposits or accounts of which are eligible to be insured by the Federal Deposit Insurance Corporation or a subsidiary of the bank or association;

(4) a credit union doing business in this state;

(5) a nonprofit organization exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3));

(6) a real estate broker or salesperson licensed under Chapter 1101, Occupations Code, who is acting within the course and scope of that license;

(7) an individual licensed to practice law in this state who is acting within the course and scope of the individual's practice as an attorney;

(8) a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission acting within the course and scope of that regulation;

(9) a consumer reporting agency;

(10) a person whose primary business is making loans secured by liens on real property;

(11) a mortgage broker or loan officer licensed under Chapter 156, Finance Code, who is acting within the course and scope of that license; or

(12) an electronic return originator who:

(A) is an authorized Internal Revenue Service e-file provider; and

(B) makes, negotiates, arranges for, or transacts a loan that is based on a person's federal income tax refund on behalf of a bank, savings bank, savings and loan association, or credit union.

(b) In an action under this chapter, a person claiming an exemption under this section has the burden of proving the exemption.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended

by Acts 1999, 76th Leg., ch. 344, Sec. 2.036, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1254, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 135, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.775, eff. Sept. 1, 2003.

Sec. 393.003. WAIVER VOID. A waiver of a provision of this chapter by a consumer is void.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. REGISTRATION AND DISCLOSURE STATEMENTS

Sec. 393.101. REGISTRATION STATEMENT. (a) Before conducting business in this state, a credit services organization shall register with the secretary of state by filing a statement that:

(1) contains the name and address of:

(A) the organization; and

(B) each person who directly or indirectly owns or controls at least 10 percent of the outstanding shares of stock in the organization; and

(2) fully discloses any litigation or unresolved complaint relating to the operation of the organization filed with a governmental authority of this state or contains a notarized statement that there has been no litigation or unresolved complaint of that type.

(b) The organization shall keep a copy of the registration statement in its files.

(c) The secretary of state may not require an organization to provide information other than information contained in the registration statement.

(d) A registration certificate expires on the first anniversary of its date of issuance. A registered credit services organization may renew a registration certificate by filing a renewal application, in the form prescribed by the secretary of state, and paying the renewal fee.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.44(a), eff. Sept. 1, 1999.

Sec. 393.102. UPDATE OF REGISTRATION STATEMENT. A credit services organization shall update information contained in the registration statement not later than the 90th day after the date on which the information changes.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.103. INSPECTION OF REGISTRATION STATEMENT. A credit services organization shall allow a consumer to inspect the registration statement on request.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.104. FILING FEE. The secretary of state may charge a credit services organization a reasonable fee to cover the cost of filing a registration statement or renewal application in an amount not to exceed \$100.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.44(a), eff. Sept. 1, 1999.

Sec. 393.105. DISCLOSURE STATEMENT. Before executing a contract with a consumer or receiving valuable consideration from a consumer, a credit services organization shall provide the consumer with a document containing:

(1) a complete and detailed description of the services to be performed by the organization for the consumer and the total cost of those services;

(2) an explanation of the consumer's right to proceed against the surety bond or account obtained under Section 393.302;

(3) the name and address of the surety company that issued the surety bond or the name and address of the depository and the trustee and the account number of the surety account, as appropriate;

(4) a complete and accurate statement of the consumer's right to review information on the consumer maintained in a file by a consumer reporting agency, as provided by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.);

(5) a statement that information in the consumer's

file is available for review:

(A) without charge on request made to the consumer reporting agency not later than the 30th day after the date on which the agency receives notice the consumer has been denied credit; and

(B) for a minimal charge at any other time;

(6) a complete and accurate statement of the consumer's right to dispute directly with a consumer reporting agency the completeness or accuracy of an item contained in the consumer's file maintained by the agency;

(7) a statement that accurate information cannot be permanently removed from the files of a consumer reporting agency;

(8) a complete and accurate statement explaining:

(A) when consumer information becomes obsolete; and

(B) that a consumer reporting agency is prevented from issuing a report containing obsolete information; and

(9) a complete and accurate statement of the availability of nonprofit credit counseling services.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.106. COPY OF DISCLOSURE STATEMENT. A credit services organization shall keep in its files a copy of a document required under Section 393.105, signed by the consumer, acknowledging receipt, until the second anniversary of the date on which the organization provides the document.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER C. CONTRACT FOR SERVICES

Sec. 393.201. FORM AND TERMS OF CONTRACT. (a) Each contract for the purchase of the services of a credit services organization by a consumer must be in writing, dated, and signed by the consumer.

(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 is to perform for the consumer, including each guarantee and each promise of a full or partial refund and the estimated period for performing the services, not to exceed 180 days;

(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

(6) the name and address of the Office of Consumer

Credit Commissioner and the telephone number of the office's consumer helpline.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 1, eff. January 1, 2012.

Sec. 393.202. NOTICE OF CANCELLATION. (a) The contract must conspicuously state the following, in type that is boldfaced, capitalized, underlined, or otherwise distinguished from the surrounding written material and in immediate proximity to the space reserved for the consumer's signature: "You, the buyer, may cancel this contract at any time before midnight of the third day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right."

(b) The contract must have attached two easily detachable copies of a cancellation notice. The notice must be in boldfaced type and in the following form:

"Notice of Cancellation

You may cancel this contract, without any penalty or obligation, within three days after the date the contract is signed.

If you cancel, any payment made by you under this contract will be returned within 10 days after the date of receipt by the seller of your cancellation notice.

To cancel this contract, mail or deliver a signed dated copy of this cancellation notice, or other written notice, to:

(name of seller) at (address of seller)(place of business) not later than midnight (date)

I hereby cancel this transaction.

(date)

(purchaser's signature)"

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.203. ISSUANCE OF CONTRACT AND OTHER DOCUMENTS. 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.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.204. BREACH OF CONTRACT. The breach by a credit services organization of a contract under this chapter, or of an obligation arising from a contract under this chapter, is a violation of this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER C-1. NOTICE AND DISCLOSURE REQUIREMENTS FOR CERTAIN
CREDIT SERVICES ORGANIZATIONS

Sec. 393.221. DEFINITIONS. In this subchapter:

(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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1301 (H.B. 2592), Sec. 1, eff. January 1, 2012.

Sec. 393.222. POSTING OF FEE SCHEDULE; NOTICES. (a) A credit access business shall post, in a conspicuous location in an area of the business accessible to consumers and on any Internet website, including a social media site, maintained by the credit access business:

(1) a schedule of all fees to be charged for services performed by the credit access business in connection with deferred presentment transactions and motor vehicle title loans, as

applicable;

(2) a notice of the name and address of the Office of Consumer Credit Commissioner and the telephone number of the office's consumer helpline; and

(3) a notice that reads as follows:

"An advance of money obtained through a payday loan or auto title loan is not intended to meet long-term financial needs. A payday loan or auto title loan should only be used to meet immediate short-term cash needs. Refinancing the loan rather than paying the debt in full when due will require the payment of additional charges."

(b) The Finance Commission of Texas may adopt rules to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1301 (H.B. 2592), Sec. 1, eff. January 1, 2012.

Sec. 393.223. CONSUMER TRANSACTION INFORMATION.

(a) Before performing services described by Section 393.221(1), a credit access business must provide to a consumer a disclosure adopted by rule of the Finance Commission of Texas that discloses the following in a form prescribed by the commission:

(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.

(b) If a credit access business obtains or assists a consumer in obtaining a motor vehicle title loan, the credit access business shall provide to the consumer a notice warning the consumer that in the event of default the consumer may be required

to surrender possession of the motor vehicle to the lender or other person to satisfy the consumer's outstanding obligations under the loan.

(c) The Finance Commission of Texas shall adopt rules to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1301 (H.B. 2592), Sec. 1, eff. January 1, 2012.

Sec. 393.224. ADMINISTRATIVE PENALTY. The consumer credit commissioner, in accordance with rules adopted by the Finance Commission of Texas, may assess an administrative penalty against a credit access business that knowingly and wilfully violates this subchapter or a rule adopted under this subchapter in the manner provided by Subchapter F, Chapter 14.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1301 (H.B. 2592), Sec. 1, eff. January 1, 2012.

SUBCHAPTER D. PROHIBITIONS AND RESTRICTIONS

Sec. 393.301. REPRESENTATIVE. In this subchapter, a representative of a credit services organization includes:

(1) a salesperson, agent, or other representative of the organization; and

(2) an independent contractor who sells or attempts to sell the services of the organization.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.302. CHARGE OR RECEIPT OF CONSIDERATION BEFORE COMPLETION OF SERVICES. A credit services organization or a representative of the organization may charge or receive from a consumer valuable consideration before completely performing all the services the organization has agreed to perform for the consumer only if the organization has obtained a surety bond for each of its locations or established and maintained a surety account for each of its locations in accordance with Subchapter E.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.43(a), eff. Sept. 1, 1999.

Sec. 393.303. CHARGE OR RECEIPT OF CONSIDERATION FOR REFERRAL. A credit services organization or a representative of the organization may not charge or receive from a consumer valuable consideration solely for referring the consumer to a retail seller who will or may extend to the consumer credit that is substantially the same as that available to the public.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.304. FALSE OR MISLEADING REPRESENTATION OR STATEMENT. A credit services organization or a representative of the organization may not:

(1) make or use a false or misleading representation in the offer or sale of the services of the organization, including:

(A) guaranteeing to "erase bad credit" or words to that effect unless the representation clearly discloses this can be done only if the credit history is inaccurate or obsolete; and

(B) guaranteeing an extension of consumer credit regardless of the person's credit history unless the representation clearly discloses the eligibility requirements for obtaining the extension; or

(2) make, or advise a consumer to make, a statement relating to a consumer's credit worthiness, credit standing, or credit capacity that the person knows, or should know by the exercise of reasonable care, to be false or misleading to a:

(A) consumer reporting agency; or

(B) person who has extended consumer credit to a consumer or to whom a consumer is applying for an extension of consumer credit.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.305. FRAUDULENT OR DECEPTIVE CONDUCT. A credit services organization or a representative of the organization may not directly or indirectly engage in a fraudulent or deceptive act, practice, or course of business relating to the offer or sale of the services of the organization.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.306. ADVERTISING SERVICES WITHOUT FILING REGISTRATION STATEMENT. A credit services organization or a representative of the organization may not advertise the services of the organization if the organization has not filed a registration statement required by Subchapter B.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.307. CAUSING WAIVER PROHIBITED. A credit services organization may not attempt to cause a consumer to waive a right under this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER E. SURETY BOND; SURETY ACCOUNT

Sec. 393.401. SURETY BOND. (a) The surety bond of a credit services organization must be issued by a surety company authorized to do business in this state.

(b) A copy of the bond shall be filed with the secretary of state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.402. SURETY ACCOUNT. (a) The surety account of a credit services organization must be held in trust at a federally insured bank or savings association located in this state.

(b) The name of the depository and the trustee and the account number of the surety account must be filed with the secretary of state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 2.037, eff. Sept. 1, 1999.

Sec. 393.403. AMOUNT OF SURETY BOND OR ACCOUNT. The surety bond or account of a credit services organization must be in the amount of \$10,000.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.404. BENEFICIARY OF SURETY BOND OR ACCOUNT. The

surety bond or account of a credit services organization must be in favor of:

(1) this state for the benefit of a person damaged by a violation of this chapter; and

(2) a person damaged by a violation of this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.405. CLAIM AGAINST SURETY BOND OR ACCOUNT. (a) A person making a claim against a surety bond or account of a credit services organization for a violation of this chapter may file suit against:

(1) the organization; and

(2) the surety or trustee.

(b) A surety or trustee is liable only for actual damages, reasonable attorney's fees, and court costs awarded under Section [393.503\(a\)](#).

(c) The aggregate liability of a surety or trustee for an organization's violation of this chapter may not exceed the amount of the surety bond or account.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.406. TERM OF SURETY BOND OR ACCOUNT. The surety bond or account of a credit services organization must be maintained until the second anniversary of the date on which the organization ceases operations.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.407. PAYMENT OF MONEY IN SURETY ACCOUNT TO CREDIT SERVICES ORGANIZATION. (a) A depository may not pay money in a surety account to the credit services organization that established the account or a representative of the organization unless the organization or representative presents a statement issued by the secretary of state indicating that the requirement of Section [393.406](#) has been satisfied in relation to the account.

(b) The secretary of state may conduct an investigation and require information to be submitted as necessary to enforce this section.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER F. CRIMINAL PENALTIES AND CIVIL REMEDIES

Sec. 393.501. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) An offense under this chapter is a Class B misdemeanor.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.502. INJUNCTIVE RELIEF. A district court on the application of the attorney general or a consumer may enjoin a violation of this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.503. DAMAGES. (a) A consumer injured by a violation of this chapter is entitled to recover:

(1) actual damages in an amount not less than the amount the consumer paid the credit services organization;

(2) reasonable attorney's fees; and

(3) court costs.

(b) A consumer who prevails in an action under this section may also be awarded punitive damages.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.504. DECEPTIVE TRADE PRACTICE. A violation of this chapter is a deceptive trade practice actionable under Subchapter E, Chapter 17, Business & Commerce Code.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 393.505. STATUTE OF LIMITATIONS. An action under Section 393.503 or 393.504 must be brought not later than the fourth anniversary of the date on which the contract to which the action relates is executed.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER G. LICENSING AND REGULATION OF CERTAIN CREDIT SERVICES ORGANIZATIONS

Sec. 393.601. DEFINITIONS. In this subchapter:

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

(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.

(3) "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.

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

(5) "Motor vehicle title loan" means a loan in which an unencumbered motor vehicle is given as security for the loan. The term does not include a retail installment transaction under Chapter 348 or another loan made to finance the purchase of a motor vehicle.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.602. APPLICABILITY. (a) This subchapter applies only to a credit services organization that, with respect to a consumer who is located in this state at the time of the transaction, 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 for its services 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.

(c) A person may not use a device, subterfuge, or pretense to evade the application of this subchapter. A lawful transaction governed under another statute, including Title 1, Business & Commerce Code, does not violate this subsection and may not be considered a device, subterfuge, or pretense to evade the application of this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 82, eff. September 1, 2019.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.604. APPLICATION FOR LICENSE. (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 with which the 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); and
- (5) contain other relevant information that the commissioner requires for the findings required under Section 393.607.

(b) On the filing of one or more license applications, the applicant shall pay to the commissioner an investigation fee of \$200. Except for good cause as determined by the finance

commission, a separate investigation fee is not required for multiple license applications.

(c) On the filing of each license application, the applicant shall pay to the commissioner a license fee in an amount determined as provided by Section 14.107.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 83, eff. September 1, 2019.

Sec. 393.605. BOND. (a) If the commissioner requires, an applicant for a license under this subchapter shall file with the application a bond that is:

(1) in an amount satisfactory to the commissioner that does not exceed the lesser of:

(A) \$10,000 for the first license and \$10,000 for each additional license; or

(B) \$2,500,000; and

(2) issued by a surety company qualified to do business as a surety in this state.

(b) The bond must be in favor of this state for the use of this state and the use of a person who has a cause of action under this subchapter against the license holder.

(c) The bond must be conditioned on:

(1) the license holder's faithful performance under this subchapter and rules adopted under this subchapter; and

(2) the payment of all amounts that become due to this state or another person under this subchapter during the period for which the bond is given.

(d) The aggregate liability of a surety to all persons damaged by the license holder's violation of this subchapter may not exceed the amount of the bond.

(e) A credit access business that files a bond under this section is not required to file a bond under Subchapter E.

(f) A credit access business, instead of obtaining a surety bond, may satisfy the requirements of this section by depositing an

amount described by Subsection (a)(1) in a surety account held in trust at a federally insured bank or savings association located in this state. The name of the depository, trustee, and account number of the surety account must be filed with the office.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 84, eff. September 1, 2019.

Sec. 393.606. INVESTIGATION OF APPLICATION. On the filing of an application and a bond, if required under Section 393.605, and on payment of the required fees, the commissioner shall conduct an investigation to determine whether to issue the license.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.607. APPROVAL OR DENIAL OF APPLICATION. (a) The commissioner shall approve the application and issue to the applicant a license to operate as a credit access business for purposes of engaging in the activity to which this subchapter applies if the commissioner finds that:

(1) the financial responsibility, experience, character, and general fitness of the applicant are sufficient to:

(A) command the confidence of the public; and

(B) warrant the belief that the business will be operated lawfully and fairly, within the purposes of this subchapter; and

(2) the applicant has net assets of at least \$25,000 available for the operation of the business as determined in accordance with Section 393.611.

(b) If the commissioner does not find the eligibility requirements of Subsection (a) have been met, the commissioner shall notify the applicant.

(c) If an applicant requests a hearing on the application not later than the 30th day after the date of notification under Subsection (b), the applicant is entitled to a hearing not later

than the 30th day after the date of the request.

(d) The commissioner shall approve or deny the application not later than the 30th day after the date of the filing of a completed application with payment of the required fees, or if a hearing is held, after the date of the completion of the hearing on the application. The commissioner and the applicant may agree to a later date in writing.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. [2594](#)), Sec. 2, eff. January 1, 2012.

Sec. 393.608. DISPOSITION OF FEES ON DENIAL OF APPLICATION. If the commissioner denies the application, the commissioner shall retain the investigation fee and shall return to the applicant the license fee submitted with the application.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. [2594](#)), Sec. 2, eff. January 1, 2012.

Sec. 393.6085. LICENSE TERM. A license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section [14.112](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. [1442](#)), Sec. 85, eff. September 1, 2019.

Sec. 393.609. NAME AND PLACE OF LICENSE. (a) A license issued under this subchapter must state:

(1) the name of the license holder; and

(2) the address of the office from which the business is to be conducted, except as provided by Subsection (c).

(b) A license holder may not conduct business under this subchapter under a name other than the name stated on the license.

(c) A license holder may not conduct business at a location other than the address stated on the license, except that a license holder:

(1) is not required to have an office in this state; and

(2) may operate using e-commerce methods, including the Internet.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. [2594](#)), Sec. 2, eff. January 1, 2012.

Sec. 393.610. LICENSE DISPLAY. A license holder shall display a license at the place of business provided on the license. With respect to business conducted through the Internet, this requirement may be satisfied by displaying the license on the business's Internet website.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. [2594](#)), Sec. 2, eff. January 1, 2012.

Sec. 393.611. MINIMUM ASSETS FOR LICENSE. A license holder shall maintain net assets used or readily available for use in conducting the business of each of the offices for which a license is held under this subchapter, in an amount that is not less than the lesser of:

- (1) \$25,000 for each office; or
- (2) \$2,500,000 in the aggregate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. [2594](#)), Sec. 2, eff. January 1, 2012.

Sec. 393.6115. GROUNDS FOR REFUSAL TO RENEW. The commissioner may refuse to renew the license of a credit access business who fails to comply with an order issued by the commissioner to enforce this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. [1442](#)), Sec. 85, eff. September 1, 2019.

Sec. 393.612. LICENSE FEE. Not later than the 30th day before the date the license expires, a license holder shall pay to the commissioner for each license held a fee in an amount determined as provided by Section [14.107](#).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. [2594](#)), Sec. 2, eff. January 1, 2012.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. [1442](#)), Sec. 86, eff. September 1, 2019.

Sec. 393.613. EXPIRATION OF LICENSE ON FAILURE TO PAY FEE. If the fee for a license is not paid before the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, the license expires on that day.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 87, eff. September 1, 2019.

Sec. 393.614. LICENSE SUSPENSION OR REVOCATION. (a) After notice and opportunity for a hearing, the commissioner may suspend or revoke a license if the commissioner finds that:

(1) the license holder failed to pay the license fee, an examination fee, an investigation fee, or another charge imposed by the commissioner under this subchapter;

(2) the license holder, knowingly or without the exercise of due care, violated this chapter or a rule adopted or order issued under this chapter; or

(3) a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner's denial of the application.

(b) If in a three-year period the commissioner suspends or revokes under this section the licenses of five or more credit access businesses owned or controlled by the same person, including a corporation that owns multiple businesses, the commissioner may suspend or revoke the licenses of all credit access businesses owned or controlled by that person.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 88, eff. September 1, 2019.

Sec. 393.615. LICENSE SUSPENSION OR REVOCATION FILED WITH

PUBLIC RECORDS. The decision of the commissioner on the suspension or revocation of a license and the evidence considered by the commissioner in making the decision shall be filed in the public records of the commissioner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.616. REINSTATEMENT OF SUSPENDED LICENSE; ISSUANCE OF NEW LICENSE AFTER REVOCATION. The commissioner may reinstate a suspended license or issue a new license on application to a person whose license has been revoked if at the time of the reinstatement or issuance no fact or condition exists that clearly would have justified the commissioner's denial of an original application for the license.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.617. SURRENDER OF LICENSE. A license holder may surrender a license issued under this subchapter by delivering to the commissioner:

- (1) the license; and
- (2) a written notice of the license's surrender.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.618. EFFECT OF LICENSE SUSPENSION, REVOCATION, OR SURRENDER. (a) The suspension, revocation, or surrender of a license issued under this subchapter does not affect the obligation of a contract between the license holder and a consumer entered into before the revocation, suspension, or surrender.

(b) Surrender of a license does not affect the license holder's civil or criminal liability for an act committed before surrender.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.619. MOVING AN OFFICE. (a) A license holder shall

give written notice to the commissioner before the 30th day before the date the license holder moves an office from the location provided on the license.

(b) The commissioner shall amend a license holder's license accordingly.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.620. TRANSFER OR ASSIGNMENT OF LICENSE. A license may be transferred or assigned only with the approval of the commissioner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.621. ADMINISTRATION. The office shall administer this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.622. RULES. (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 described by Section 393.602(a); and

(3) adopt rules with respect to periodic examination by the office relating to extensions of consumer credit 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.

(c) Nothing in Section 393.201(c) or Sections 393.601-393.628 grants authority to the finance commission or the Office of Consumer Credit Commissioner to establish a limit on the fees charged by a credit access business.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.623. PROVIDING OR ADVERTISING SERVICES WITHOUT LICENSE PROHIBITED. A credit access business or a representative of the business may not provide or advertise the services of the business if the business is not licensed under this subchapter.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.624. RESTRICTIONS ON OFF-SITE ADVERTISING. (a) A credit access business may not advertise on the premises of a nursing facility, assisted living facility, group home, intermediate care facility for persons with mental retardation, or other similar facility subject to regulation by the Department of Aging and Disability Services.

(b) The finance commission may adopt rules to implement this section.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.625. MILITARY BORROWERS. An extension of consumer credit described by Section 393.602(a) that is obtained by a credit access business for a member of the United States military or a dependent of a member of the United States military or that the business assisted that person in obtaining must comply with 10 U.S.C. Section 987 and any regulations adopted under that law, to the extent applicable.
Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2,

eff. January 1, 2012.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Sec. 393.628. TEXAS FINANCIAL EDUCATION ENDOWMENT. (a) As part of the licensing fee and procedures described under this subchapter, each credit access business or license holder shall pay to the commissioner an annual assessment to improve consumer credit, financial education, and asset-building opportunities in this state. The annual assessment may not exceed \$200 for each license as specified by the finance commission.

(b) The commissioner shall remit to the comptroller amounts received under Subsection (a) for deposit in an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company. Money in the account may be spent by the finance commission only for the purposes provided by this section. Amounts in the account may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from those investments shall be deposited to the credit of the account.

(c) The Texas Financial Education Endowment shall be administered by the finance commission to support statewide financial education and consumer credit building activities and programs, including:

(1) production and dissemination of approved financial education materials at licensed locations;

(2) advertising, marketing, and public awareness campaigns to improve the credit profiles and credit scores of consumers in this state;

(3) school and youth-based financial literacy and capability;

(4) credit building and credit repair;

(5) financial coaching and consumer counseling;

(6) bank account enrollment and incentives for personal savings; and

(7) other consumer financial education and asset-building initiatives as considered appropriate by the finance commission.

(d) In implementing this section, the finance commission may solicit gifts, grants, and donations for this purpose.

(e) The finance commission may partner with other state agencies and entities to implement this section.

(f) The finance commission shall adopt rules to administer this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. [2594](#)), Sec. 2, eff. January 1, 2012.