

BILL ANALYSIS

Senate Research Center
86R20064 GRM-D

H.B. 1442
By: Paddie et al. (Hall)
Business & Commerce
4/15/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Summary

The Texas Office of Consumer Credit Commissioner (OCCC) regulates financial services other than banks through the licensing and regulation of pawnshops, motor vehicle finance providers, lenders that make consumer loans, and credit access businesses (also known as payday and title loan providers). OCCC is under the jurisdiction of the Finance Commission of Texas and operates as a self-directed semi-independent state agency, meaning that OCCC operates outside of the legislative appropriations process.

OCCC is subject to abolishment under the Sunset Act on September 1, 2019, unless continued by the legislature. Overall, the Sunset Advisory Commission concluded OCCC is a well-run agency, but recommended best practices in licensing and enforcement to ensure consistent authority across all licensees and efficient operations. In addition, the Sunset Commission recommends the state cease unnecessary licensure of pawnshop employees.

Major Provisions in Sunset Legislation

- Continues the Office of Consumer Credit Commissioner for 12 years. (Page 3, Line 18)
- Updates licensing and enforcement practices that do not meet best practices.
 - Authorizes OCCC to provide license terms of up to two years instead of annually, to allow improved efficiencies in workload management and ease the regulatory administrative burden on licensees and registrants. (Page 4, Lines 1–4; Page 5, Lines 12–26; and multiple pages)
 - Makes OCCC's enforcement authority over crafted precious metal dealers consistent with its authority over other licensees and registrants. (Page 6, Lines 4–20; Page 6, Line 26 to Page 7, Line 19; Page 9, Line 27 to Page 10, Line 2)
 - Authorizes OCCC to deny renewal applications when applicants do not comply with OCCC disciplinary orders. (Page 12, Line 17–20; Page 14, Line 15–17; Page 15, Lines 11–13; and multiple pages)
 - Updates outdated language to clarify avenues for appeal and provide consistency with due process provisions of the Administrative Procedure Act. (Page 10, Lines 5–14; Page 12, Line 24; Page 18, Line 13; Page 23, Lines 10–16; Page 25, Lines 19–21; and multiple pages)
- Updates standard Sunset good government provisions.
 - Updates a Sunset across-the-board recommendation to ensure OCCC makes its complaint investigation and resolution procedure readily available. (Page 2, Line 13 to Page 3, Line 12)

- Applies a Sunset across-the-board recommendation requiring OCCC and the Finance Commission to develop a policy for negotiated rulemaking and alternative dispute resolution. (Page 4, Line 8 to Page 5, Line 3)

Comparison of House Engrossed Bill to the Introduced Version

The House engrossed bill differs from the introduced version of the bill by making the following changes:

- Continues pawnshop employee regulation as an optional license.
 - Allows pawnshop owners to opt to hire OCCC-licensed pawnshop employees, but does not require that all pawnshop employees be licensed. (Page 26, Line 4; Page 29, Line 4 to Page 30; Line 23; Page 31, Line 5 to Page 32 line 23; Page 34, Line 14; Page 41, Line 21; and Page 42, Lines 1–23)
 - Maintains and clarifies the responsibility of pawnbrokers for all acts of their employees on behalf of the pawnshop. (Page 28, Line 25 to Page 29, Line 1)
- Reinstates the requirement that OCCC prove a violation of statute was “knowing and willful” before assessing an administrative penalty.
- Streamlines OCCC reporting requirements, removing the requirement that OCCC track financial services offered to agricultural and small businesses, track locations of lenders, and develop models for providing lower-cost alternatives to borrowers. (Page 1, Line 8 to Page 2, Line 4)
- Further clarifies the avenues for appeal of enforcement decisions to provide consistency with due process provisions of the Administrative Procedure Act. (Page 8, Line 27 to Page 9, Line 9; Page 10, Lines 5-14; Page 23, Lines 10-16; and Page 25, Lines 19-21)

H.B. 1442 amends current law relating to the continuation and functions of the Office of Consumer Credit Commissioner and the licensing and registration of persons regulated by that state agency.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Finance Commission of Texas (finance commission) in SECTION 6 (Sections 14.110 and 14.112, Finance Code) of this bill.

Rulemaking authority is expressly granted to the finance commission in SECTION 42 (Section 352.003, Finance Code) of this bill.

Rulemaking authority is expressly granted to the finance commission in SECTION 60 (Section 371.101, Finance Code) of this bill.

Rulemaking authority is expressly granted to the finance commission in SECTION 78 (Section 1956.0612, Occupations Code) of this bill.

Rulemaking authority previously granted to the finance commission is modified in SECTION 14 (Section 342.0515, Finance Code) of this bill.

Rulemaking authority previously granted to the finance commission is modified in SECTION 23 (Section 345.351, Finance Code) of this bill.

Rulemaking authority previously granted to the finance commission is modified in SECTION 24 (Section 347.451, Finance Code) of this bill.

Rulemaking authority previously granted to the finance commission is modified in SECTION 25 (Section 347.4515, Finance Code) of this bill.

Rulemaking authority previously granted to the finance commission is modified in SECTION 26 (Section 348.5015, Finance Code) of this bill.

Rulemaking authority previously granted to the finance commission is modified in SECTION 34 (Section 351.0515, Finance Code) of this bill.

Rulemaking authority previously granted to the finance commission is modified in SECTION 75 (Section 394.204, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.305(a), Finance Code, as follows:

(a) Requires the consumer credit commissioner (commissioner) to establish a program to address alternatives to high-cost lending in this state, rather than requiring the Finance Commission of Texas (finance commission) to instruct the commissioner to establish a program to address alternatives to high-cost lending in this state. Requires the program to:

(1) study and report on high-cost lending, including the availability, quality, and prices of financial services offered in this state to individual consumers in this state, rather than study and report on the problem of high-cost lending, including without limitation the availability, quality, and prices of financial services, including lending and depository services, offered in this state to agricultural businesses, small businesses, and individual consumers in this state; and

(2) evaluate alternatives to high-cost lending and the practices of business entities in this state that provide financial services to individual consumers in this state, rather than evaluate alternatives to high-cost lending and the practices of business entities in this state that provide financial services to agricultural businesses, small businesses, and individual consumers in this state.

Deletes Subdivisions (3) (relating to requiring the program to develop models to provider lower-cost alternatives to assist borrowers who contract for high-cost loans) and (4) (relating to requiring the program to provide certain location and demographic information on lenders who enter into certain contracts).

SECTION 2. Amends Section 14.059(b), Finance Code, to require the intra-agency career ladder program to require intra-agency posting of all nonentry level positions concurrently with any public posting, rather than for at least 10 days before public posting.

SECTION 3. Amends Section 14.062, Finance Code, as follows:

Sec. 14.062. CONSUMER INFORMATION AND COMPLAINTS. (a) Requires the Texas Office of Consumer Credit Commissioner (OCCC) to maintain a system to promptly and efficiently act on complaints, rather than maintain a file on each written complaint, filed with OCCC. Requires OCCC to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition. Deletes existing text requiring the file to include certain enumerated information.

(b) Requires OCCC to make information available describing its procedures for complaint investigation and resolution. Deletes existing text requiring OCCC to provide a copy of OCCC's policies and procedures regarding complaint investigation and resolution to all parties involved in the complaint.

(c) Requires OCCC to periodically notify the complaint parties of the status of the complaint until final disposition, rather than requiring OCCC, at least quarterly until final disposition of the complaint, to notify the person filing the complaint

and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 4. Amends Section 14.066, Finance Code, as follows:

Sec. 14.066. SUNSET PROVISION. Provides that OCCC is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that, unless continued in existence as provided by that chapter, OCCC is abolished September 1, 2031, rather than September 1, 2019.

SECTION 5. Amends Section 14.107(b), Finance Code, as follows:

(b) Authorizes the commissioner to provide for collection of a single fee for the term of the license, rather than a single annual fee, from a person licensed under certain statutes. Requires the fee to include amounts due for both licensing and examination and makes a nonsubstantive change.

SECTION 6. Amends Subchapter C, Chapter 14, Finance Code, by adding Sections 14.110, 14.111, and 14.112, as follows:

Sec. 14.110. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION. (a) Requires the finance commission, by rule, to develop a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of rules by the finance commission applicable to OCCC; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution For Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under OCCC's jurisdiction.

(b) Requires the procedures applicable to OCCC relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires OCCC to coordinate the implementation of the policy adopted under Subsection (a), provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures.

Sec. 14.111. ADVISORY COMMITTEES. (a) Authorizes the commissioner to appoint advisory committees to assist OCCC and the commissioner in performing their duties.

(b) Requires the commissioner to specify each committee's purpose, powers, and duties and to require each committee to report to the commissioner or OCCC in the manner specified by the commissioner concerning the committee's activities and the results of its work.

Sec. 14.112. LICENSING AND REGISTRATION TERMS. (a) Requires the finance commission by rule to prescribe the licensing or registration period for licenses and registrations issued under Chapters 342 (Consumer Loans), 345 (Retail Installment Sales), 347 (Manufactured Home Credit Transactions), 348 (Motor Vehicle Installment Sales), 351 (Property Tax Lenders), 352 (Tax Refund Anticipation Loans), 353 (Commercial Motor Vehicle Installment Sales), 371 (Pawnshops), 393 (Credit Services Organizations), and 394 (Debtor Assistance) of this code and Chapter 1956 (Metal Recycling Entities), Occupations Code, not to exceed two years.

(b) Requires the finance commission, in adopting rules under Subsection (a), to set terms for licenses that comply with Chapter 180 (Residential Mortgage Loan Originators) and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110–289).

(c) Requires the commissioner, if the finance commission prescribes the term of a license or registration under Subsection (a) for a period other than one year, to prorate the applicable fee required under a chapter specified in Subsection (a) as necessary to reflect the term of the license or registration.

SECTION 7. Amends Section 14.201, Finance Code, to include Subchapter B (Sale of Crafted Precious Metal to Dealers), Chapter 1956, Occupations Code, among the subtitles, chapters, and subchapters to which investigative and enforcement authority under this subchapter (Investigation and Enforcement) applies.

SECTION 8. Amends Section 14.2015, Finance Code, as follows:

Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) Provides that an examination or investigation under Subchapter B, Chapter 1956, Occupations Code, among other statutes, is confidential and is prohibited from being disclosed by the commissioner or an officer or employee of OCCC. Makes conforming and nonsubstantive changes.

(b) Makes nonsubstantive changes throughout and authorizes the commissioner or the commissioner's representative to disclose the confidential information or material described by Subsection (a):

(1) makes no changes to this subdivision;

(2) if the information was previously provided to or provided by the license holder, registrant, applicant, or other person, and the person consents to the release of the information or has published the information contained in the release, rather than if the license holder, registrant, applicant, or other person consents to the release of the information or has published the information contained in the release;

(3) makes a nonsubstantive change to this subdivision; or

(4) to provide a summary of investigation information to the person who filed the complaint with OCCC.

SECTION 9. Amends Section 14.202, Finance Code, as follows:

Sec. 14.202. New heading: REQUEST FOR INFORMATION; INVESTIGATION AUTHORITY. Deletes text specifying that the commissioner is authorized to conduct an investigation to determine whether a violation exists if a person fails to furnish the information requested by the commissioner. Makes nonsubstantive changes.

SECTION 10. Amends Sections 14.208(a) and (b), Finance Code, as follows:

(a) Deletes existing text authorizing a person to appeal the order to the finance commissioner as provided by Subsection (d) (relating to requiring a party to take certain action if the party seeks review of the order by the finance commission) or directly to the district court in accordance with Chapter 2001 (Administrative Procedure), Government Code.

(b) Provides that Chapter 2001, Government Code, governs the hearing and the right to judicial review in district court.

SECTION 11. Amends Section 14.251(b), Finance Code, as follows:

(b) Authorizes the commissioner to order the following businesses or other persons to pay, rather than make, restitution to an identifiable person:

(1) a person who violates or causes a violation of this chapter, Chapter 394, or Subtitle B (Loans and Financial Transactions), Title 4, or a rule adopted under this chapter, Chapter 394, or Subtitle B, Title 4;

(2) a credit access business who violates or causes a violation of Chapter 393 or a rule adopted under Chapter 393; or

(3) a person who violates or causes a violation of Subchapter B, Chapter 1956, Occupations Code, or a rule adopted under that subchapter, rather than injured by the violation.

SECTION 12. Amends Section 14.256, Finance Code, as follows:

Sec. 14.256. New heading: ACCEPTANCE OF PENALTY; DEFAULT. Requires the commissioner by order, if a person accepts the determination and recommended penalty of the commissioner or fails to make a timely written request for a hearing, to approve the determination and impose the recommended penalty, rather than requiring the commissioner by order, if a person accepts the determination and recommended penalty of the commissioner, to approve the determination and impose the recommended penalty.

SECTION 13. Amends Section 14.257(a), Finance Code, as follows:

(a) Requires the commissioner, if a person makes a timely written request for a hearing, rather than if a person requests a hearing or fails to give timely response to the notice, to set a hearing and give notice of the hearing to the person certified by mail.

SECTION 14. Amends Section 342.0515(c), Finance Code, as follows:

(a) Requires the finance commission, subject to Section 14.112, to adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section (Residential Mortgage Loan Originator Activities). Requires the finance commission, in adopting rules under this subsection, to ensure that:

(1)–(2) makes no changes to these subdivisions; and

(3) the applicant pays:

(A) makes no changes to this paragraph; and

(B) a license fee, rather than an annual license fee, in an amount determined by Section 14.107.

SECTION 15. Amends Section 342.101(c), Finance Code, to delete text specifying that an applicant is required, on the filing of each license application, to pay the commissioner for the license's year of issuance.

SECTION 16. Amends Section 342.102(c), Finance Code, to require the bond specified under this section (Bond) to be conditioned on the payment of all amounts that become due to the state or another person under this chapter during the period, rather than calendar year, for which the bond is given.

SECTION 17. Amends Subchapter C, Chapter 342, Finance Code, by adding Section 342.106, as follows:

Sec. 342.106. LICENSE TERM. Provides that a license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 18. Amends Section 342.154, Finance Code, as follows:

Sec. 342.154. New heading: LICENSE FEE. Requires a license holder, not later than 30 days before the date the license expires, rather than not later than December 1, to pay to the commissioner for each license held a fee, rather than an annual fee for the year beginning the next January 1, in an amount determined as provided by Section 14.107 (Fees).

SECTION 19. Amends Section 342.155, Finance Code, as follows:

Sec. 342.155. New heading: EXPIRATION OF LICENSE ON FAILURE TO PAY FEE. Removes the specification that the license fee is annual. Provides that a license expires on the 16th day after the date on which the written notice of delinquency of payment has been given to the license holder, rather than the later of that day or December 31 of the last year for which an annual fee was paid.

SECTION 20. Amends Subchapter D, Chapter 342, Finance Code, by adding Section 342.1555, as follows:

Sec. 342.1555. GROUNDS FOR REFUSING RENEWAL. Authorizes the commissioner to refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 21. Amends Section 342.156, Finance Code, to authorize the commissioner, after notice and opportunity for a hearing, rather than after notice and a hearing, to suspend or revoke a license if the commissioner makes certain findings. Makes a conforming change.

SECTION 22. Amends Section 345.157(d), Finance Code, to authorize one-half of the money in the account to be appropriated only to finance research conducted by the commissioner, rather than the finance commission, under Section 11.305 (Research) and the other one-half of the money in the account to be appropriated only to finance education activities and counseling services under Section 394.001 (Duties of Commissioner).

SECTION 23. Amends Section 345.351, Finance Code, as follows:

Sec. 345.351. REGISTRATION OF HOLDER. (a) Removes the specification that the fee required to be paid by a holder who is not an authorized lender under Chapter 342 or a credit union is an annual fee.

(b) Specifies that the procedures to facilitate registration and collection of fees that the finance commission by rule is authorized to establish under this section are subject to Section 14.112. Deletes text providing that the rules are authorized to provide for staggering throughout the year the dates on which fees are due.

(c) Provides that a registration issued under this section is valid for a period described by finance commission rule adopted under Section 14.112.

(d) Authorizes the commissioner to refuse to renew the registration of a holder who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 24. Amends Section 347.451, Finance Code, by amending Subsections (a), (b), and (d) and adding Subsections (a-1) and (e), as follows:

(a) Removes the specification that the fee of \$15 for each location at which a credit transaction is originated, serviced, or collected, is an annual fee.

(a-1) Provides that a registration issued under this section is valid for the period prescribed by finance commission rule adopted under Section 14.112.

(b) Makes conforming changes to this subsection.

(d) Removes the specification that the registration fee is an annual fee.

(e) Authorizes the commissioner to refuse to renew the registration of a creditor who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 25. Amends Section 347.4515, Finance Code, by adding Subsections (a-1) and (e) and amending Subsection (c), as follows:

(a-1) Provides that a license issued under this section (Residential Mortgage Loan Originator License Required) is valid for the period prescribed by finance commission rule adopted under Section 14.112.

(c) Requires the finance commission, subject to Section 14.112, to adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. Deletes text providing that the license fee is an annual fee.

(e) Authorizes the commissioner to refuse to renew the registration of an individual described by Subsection (b) who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 26. Amends Section 348.5015(c), Finance Code, to make conforming changes.

SECTION 27. Amends Section 348.502(b), Finance Code, to require the applicant, on the filing of a license application, to pay to the commissioner a license fee, rather than a license fee for the license's year of issuance.

SECTION 28. Amends Subchapter F, Chapter 348, Finance Code, by adding Section 348.5055, as follows:

Sec. 348.5055. LICENSE TERM. Provides that a license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 29. Amends Section 348.506, Finance Code, as follows:

Sec 348.506. New heading: LICENSE FEE. Makes conforming changes to this section.

SECTION 30. Amends Subchapter F, Chapter 348, Finance Code, by adding Section 348.5065, as follows:

Sec. 348.5065. GROUND FOR REFUSAL TO RENEW. Authorizes the commissioner to refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 31. Amends Section 348.507, Finance Code, as follows:

Sec. 348.507. New heading: EXPIRATION OF LICENSE ON FAILURE TO PAY FEE. Makes conforming changes to this section.

SECTION 32. Amends Section 348.508, Finance Code, to authorize the commissioner, after notice and opportunity for hearing, rather than notice and a hearing, to suspend or revoke a license if the commissioner makes certain findings. Removes the specification that the license fee is an annual fee.

SECTION 33. Amends Section 349.301, Finance Code, to make conforming changes.

SECTION 34. Amends Section 351.0515(c), Finance Code, to make conforming changes.

SECTION 35. Amends Section 351.101(c), Finance Code, to make a conforming change.

SECTION 36. Amends Section 351.102(c), Finance Code, to require that the bond created under this section be conditioned on certain requirements, including the payment of all amounts that become due to the state or another person under this chapter during the period, rather than the calendar year, for which the bond is given.

SECTION 37. Amends Subchapter C, Chapter 351, Finance Code, by adding Section 351.106, as follows:

Sec. 351.106. LICENSE TERM. Provides that a license issued under this chapter is valid for the period described by finance commission rule adopted under Section 14.112.

SECTION 38. Amends Subchapter D, Chapter 351, Finance Code, by adding Section 351.1535, as follows:

Sec. 351.1535. GROUNDS FOR REFUSAL TO RENEW. Authorizes the commissioner to refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 39. Amends Section 351.154, Finance Code, as follows:

Sec. 351.154. New heading: LICENSE FEE. Makes conforming changes to this section.

SECTION 40. Amends Section 351.155, Finance Code, as follows:

Sec. 351.155. New heading: EXPIRATION OF LICENSE ON FAILURE TO PAY FEE. Makes conforming changes to this section.

SECTION 41. Amends Section 351.156, Finance Code, to make conforming changes.

SECTION 42. Amends Section 352.003, Finance Code, by amending Subsections (a) and (c) and adding Subsections (a-1), (c-1), and (f), as follows:

(a) Deletes existing text specifying a date by which a person is required to provide the commissioner with certain information and a fee in order to register as a facilitator.

(a-1) Provides that a registration issued under this section (Registration of Facilitators) is valid for the period prescribed by finance commission rule adopted under Section 14.112.

(c) Requires the finance commission by rule to establish a deadline for the submission of the information required by Subsection (a) for initial issuance and renewal of registrations under this section.

(c-1) Creates this subsection from existing text and replaces a reference to a December 31 deadline with a reference to the applicable deadline for initial or renewal registrations.

(f) Authorizes the commissioner to refuse to renew the registration of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 43. Amends Section 352.006(b), Finance Code, as follows:

(b) Entitles the facilitator, if the commissioner proposes to revoke a registration, to notice and an opportunity for a hearing before the commissioner or a hearings officer, who is required to propose a decision to the commissioner. Requires the hearings officer to prescribe the time and place of the hearing if the facilitator makes a written request for a hearing not later than the 20th day after the date the facilitator receives the notice of the proposed revocation.

SECTION 44. Amends Section 353.502(b), Finance Code, to make a conforming change.

SECTION 45. Amends Subchapter F, Chapter 353, Finance Code, by adding Section 353.5055, as follows:

Sec. 353.5055. LICENSE TERM. Provides that a license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 46. Amends Section 353.506, Finance Code, as follows:

Sec. 353.506. New heading: LICENSE FEE. Makes conforming changes to this section.

SECTION 47. Amends Subchapter F, Chapter 353, Finance Code, by adding Section 353.5065, as follows:

Sec. 353.5065. GROUNDS FOR REFUSAL OF RENEWAL. Authorizes the commissioner to refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 48. Amends Section 353.507, Finance Code, as follows:

Sec. 353.507. EXPIRATION OF LICENSE ON FAILURE TO PAY FEE. Makes conforming changes to this section .

SECTION 49. Amends Section 353.508, Finance Code, to make conforming changes.

SECTION 50. Amends Section 354.005(d), Finance Code, to authorize all form denials, after an opportunity for a hearing under Chapter 2001, Government Code, to be appealed to a district court in accordance with that chapter, rather than appealed to the finance commission.

SECTION 51. Amends Section 371.002, Finance Code, to delete existing text relating to the licensing and regulation of pawnshop employees as a means of preventing transactions in stolen property and other unlawful property transactions.

SECTION 52. Amends Section 371.052, Finance Code, to delete existing text of Subsection (a)(1) requiring that an applicant be of good moral character to be eligible for a pawnshop license and to renumber the following subdivisions accordingly.

SECTION 53. Amends Section 371.055, Finance Code, to remove the specification that the fee in an amount determined as provided by Section 14.107 is an annual fee.

SECTION 54. Amends Section 371.062, Finance Code, to make a conforming change.

SECTION 55. Amends Subchapter B, Chapter 371, Finance Code, by adding Section 371.0625, as follows:

Sec. 371.0625. LICENSE TERM. Provides that a license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

SECTION 56. Amends Section 371.064, Finance Code, as follows:

Sec. 371.064. New heading: LICENSE FEE; EXPIRATION. (a) Requires a pawnbroker, not later than the 30th day before the date the license expires, rather than not later than December 1, to pay to the commissioner for each license held a fee, rather than an annual fee, in an amount determined as provided by Section 14.107. Removes the specification that the fee is for the year beginning the next January 1.

(b) Establishes that if the fee, rather than the annual fee, for a license is not paid before the 16th day after the date on which written notice of delinquency of payment has been given to the pawnbroker by the commissioner, the license

expires on that day, rather than the later of that day or December 31 of the last year for which an annual fee was paid.

SECTION 57. Amends Subchapter B, Chapter 371, Finance Code, by adding Section 371.0645, as follows:

Sec. 371.0645. GROUND FOR REFUSAL TO RENEW. Authorizes the commissioner to refuse to renew the license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 58. Amends Subchapter B, Chapter 371, Finance Code, by adding Section 371.074, as follows:

Sec. 371.074. PAWNBROKER RESPONSIBLE FOR EMPLOYEES AND AGENTS. Establishes that a license holder under this subchapter (Pawnshop License) is responsible for all acts of the license holder's officers, directors, employees, and agents acting on behalf of the pawnshop.

SECTION 59. Amends the heading to Subchapter C, Chapter 371, Finance Code, to read as follows:

SUBCHAPTER C. PAWNSHOP EMPLOYEE LICENSE PROGRAM

SECTION 60. Amends Section 371.101, Finance Code, as follows:

Sec. 371.101. New heading: PAWNSHOP EMPLOYEE LICENSE PROGRAM. (a) Authorizes, but does not require, a pawnbroker to participate in the pawnshop employee license program by notifying the commissioner in writing on a form prescribed by the commissioner.

(a-1) Authorizes a pawnbroker to submit a written notification to participate in the pawnshop employee license program under Subsection (a):

- (1) at the time of the pawnbroker's original license application;
- (2) at the time of a renewal of the pawnbroker's license; or
- (3) at another time prescribed by the commissioner.

(a-2) Authorizes a pawnbroker to notify the commissioner in writing of the pawnbroker's intention to no longer participate in the pawnshop employee license program at any time notification is permitted under Subsection (a-1). Provides that on receipt by the commissioner of a pawnbroker's notification under this subsection, the pawnbroker will no longer be a part of the pawnshop employee license program unless the pawnbroker resubmits a new notification for participation under Subsection (a-1).

(b) Creates this subsection from existing text from Subsections (a) and (b) and requires an individual who begins employment at a pawnshop for a pawnbroker that participates in the pawnshop employee license program under Subsection (a), as a condition of employment, to apply to the commissioner for a pawnshop employee license not later than the 75th day after the date employment begins. Authorizes the individual to continue employment until the license is issued or denied.

(c) Prohibits a participating pawnbroker, if the pawnbroker participates in the pawnshop employee license program under Subsection (a), from employing an individual to write a pawn transaction, buy or sell merchandise, or supervise another employee who writes pawn transactions or buys or sells merchandise unless the individual:

(1) has complied with Subsection (b), rather than has complied with Subsection (a), but has not been issued or denied a license; or

(2) makes no changes to this subdivision.

(d) Makes no changes to this subsection.

(e) Requires the finance commission, subject to Section 14.112, to adopt rules to administer the pawnshop employee license program.

SECTION 61. Amends Section 371.102(a), Finance Code, as follows:

(a) Requires an individual, to be eligible for a pawnshop employee license, to:

(1) be of good business repute, rather than be of good moral character and good business repute;

(2) makes a nonsubstantive change to this subdivision; and

(3) be employed by a pawnbroker that participates in the pawnshop employee license program under Section 371.101.

SECTION 62. Amends Section 371.103(b), Finance Code, to require the application to be accompanied by an investigation and annual fee in an amount determined as provided by Section 14.107, rather than an annual fee of \$25.

SECTION 63. Amends Section 371.105, Finance Code, to provide that a pawnshop employee license is valid for the period prescribed by finance commission rule adopted under Section 14.112, rather than effective until the license expires or is surrendered, suspended, or revoked.

SECTION 64. Amends Section 371.106, Finance Code, as follows:

Sec. 371.106. New heading: LICENSE FEE; EXPIRATION. (a) Requires a pawnshop employee license holder, not later than the 30th day before the date the license expires, to pay to the commissioner a fee in an amount determined as provided by Section 14.107, rather than requiring a pawnshop employee license holder, not later than December 1, to pay to the commissioner an annual fee of \$15 for the year beginning the next January 1.

(b) Requires the commissioner to send written notice of delinquency to a license holder who does not pay the fee on or before the 30th day before the date the license expires, rather than on or before December 1.

(c) Provides that, if the fee for a license is not paid before the 16th day after the date of the delinquency notice, the license expires on that day, rather than providing that, if the annual fee for a license is not paid before the 16th day after the date of the delinquency notice, the license expires on the later of that day or January 1 of the first year for which the annual fee was not paid.

(d) Provides that a pawnshop employee license expires on the 30th day after the last day of employment if the license holder ceases to be employed by a pawnbroker that participates in the pawnshop employee license program under Section 371.101 and is not employed within that time by another pawnbroker that participates in the pawnshop employee license program.

SECTION 65. Amends Subchapter C, Chapter 371, Finance Code, by adding Section 371.107, as follows:

Sec. 371.107. **GROUND FOR REFUSAL TO RENEW.** Authorizes the commissioner to refuse to renew the pawnshop employee license of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 66. Amends Section 371.251(a), Finance Code, as follows:

(a) Authorizes the commissioner to revoke or suspend a pawnshop license, after notice and opportunity for a hearing, if the commissioner finds that:

(1)–(5) makes no changes to these subdivisions;

(6) the pawnbroker or a legal or beneficial owner of the pawnbroker has been convicted of a crime, rather than is not of good moral character or has been convicted of a crime, that the commissioner finds directly relates to the duties and responsibilities of the occupation of pawnbroker; or

(7)–(8) makes no changes to these subdivisions.

SECTION 67. Amends Section 371.255, Finance Code, to authorize the commissioner, after notice and hearing, to revoke or suspend a pawnshop employee license if the commissioner finds that the business repute and general fitness of the license holder, rather than the moral character, the business repute, and the general fitness of the license holder do not warrant belief that the license holder will operate the business lawfully and fairly within the provisions of this chapter.

SECTION 68. Amends Section 371.258(c), Finance Code, to require the pawnbroker to pay the commissioner the delinquent \$125 fee, rather than the delinquent \$125 annual fee, plus a reinstatement fee as a condition of reinstatement.

SECTION 69. Amends Section 393.604(c), Finance Code, to require the applicant, on the filing of each license application, to pay to the commissioner a license fee, rather than pay to the commissioner for the license's year of issuance a license fee, in an amount determined as provided by Section 14.107.

SECTION 70. Amends Section 393.605(c), Finance Code, to require a certain bond to be conditioned on the payment of all amounts that become due to this state or another person under this subchapter during the period, rather than the calendar year, for which the bond is given.

SECTION 71. Amends Subchapter G, Chapter 393, Finance Code, by adding Sections 393.6085 and 393.6115, as follows:

Sec. 393.6085. **LICENSE TERM.** Provides that a license issued under this chapter is valid for the period prescribed by finance commission rule adopted under Section 14.112.

Sec. 393.6115. **GROUND FOR REFUSAL TO RENEW.** Authorizes the commissioner to 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.

SECTION 72. Amends Section 393.612, Finance Code, as follows:

Sec. 393.612. New heading: **LICENSE FEE.** Requires a license holder, not later than the 30th day before the date the license expires, rather than not later than December 1, to pay to the commissioner for each license held a fee, rather than an annual fee, in an amount determined as provided by Section 14.107. Deletes existing text specifying that the fee is for the year beginning the next January 1.

SECTION 73. Amends Section 393.613, Finance Code, as follows:

Sec. 393.613. New heading: **EXPIRATION OF LICENSE ON FAILURE TO PAY FEE.** Makes conforming changes to this section.

SECTION 74. Amends Section 393.614(a), Finance Code, to make conforming changes.

SECTION 75. Amends Section 394.204, Finance Code, by amending Subsections (b), (f), (g), and (k) and adding Subsection (j-1), as follows:

(b) Provides that a registration issued under this section (Registration) is valid for the period prescribed by finance commission rule adopted under Section 14.112, rather than providing that registration expires on December 31 of the year in which the registration occurs and is required to be renewed annually.

(f) Authorizes a person, subject to Subsection (j-1), to renew a registration by paying the appropriate fee and completing all required documents.

(g) Authorizes the finance commission, subject to Section 14.112 to, by rule, establish procedures to facilitate the registration and collection of fees under this section, rather than authorizing the finance commission to, by rule, establish such procedures including rules staggering throughout the year the dates on which fees are due.

(j-1) Authorizes the commissioner to refuse to renew the registration of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

(k) Authorizes the commissioner to suspend or revoke a provider's registration after notice and opportunity for a hearing, rather than after notice and hearing, if the commissioner finds that certain conditions are met.

SECTION 76. Amends Section 394.205(b), Finance Code, to include the total number of debt management plans the provider initiated on behalf of consumers in this state during that period, rather than year, among the information required in a report each provider is required to file with the commissioner at each renewal of the provider's registration.

SECTION 77. Amends Section 394.214(e), Finance Code, to include refusing to renew a registration among the methods the commissioner is authorized to use to enforce this subchapter and rules adopted under this subchapter.

SECTION 78. Amends Section 1956.0612, Occupations Code, by amending Subsections (b) and (d) and adding Subsections (b-1), (d-1), and (h), as follows:

(b) Requires a person, to register as a dealer, to provide to the commissioner, rather than to provide to the commissioner on or before December 31 preceding each calendar year in which the person seeks to act as a dealer, certain information and fees.

(b-1) Provides that a registration issued under this section (Registration as Dealer) is valid for a period described by finance commission rule adopted under Section 14.112, Finance Code.

(d) Requires the finance commission by rule to establish a deadline for the submission of the information and fee required by Subsection (b) for initial issuance and renewal of registrations under this section.

(d-1) Creates this subsection from existing text and makes conforming changes.

(h) Authorizes the commissioner to refuse to renew the registration of a person who fails to comply with an order issued by the commissioner to enforce this chapter.

SECTION 79. Amends Section 1956.0614(a), Occupations Code, to authorize the commissioner to revoke the registration of a dealer if the commissioner concludes that the dealer has violated an order issued by the commissioner to enforce this chapter.

SECTION 80. Amends Section 1956.063, Occupations Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Requires the dealer, for each transaction regulated by this subchapter (Sale of Crafted Precious Metal to Dealers), to submit a report on a preprinted and prenumbered form prescribed by the commissioner or in the manner described by Subsection (c-1).

(c-1) Authorizes a dealer to submit a list required by Section 1956.062(b) (relating to requiring a dealer to notify certain individuals and require the individuals to file a list containing certain information before a sale) to satisfy the reporting requirement under this section (Form of Report; Filing) if the list contains the information described by Subsection (c).

SECTION 81. Repealer: Section 14.208(d) (relating to review and appeal of an order by the finance commission), Finance Code.

Repealer: Section 371.052(b) (relating to certain individuals to whom provisions regarding eligibility for a pawnshop license apply), Finance Code.

Repealer: Section 371.304(b) (relating to providing that a person commits an offense if the person accepts employment at a pawnshop writing pawn transactions and does not comply with certain requirements), Finance Code.

Repealer: Section 371.304(c) (relating to providing that a person commits an offense if the person continues employment at a pawnshop if the person's application for a pawnshop employee license is denied or the license has expired or been revoked, suspended, or surrendered), Finance Code.

Repealer: Section 371.304(d) (relating to providing that an offense under this section is a Class B misdemeanor), Finance Code.

SECTION 82. Makes application of Section 14.112, Finance Code, as added by this Act, prospective.

SECTION 83. Provides that a license issued under Section 371.104 (Approval or Denial of Application), Finance Code, as added by this Act, before the effective date of this Act, expires on December 31, 2019.

SECTION 84. Provides that the changes in law made by this Act do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on that date.

SECTION 85. Makes application of Section 371.304, Finance Code, as amended by this Act, prospective. Provides that for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 86. (a) Requires the finance commissioner, not later than November 1, 2019, to adopt rules to implement the pawnshop employee license program under Section 371.101, Finance Code, as amended by this Act.

(b) Requires OCCC, not later than December 1, 2019, to be prepared to accept applications for licenses under the pawnshop employee license program described by Section 371.101, Finance Code, as amended by this Act.

SECTION 87. Effective date: September 1, 2019.