

**QUARTERLY UPDATE TO THE
SENATE BUSINESS AND COMMERCE COMMITTEE**

July 2, 2012

BY THE OFFICE OF CONSUMER CREDIT COMMISSIONER

Implementation of Legislation from the 82nd Legislature:

HB 2592: Payday and Title Loan Disclosures

HB 2594: Payday and Title Loan Licensing

Summary of Legislation

These bills amend Chapter 393 of the Finance Code to establish new requirements for “credit access businesses,” which are credit services organizations that provide payday loans or title loans. Under HB 2592, credit access businesses (CAB) are required to provide a disclosure prescribed by the Finance Commission. The disclosure must include interest, fees, and APR for the loan and a comparison of those charges to “alternative forms of consumer debt,” and it must describe fees that the consumer will incur for renewing the loan. Under HB 2594, credit access businesses are required to obtain a license with the OCCC. The OCCC has examination and investigation authority over credit access businesses. HB 2594 also requires the Finance Commission to create an endowment for financial education in Texas. The bills became effective January 1, 2012.

Implementation Actions

HB 2594 requires quarterly data reporting by the CABs. The first quarterly reports were submitted during April 2012 through an online portal. The information reported reflects activity at the location level for the preceding quarter. Data has been aggregated for a statewide report to be released during July. Information submitted by CABs is not audited for accuracy. However, upon receiving the information, the OCCC reviews it for reasonableness. As discovered, questionable data is presented to the business for verification. Subsequent amendments to reported information are expected. Several companies have been asked to re-review their submissions for the data associated with specific item numbers.

PRELIMINARY KEY DATA HIGHLIGHTS FROM THE 1ST QUARTER REPORT

Number of consumers for whom the CAB obtained an extension of credit	539,463
Number of extensions of credit obtained by CAB	792,350
Number of payday (deferred presentment) loans obtained	682,461
Number of auto title loans obtained	109,889
Average amount of single installment payday loan	\$470.99
Average CAB fee per \$100 borrowed for a single installment payday loan	\$21.64
Average original term (in days) of single installment payday loan	19
Number of vehicles surrendered or repossessed under auto title loan	4,681
Total number of locations reporting information	3,165

Credit Access Business examinations began in April of 2012. The process began with a focus on independent and small group licensees. The concern was that small organizations may have less understanding of the Credit Service Organization (CSO), third party lender and borrower relationship. The statutory and contractual concepts are very important in the authority of a CSO/CAB's ability collect the authorized fees.

Significant noncompliance was observed in the initial examination mainly due to a lack of understanding of the aforementioned requirements. As of June 29, 2012, 79 examinations have been completed with an average examination time of 11.2 hours; the projected estimated examination duration was 4 hours. Twelve of these examinations resulted in unacceptable levels of compliance. Major issues were expired or no registration with the Secretary of State, no CSO contract, no third party lender, and unauthorized fees. Compliance and examination duration are expected to improve as the focus moves to larger organizations. The consumer assistance section reports receiving 119 complaints between December 1, 2011, and March 31, 2012, and 54 complaints during April and May 2012 for a total of 173 complaints in the period December '11 – May '12. For the recent auto title complaints, repossessions were the highest category of complaints and charges and fees complaints were the most frequent for payday loan complaints.

The initial licensing process reached the initial 90-day mark on March 30, 2012, with 3,001 either permanently or provisionally licensed CAB locations. Significant licensing activity continued during the second quarter to act upon pending license applications.

CAB Applications	Data as of 06/30/12	3/30/12
Applications filed	3,529	3,451
Applications fully approved	2,957	2,579
Applications withdrawn	175	161
Applications denied	13	0
Provisional licenses issued	3,001	3,001
Remaining provisional licenses outstanding	362	713

HB 2490: Metal Dealers

Summary of Legislation

HB 2490 amends Chapter 1956 of the Occupations Code, requiring crafted precious metal dealers (including gold-buying businesses) to register with the OCCC. For each purchase, the dealer must complete a form listing the date of the transaction, a description of the metal product, and the name and address of the buyer and seller and then submit those transaction forms to local law enforcement authorities. If a peace officer notifies the dealer about an allegedly stolen item, the dealer will be required to hold the item for 60 days without altering or selling it. The OCCC has the authority to investigate complaints about metal dealers; consumer assistance reporting and data collection processes have been amended to include crafted precious metal dealers and agency representatives are

prepared to address any received concerns or complaints. The registration requirement became effective January 1, 2012.

Implementation Actions

Current implementation focus:

1. Education and outreach to consumers and business owners.
2. Accepting complaints made against crafted precious metal dealers.
3. Communication with local law enforcement regarding registration and reporting requirements.

Registered Precious Metal Dealers	Data as of 06/30/12	3/30/12
Permanent locations	2,213	1,903
Temporary locations	346	237
Total registered locations	2,559	2,240

SB 762: Property Tax Loan Fees

Summary of Legislation

SB 762 adds Section 351.0021 to the Finance Code, providing an exclusive list of post-closing fees that property tax lenders may charge. The bill became effective September 1, 2011. The bill also requires that the Finance Commission conduct a study of the interest, fees, and charges that are assessed by property tax lenders.

Implementation Actions

The OCCC staff collected and analyzed current and historical data to provide an understanding of the types and costs of fees charged to property tax loan borrowers in connection with obtaining the loan and after closing. Proposed study findings provide details of allowable charges and more specifically the actual occurrence of charges incurred by borrowers. Through examination of actual loans made, the study will classify the costs associated with property tax loans characterized by the paying habits of actual borrowers (non-problem, problem, and foreclosure loans). Data was obtained and analyzed from three sources:

(1) annual report filings collected for CY 2008 – CY 2011;

(2) a survey questionnaire filed as an addendum to the CY 2011 annual report which included historical data for CY 2008 – CY 2011; and

(3) a data survey collected onsite by OCCC examiners using a random sampling of loans sufficient in size to yield a 95% confidence level within three separate sampling frames.

A draft study report was prepared in May and circulated for stakeholder comment and revisions. The draft report was presented to the Finance Commission for consideration at their meeting on June 15. The Finance Commission

voted to table the report until their August 17 meeting. In the meantime, the report will be recirculated for any additional stakeholder comment and further revision.

A rule review of operational rules for property tax lenders was completed in mid-June.

HB 2931: Motor Vehicle Debt Cancellation Agreements

Summary of Legislation

HB 2931 provides a new statutory framework for debt cancellation agreements on financed motor vehicles where the motor vehicle is required to be insured for property damage. A debt cancellation agreement (DCA) is an agreement in which the holder of a retail installment contract will cancel all or part of the remaining amount owed on the finance contract if the vehicle is stolen or totaled. If a DCA requires the buyer to maintain insurance on the vehicle, the holder will generally cancel only the difference between the insurance coverage on the vehicle and the remaining amount owed. HB 2931 adds a new subchapter to Chapter 348 of the Finance Code, detailing the provisions that may be included in a DCA that requires insurance. The bill also requires the OCCC to approve or disapprove DCA forms within 45 days after they are submitted to the agency. The bill does not affect DCAs where the buyer is not required to obtain insurance. These agreements would still have to comply with the rules that the Finance Commission adopted in 2010. HB 2931 became effective September 1, 2011.

Implementation Activities

As a result of HB 2931, existing rules relating to DCAs that required insurance were repealed, as the new provisions of HB 2931 will control these agreements. The OCCC issued a bulletin detailing the process for submission of a DCA form for review.

The agency continues to receive a steady volume of DCA submissions. Members of the legal and examination departments continue with the collaborative process of reviewing DCAs. As of June 30, 2012, DCA review status is as follows:

Debt Cancellation Agreement Review Status	Data as of 06/30/12
Approved DCAs	312
Denied DCAs	49
DCAs Pending Review	17

SB 141: Debt Management and Debt Settlement

Summary of Legislation

SB 141 amends several provisions of Chapter 394 of the Finance Code relating to debt relief providers. SB 141 applies Chapter 394 to the debt settlement model, in which consumer funds are placed into an account that the company does not control, and the company obtains concessions allowing the debt to be settled for less than the principal amount owed. SB 141 became effective September 1, 2011.

Implementation Activities

The Finance Commission has promulgated rule amendments to conform the debt management rules with the modifications made by SB 141.

The total number of registered debt management providers has increased with 29 new Debt Management/Settlement registrations approved from September 1, 2011 to June 30, 2012. This brings the total number of Debt Management registrations to 79.

Other Issues of Interest:

Consumer Financial Protection Bureau (CFPB)

As a Texas financial regulator, the OCC's interest in CFPB activities and the impact of those activities to Texans and Texas financial service providers primarily center around four functional activities:

- Regulations
- Supervision
- Consumer Response
- Education

During the last quarter, OCC staff has worked on establishing relationships and exchange of information with CFPB staff. Much of the communication has been in the area of Supervision. Texas falls within the Southeast region of the CFPB supervision structure and the OCC has been engaged in regular communication with the southeast region staff. Additionally the OCC has been discussing and monitoring supervision, examination, and investigation activities with the CFPB of OCC-regulated providers. The OCC has participated with the CFPB on one examination. Further discussions with CFPB have centered on the Consumer Response function to develop and ensure information exchange, data transparency, and accountability for consumer complaints across jurisdictions. As the CFPB continues its growth as an established organization, the OCC remains committed to active involvement and participation with the CFPB ensuring that Texas is represented and adequately informed regarding regulatory activities affecting our financial services market.