



CREDIT ACCESS BUSINESS ADMINISTRATIVE ACTION REPORT

September 1, 2016 – August 31, 2017

Overview

The OCCC has approximately 2,046 credit access business licensees. During FY 2017, the OCCC issued 66 final orders for credit access business related violations. The most common violation in this industry is failing to timely file quarterly and annual reports. Of the 66 orders issued in FY 2017, 62 orders are for untimely reports, two orders are for unlicensed activity, and two orders are for inadequate notices or disclosures.

This report summarizes the statutes and rules that apply to the most common credit access business violations. The report also describes the typical enforcement action taken by the OCCC to address each type of violation.

Untimely Quarterly/Annual Report

Texas law requires a credit access business to file quarterly and annual reports with the OCCC.¹ When a credit access business fails to timely file a quarterly or annual report, the OCCC issues an injunctive order requiring the credit access business to file future reports in a timely manner. If the credit access business continues to violate the reporting deadline, the OCCC may assess administrative penalties and initiate a license revocation action.

In FY 2017, the OCCC initiated 62 enforcement actions against credit access businesses for failing to timely file a quarterly or annual report. Of the 62 enforcement actions, the OCCC issued an injunctive order against 42 credit access businesses for a first-time reporting violation. The OCCC assessed an administrative penalty against 18 credit access businesses for a second reporting violation. Lastly, the OCCC revoked two credit access business licenses for repeated or unresolved reporting violations.

¹ Section 393.627 of the Texas Finance Code; Title 7, Section 83.5001 of the Texas Administrative Code.

Unlicensed Activity

Texas law requires a license from the OCCC to operate as a credit access business.² A credit access business is a credit services organization that obtains for a consumer or assists in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan.³

In FY 2017, two entities operated as a credit access business without a license from the OCCC. The OCCC issued injunctive orders against both entities.

Inadequate Disclosure Forms

Texas law requires a credit access business to provide consumers with disclosures adopted by the Finance Commission of Texas.⁴ The Finance Commission has adopted disclosures for four categories of loans: (1) single payment payday loans, (2) multiple payment payday loans, (3) single payment auto title loans, and (4) multiple payment auto title loans.⁵ A credit access business must use the required disclosures and may make only limited changes.⁶

In FY 2017, one credit access business failed to provide adequate disclosure forms. The credit access business offered a “Single Payment to Lender with Multi-Payment to CAB” payday loan. The consumer makes a single payment to the lender, but pays the credit access business fee in multiple payments. This payment structure is a multiple payment payday loan, because the credit access business fee is due in more than one payment.⁷ The OCCC issued an injunctive order to the credit access business requiring it to revise its disclosures.

Inadequate Notice of Cancellation

Texas law requires a contract for the purchase of credit access business services to contain a conspicuous notice stating that the buyer may cancel the contract at any time before midnight of the third day after the date of the transaction.⁸ The contract must have two easily detachable copies of a cancellation notice that provide the credit access business’s address at its place of business.⁹ A credit

² Section 393.603 of the Texas Finance Code.

³ Section 393.221(1) of the Texas Finance Code.

⁴ Section 393.223 of the Texas Finance Code.

⁵ Title 7, Section 83.6007 of the Texas Administrative Code.

⁶ Title 7, Section 83.6008 of the Texas Administrative Code.

⁷ See Title 7, Section 83.1002(5), (8) of the Texas Administrative Code.

⁸ Section 393.202(a) of the Texas Finance Code.

⁹ Section 393.202(b) of the Texas Finance Code.

access business must obtain a license for each location at which it operates.¹⁰ The license must contain the address at which business is to be conducted.¹¹

In FY 2017, one credit access business failed to provide a proper notice of cancellation to consumers. The credit access business provided an out-of-state mailing address on the notice of cancellation instead of the licensed location address for its place of business. The OCCC issued an injunctive order to the credit access business requiring it to revise its notice of cancellation.

¹⁰ Section 393.603 of the Texas Finance Code; Section 393.001(3).

¹¹ Sections 393.221(1) and 393.609(a)(2) of the Texas Finance Code; Title 7, Section 83.3002(1)(A)(i) of the Texas Administrative Code.