



## REGULATED LENDER ADMINSTRATIVE ACTION REPORT

September 1, 2016 – August 31, 2017

### Overview

The OCCC has approximately 3,845 regulated loan licensees. During FY 2017, the OCCC issued 48 final orders for regulated loan related violations. The most common violation in this industry is failing to timely file an annual report. Of the 48 orders issued in FY 2017, 45 orders are for untimely reports, two orders are for insufficient net assets, and one order is for charging unauthorized fees.

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

### Untimely Annual Report

Texas law requires a regulated lender to file an annual report with the OCCC by May 1 of each year.<sup>1</sup> When a regulated lender fails to timely file its annual report, the OCCC issues an injunctive order requiring the lender to file future reports in a timely manner. If the lender continues to violate the reporting deadline, the OCCC may assess administrative penalties and initiate a license revocation action.

In FY 2017, the OCCC initiated 45 enforcement actions against regulated lenders for failing to timely file their annual report. Of the 45 enforcement actions, the OCCC issued an injunctive order to 32 lenders for a first-time reporting violation. The OCCC assessed an administrative penalty against 12 lenders for a second reporting violation. Lastly, the OCCC revoked one regulated lender license after the lender failed to timely file its annual report seven out of the last nine years.

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<sup>1</sup> Section 342.559 of the Texas Finance Code; Title 7, Section 83.835 of the Texas Administrative Code.

### **Insufficient Net Assets**

Texas law also requires a regulated lender to maintain minimum net assets that are readily available for use in the business.<sup>2</sup> Except for regulated lenders that obtained a license before 1967, the minimum net asset requirement is \$25,000 per licensed location.

In FY 2017, two regulated lenders failed to maintain sufficient net assets. Both lenders were issued an injunctive order requiring them to increase their net assets, and to maintain sufficient net assets in the future.

### **Documentary Fees**

Texas law authorizes a regulated lender to engage in business as a retail seller in a motor vehicle retail installment transaction under Chapter 348.<sup>3</sup> Prior to September 1, 2017, Texas law required a retail seller to provide prior written notice to the OCCC if the seller intended to charge a documentary fee above \$50.<sup>4</sup>

In FY 2017, one regulated lender failed to provide notice to the OCCC prior to charging a documentary fee above \$50 in motor vehicle retail installment transactions. To address this violation, the lender entered an Agreed Order to pay an administrative penalty of \$1,500.

As of September 1, 2017, Texas law requires a retail seller to provide notice, along with a cost analysis, only if the seller intends to charge a documentary fee above \$150.<sup>5</sup> If the seller charges a documentary fee above \$150 without providing prior notice and a cost analysis justifying the amount, the OCCC will issue an injunctive order requiring the seller to refund the amount above \$150. If the seller continues to charge unauthorized documentary fees, the OCCC may assess administrative penalties and initiate a license revocation action.

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<sup>2</sup> Section 342.153 of the Texas Finance Code.

<sup>3</sup> Section 348.501 of the Texas Finance Code.

<sup>4</sup> Section 348.006 of the Texas Finance Code; HB 3621 (81st Regular Session, 2009).

<sup>5</sup> Section 348.006 of the Texas Finance Code; HB 2949 (85th Regular Session, 2017).