

Motor Vehicle Advisory Bulletin: Licensing Requirements

This bulletin describes the licensing requirement for motor vehicle retail sellers and holders under Chapter 348 of the Texas Finance Code.

This bulletin is just a summary. Businesses are responsible for ensuring that they review and comply with all applicable laws, not just the laws described in this bulletin.

1. Which businesses are required to hold a Chapter 348 motor vehicle sales finance license?

Under Section 348.501 of the Finance Code, businesses are generally required to hold a Chapter 348 motor vehicle sales finance license issued by the OCCC if they:

- sell motor vehicles and agree to accept the price over time (including sales where the seller immediately assigns the agreement to another person), or
- take assignment or transfer of a motor vehicle retail installment contract (an agreement to sell a vehicle and take the cash price in one or more deferred payments).

Examples of businesses that must be licensed under Chapter 348:

- **Buy-here-pay-here dealerships:** If a dealership sells vehicles and accepts the price over time, then the dealership must hold a Chapter 348 license. The requirement applies regardless of whether the dealership places liens on vehicles, charges any finance charge or interest, or labels its agreement as a “retail installment contract.”
- **Dealerships that assign retail installment contracts:** If a dealership enters retail installment contracts and then assigns the contracts, then the dealership must hold a Chapter 348 license.
- **Finance companies and acceptance companies:** If a business takes assignment or transfer of motor vehicle retail installment contracts, then the business must hold a Chapter 348 license.
- **Related finance companies:** If an owner sets up two businesses with one as a dealership (entering retail installment contracts) and the other as a related finance company (taking assignment of retail installment contracts), then each business must hold a separate license.

Other relevant provisions:

- Section 348.001 generally defines “motor vehicle” to include cars, trucks, motor homes, and trailers. Motorcycles, boats, and all-terrain vehicles are not considered “motor vehicles” under the Finance Code, and are subject to a separate registration requirement under Chapter 345.
- Section 348.001 also defines other terminology that is relevant to the licensing requirement, including “holder,” “retail buyer,” “retail installment contract,” “retail installment transaction,” and “retail seller.”

- Exceptions to the licensing requirement (including exceptions for banks, savings banks, credit unions, and regulated lenders) are listed in Section 348.501(a)(1).
- The OCCC's rule at Title 7, Section 84.401 of the Texas Administrative Code explains that a person may not acquire a retail installment sales contract or an outstanding balance under a retail installment sales contract unless the person holds a Chapter 348 license or is exempt from licensing.
- Dealerships that sell motor vehicles are also subject to separate licensing requirements through the Texas Department of Motor Vehicles (TxDMV) under Chapter 2301 of the Texas Occupations Code.

2. Which locations are required to be licensed?

Generally, any motor vehicle sales finance activity must occur from a licensed location or registered office. A business must hold a license or other authorization for each location where motor vehicle retail installment transactions are made, negotiated, serviced, held, or collected. This requirement is described in Section 348.501(b) of the Finance Code, as well as the OCCC's rule at Title 7, Section 84.603 of the Texas Administrative Code.

Motor vehicle sales finance licensees are responsible for ensuring that all contact information on file with the OCCC (including the address of any licensed location or registered office) is current and correct, as explained by the OCCC's rule at Title 7, Section 84.607 of the Texas Administrative Code. Before relocating a licensed location or registered office, a licensee must notify the OCCC under Title 7, Section 84.609 of the Texas Administrative Code.

Section 341.503 explains that licensees may allow their employees to work from remote locations as long as they meet certain conditions, as explained in [OCCC Advisory Bulletin B21-3, Remote Work from Unlicensed Locations](#).

3. Can a business choose to obtain a Chapter 342 regulated lender license instead of a Chapter 348 motor vehicle sales finance license?

The OCCC licenses regulated lenders under Chapter 342 of the Finance Code. A Chapter 342 regulated lender license authorizes a business to engage in Chapter 348 motor vehicle sales finance transactions. See Sections 341.001 and 348.501 of the Finance Code. A business engaging in motor vehicle sales finance activity might choose to obtain a Chapter 342 license instead of a Chapter 348 license.

Generally, a business *must* hold a Chapter 342 license in order to make consumer loans at interest rates over 10%, broker or negotiate consumer loans at rates over 10%, or provide consumers with refinance loans at rates over 10% (loans that replace an existing loan or retail installment transaction). See Sections 342.005 and 342.051 of the Finance Code, as well as the OCCC's rule at Title 7, Section 83.102 of the Texas Administrative Code. A Chapter 348 license does not authorize these activities.

A Chapter 342 licensee must comply with the licensing requirements in Chapter 342 and its implementing rules. This includes the requirement to maintain net assets under Section 342.153, as well as the requirement to file annual reports under Section 342.559.

4. What are the consequences if a business engages in unlicensed activity?

If a business engages in unlicensed activity under Chapter 348, then the OCCC may bring legal action against the business. This could include an injunction to cease and desist, an order to make refunds to consumers, and an order to pay an administrative penalty.

An unlicensed business may also be subject to civil and criminal action under Chapter 349 if it charges interest or time price differential.

If a business intends to assign a motor vehicle retail installment contract to another business, then it is a best practice for each business to confirm that the other is appropriately licensed. If a retail installment contract is transferred to an unlicensed business, then a court might hold that the transfer is void. *See Waite v. Cage (In re Moye)*, 458 Fed. App'x 385, 390–91 (5th Cir. 2012) (finding the transfer of motor vehicle retail installment contracts to unlicensed persons to be void).

5. Can a business obtain a retroactive license?

An unlicensed business may be able to obtain a license with retroactive effect. The retroactive licensing requirements are described in Sections 349.301 and 349.303 of the Finance Code.

To obtain a retroactive license, a business must:

- (1) meet the eligibility requirements for licensing,
- (2) file a complete motor vehicle sales finance license application with required fees,
- (3) pay a \$10,000 late filing fee, and
- (4) pay annual license fees for any years that the business operated without a license.

The Finance Code and the OCCC's rules also allow retroactive licenses and registrations in certain cases where a licensee operates after its license has expired, or where a licensee operates from an unlicensed location. These situations require payment of a late filing fee and are described in Sections 349.301, 349.302, and 349.303 of the Finance Code, as well as the OCCC's rule at Title 7, Section 84.603(c) of the Administrative Code.

6. How can I notify the OCCC about an unlicensed business?

If you are aware of a business engaging in motor vehicle sales finance activity without a required license, you can file a complaint by following instructions on the [OCCC's complaint web page](#). The OCCC may be able to take action against the business to address the unlicensed activity.