

Title 7, Texas Administrative Code
Part 5. Office of Consumer Credit Commissioner
Chapter 86. Retail Creditors
Subchapter A. Registration of Retail Creditors

The Finance Commission of Texas (commission) adopts amendments to §86.102 (relating to Fees) and §86.103 (relating to Registration Term, Renewal, and Expiration) in 7 TAC Chapter 86, concerning Retail Creditors.

The commission adopts the amendments to §86.102 and §86.103 without changes to the proposed text as published in the June 30, 2023, issue of the *Texas Register* (48 TexReg 3449).

The commission received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 86 govern registrations with the Office of Consumer Credit Commissioner (OCCC) under Texas Finance Code, Chapters 345 and 347. In general, the purposes of the rule changes to 7 TAC Chapter 86 are to specify annual registration fees for registered creditors and manufactured home creditors, and to implement recent legislative amendments to Chapters 345 and 347.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC did not receive any informal precomments on the rule text draft.

The Texas Legislature passed SB 1371 in the 2023 regular legislative session. SB 1371 modernizes, clarifies, and corrects provisions of the Texas Finance Code administered by the OCCC. In particular, SB 1371 amends

provisions relating to registration fees. Currently, Texas Finance Code, §345.351 provides a \$10 annual fee for a registered creditor registration under Chapter 345, and Texas Finance Code, §347.451 provides a \$15 annual fee for a manufactured home creditor registration under Chapter 347. SB 1371 amends these sections to authorize the Finance Commission to set annual registration fees under Chapters 345 and 347. SB 1371 has been signed by the governor and will be effective September 1, 2023.

Amendments to §86.102 specify that the annual registration fee is \$10 for a Chapter 345 registration and \$15 for a Chapter 347 registration. These are the same amounts currently included in the Finance Code, so the rule amendments would not change the fees that registrants currently pay. The OCCC is responsible for the costs of its operations. Under Texas Finance Code, §16.002 and §16.003, the OCCC is a self-directed, semi-independent agency, and may set fees in amounts necessary for the purpose of carrying out its functions. The OCCC has reviewed its costs and determined that the \$10 and \$15 registration fee amounts are currently appropriate to cover the costs of carrying out the OCCC's responsibilities and functions under Texas Finance Code, Chapters 345 and 347. Other amendments throughout §86.102(b) ensure consistent use of the term "annual fee."

Amendments to §86.103 include updated cross-references to §86.102, to ensure that a reader can easily locate the fee provisions in §86.102.

The rule amendments are adopted under Texas Finance Code, §345.351 and §347.451 (as amended by SB 1371 (2023)), which authorize the commission to set fees for registrations under Texas Finance Code, Chapters 345 and 347. The rule amendments are also adopted under Texas Finance Code, §14.107 and §16.003, which authorize the commission and the OCCC to set fees in amounts necessary to carry out the functions of the OCCC. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Chapter 14 and Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 345 and 347.

§86.102. Fees

(a) Locations requiring registration. An annual registration fee is required for each location operated by a retail seller, creditor, holder or assignee.

(b) Annual fee. An annual fee is required under the provisions of Texas Finance Code, §345.351 or §347.451 and will be payable as follows:

(1) The annual fee is \$10 for a registration under Texas Finance Code, Chapter 345.

(2) The annual fee is \$15 for a registration under Texas Finance Code, Chapter 347.

(3) [~~(4)~~] A retail seller, creditor, holder, or assignee must pay an annual [~~a registration~~] fee for every chapter under which business is conducted.

(4) [~~(2)~~] The registration is not transferable between locations. A retail seller, creditor, holder, or assignee must obtain a registration for each new location.

(5) [~~(3)~~] No annual fee is required for a location operated by a retail seller, creditor, holder, or assignee operating under the provisions of Texas Finance Code, Chapter 345 or 347, provided the personnel at the location are not conducting regulated business with the consumer (e.g., storage, web-hosting, or data processing facility).

(c) Late filing fee. As provided by Texas Finance Code, §349.302(b), a person must pay a \$250 late filing fee for each registered location if the person:

(1) obtains a new registration after the person has begun engaging in business under Texas Finance Code, Chapter 345 or 347; or

(2) obtains a renewal more than 30 days after expiration.

(d) Evidence of registration. The Office of Consumer Credit Commissioner (OCCC) will issue a certificate evidencing registration under the provisions of Texas Finance Code, Chapter 345 or 347, and this section. A registrant may print a copy of its registration certificate through the OCCC's online licensing portal.

(e) Registration duplicates sent by mail. If a registrant does not print its registration certificate online, the registrant may request that the OCCC mail a registration duplicate for a fee of \$10 per certificate mailed.

§86.103. Registration Term, Renewal, and Expiration

(a) Registration term and renewal. An initial registration is effective from the date of its issuance until November 30. A registration must be renewed annually to remain effective. After renewal, a registration is effective for a term of one year, from December 1 of a calendar year to November 30 of the next calendar year.

(b) Due date for annual fee. The annual fee described by §86.102(b) of this title (relating to Fees) is due by November 30 of each year.

(c) Expiration. If a registrant does not pay the annual fee, the registration will expire on November 30.

(d) Late renewal. A person may renew an expired registration by December 30 by paying the annual fee. In order to renew an expired registration after December 30, a person must pay any registration fee for a prior year and the late filing fee described by §86.102 of this title [~~(relating to Fees)~~].

Certification

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on August 18, 2023.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner