

NOTICE OF PRECOMMENT DRAFT & ONLINE WEBINAR
Motor Vehicle Recordkeeping Rule Amendments
October 4, 2023 at 2:00 p.m.

The Office of Consumer Credit Commissioner (OCCC) will hold an online webinar on October 4, 2023, at 2:00 p.m. During the webinar, the OCCC will discuss the September 15 precomment draft of rule amendments relating to motor vehicle sales finance recordkeeping requirements. The OCCC will also accept informal written precomments until 5:00 p.m. on October 6. The OCCC plans to present this rule action for proposal at the Finance Commission's October 27 meeting.

Summary of Rule Amendments

The precomment draft includes the following proposed amendments to the OCCC's motor vehicle recordkeeping rules at 7 Tex. Admin. Code Sections 84.707, 84.708, and 84.709:

- *Debt cancellation agreement refunds:* Several of the draft amendments relate to records of refunds for debt cancellation agreements, and are intended to ensure consistency with HB 2746, a bill that the Texas Legislature passed in 2023. HB 2746 amended Section 354.007 of the Texas Finance Code to specify that retail sellers and third-party administrators are responsible for providing certain refunds upon cancellation or termination of a debt cancellation agreement, and to specify requirements for holders to provide written refunding instructions to sellers and administrators.
 - Sections 84.707 and 84.708 would be amended to specify that a retail seller must maintain documentation of the disbursement of the debt cancellation agreement fee, any written instruction from a holder to make a refund, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement.
 - Section 84.709 would be amended to specify that a holder must maintain any written refunding instructions to another person, any documentation that comes into the holder's possession regarding a refund on cancellation or termination of a debt cancellation agreement, and any other documentation that comes into the holder's possession regarding the cancellation or termination of a debt cancellation agreement.
- *County of title issuance form:* Sections 84.707 and 84.708 would be amended to remove references to the County of Title Issuance Form (Form VTR-136). The OCCC understands that this form is now obsolete and no longer used, following the passage of SB 876 (2021).
- *Tax collector's receipt:* Sections 84.707 and 84.708 would be amended to remove references to the Tax Collector's Receipt for Texas Title Application/Registration/Motor Vehicle Tax (Form 31-RTS). The OCCC understands that this form is now obsolete for motor vehicle dealer sales.
- *Technical corrections:* The draft includes technical corrections to references and cross-references throughout Sections 84.707 and 84.708.

The OCCC invites stakeholders to comment on these proposed rule amendments.

Participating in Webinar

Stakeholders are invited to listen and participate in the online webinar. Please follow the instructions available at: <https://attendee.gotowebinar.com/register/1914352432409016662>

Submission of Informal Precomments

Informal precomments on the draft rules may be submitted by email to rule.comments@occc.texas.gov, or by mail to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Blvd., Austin, Texas 78705.

Precomments submitted to the OCCC are generally public. Please redact all confidential information before submitting precomments to the OCCC.

Informal precomments on the OCCC's September 15 precomment draft must be received by 5:00 p.m. on October 6, 2023.

**OCCC Motor Vehicle Recordkeeping Rule Amendments
9/15/2023 Precomment Draft**

Title 7, Texas Administrative Code

Part 5. Office of Consumer Credit Commissioner

Chapter 84. Motor Vehicle Installment Sales

Subchapter G. Examinations

§84.707. Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)

(a) - (c) (No change.)

(d) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract entered into by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (7) ~~[(6)]~~ of this subsection.

(B) - (D) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) - (iii) (No change.)

(iv) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) [~~Tax Assessor's Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax handwritten receipt (Form 31-RTS),~~] or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(v) (No change.)

(vi) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (P) [~~(Q)~~] of this paragraph.

(B) - (D) (No change.)

~~[(E) for a retail installment sales transaction in which the retail buyer elects to have the vehicle registered in another county as permitted by Texas Transportation Code, §501.0234, a completed copy of the Texas Department of Motor Vehicles' County of Title Issuance form (Form VTR-136) signed by the retail buyer.]~~

(E) [~~(F)~~] for a retail installment sales transaction involving a downpayment, a copy of any document relating to the downpayment including:

(i) - (iv) (No change.)

(F) [~~(G)~~] for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).

(G) [~~(H)~~] for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document relating to the disbursement of funds for money advanced.

(H) [~~(I)~~] for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

(I) [~~(J)~~] for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction from a holder to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (7) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(J) [~~(K)~~] for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(K) [~~(L)~~] for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) - (ii) (No change.)

(L) [~~(M)~~] for a retail installment sales contract that has an itemized charge for the inspection of a used motor vehicle, access to a copy of the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

(M) [~~(N)~~] for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(N) [~~(O)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(O) [~~(P)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(i) - (ii) (No change.)

(P) [~~(Q)~~] any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) - (7) (No change.)

§84.708. Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)

(a) - (d) (No change.)

(e) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract made or acquired by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (10) ~~[(9)]~~ of this subsection.

(B) - (D) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) - (iv) (No change.)

(v) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) ~~[-Tax Assessor's Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax handwritten receipt (Form 31-RTS);]~~ or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(vi) (No change.)

(vii) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (U) ~~[(V)]~~ of this paragraph.

(B) - (D) (No change.)

~~[(E) for a retail installment sales transaction in which the retail buyer elects to have the vehicle registered in another county as permitted by Texas Transportation Code, §501.0234, a completed copy of the Texas Department of Motor Vehicles' County of Title Issuance form (Form VTR-136) signed by the retail buyer.]~~

(E) ~~[(F)]~~ for a retail installment sales transaction involving a downpayment, a copy of any record or document relating to the downpayment including:

(i) - (iv) (No change.)

(F) [~~(G)~~] for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).

(G) [~~(H)~~] for a retail installment sales contract that has an itemized charge for the inspection of a new or used motor vehicle, a copy of or access to the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

(H) [~~(I)~~] for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document, form, or agreement relating to the disbursement of funds for money advanced.

(I) [~~(J)~~] for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

(J) [~~(K)~~] for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (10) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(K) [~~(L)~~] for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(L) [~~(M)~~] for a retail installment sales transaction involving insurance claims for credit life, credit accident and health, credit property, credit involuntary unemployment, collateral protection, or credit gap insurance:

(i) - (ii) (No change.)

(M) [~~(N)~~] for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle:

(i) - (ii) (No change.)

(N) [~~(O)~~] for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) - (ii) (No change.)

(O) [~~(P)~~] for a retail installment sales transaction that has been repaid in full, evidence of the discharge or release of lien as prescribed by 43 TAC §217.106 (relating to Discharge of Lien).

(P) [~~(Q)~~] for a retail installment sales transaction involving a repossession, the records required by subsection (f) of this section.

(Q) [~~(R)~~] for a retail installment sales transaction in which the licensee agrees to defer all or part of one or more payments:

(i) - (ii) (No change.)

(R) [~~(S)~~] for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(S) [~~(T)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(T) [~~(U)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(i) - (ii) (No change.)

(U) [~~(V)~~] any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) - (10) (No change.)

(f) (No change.)

§84.709. Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)

(a) - (d) (No change.)

(e) Records required.

(1) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) - (C) (No change.)

(D) for a retail installment sales transaction in which the licensee issues or takes assignment of a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer and any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and any documentation that comes into the licensee's possession regarding a refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (9) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(E) (No change.)

(F) for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle, or involving the cancellation or termination of a debt cancellation agreement, the licensee must:

(i) maintain any documents that come into its possession relating to the creation, processing, [~~or~~] resolution, cancellation, or termination of a debt cancellation agreement; and

(ii) upon request of the agency, cooperate in requesting and obtaining access to the type of documents described in clause (i) of this subparagraph that are not in its possession.

(G) - (J) (No change.)

(3) - (9) (No change.)

(f) (No change.)