

Title 7, Texas Administrative Code
Part 5. Office of Consumer Credit Commissioner
Chapter 83. Regulated Lenders and Credit Access Businesses
Subchapter B. Rules for Credit Access Businesses

The Finance Commission of Texas (commission) proposes amendments to §83.3002 (relating to Filing of New Application), §83.3007 (relating to Processing of Application), §83.4003 (relating to Denial, Suspension, or Revocation Based on Criminal History), and §83.6007 (relating to Consumer Disclosures) in 7 TAC Chapter 83, Subchapter B, concerning Rules for Credit Access Businesses.

The rules in 7 TAC Chapter 83, Subchapter B govern credit access businesses (CABs). In general, the purpose of the proposed rule changes to 7 TAC Chapter 83, Subchapter B is to implement changes resulting from the commission's review of the subchapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 83, Subchapter B was published in the *Texas Register* on August 4, 2023 (48 TexReg 4283). The commission received no official comments in response to that notice.

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.

Proposed amendments to §83.3002 would update requirements for filing a new CAB license application. Currently, §83.3002(1)(A)(ii) requires a CAB license application to identify a "responsible person" with substantial management responsibility for each proposed office. The proposal would

replace the "responsible person" requirement in §83.3002(1)(A)(ii) with a requirement to list a "compliance officer," who must be an individual responsible for overseeing compliance, and must be authorized to receive and respond to communications from the OCCC. The amendment would enable CABs to identify an individual who can be contacted on a company-wide basis. The amendment is intended to ensure that each CAB lists an individual who can be contacted about compliance issues. In addition, a proposed amendment to §83.3002(2)(A)(v) would remove language suggesting that CAB license applicants send fingerprints directly to the OCCC. Currently, license applicants submit fingerprints through a party approved by the Texas Department of Public Safety.

Proposed amendments to §83.3007 would revise provisions governing the OCCC's denial of a CAB license application. Under Texas Finance Code, §393.603(b), if the OCCC finds that a CAB license applicant has not met the eligibility requirements for a CAB license, then the OCCC will notify the applicant. Under Texas Finance Code, §393.603(c), an applicant has 30 days after the date of the notification to request a hearing on the denial. Proposed amendments at §83.3007(d) would specify that if the eligibility requirements for a license have not been met, the OCCC will send a notice of intent to deny the license application, as described by Texas Finance Code, §393.603(b). Proposed amendments at §83.3007(e) would revise current language to specify that an affected applicant has 30 days from the date of the notice of intent to deny to request a hearing, as provided by Texas

Finance Code, §393.603(c). These amendments would ensure consistency with the license application denial process in Texas Finance Code, §393.603. The amendments are consistent with the OCCC's current practice for notifying an applicant of the intent to deny a license application.

Proposed amendments to §83.4003 relate to the OCCC's review of the criminal history of a CAB applicant or licensee. The OCCC is authorized to review criminal history of CAB applicants and licensees under Texas Occupations Code, Chapter 53; Texas Finance Code, §14.151; and Texas Government Code, §411.095. The proposed amendments to §83.4003 would ensure consistency with HB 1342, which the Texas Legislature enacted in 2019. HB 1342 included a change to Texas Occupations Code, §53.022 relating to factors considered in determining whether an offense relates to the duties and responsibilities of the licensed occupation. Proposed amendments to §83.4003(c)(2) would implement this statutory change from HB 1342. A proposed amendment to §83.4003(d) would correct an internal cross-reference in the rule.

Proposed amendments to the figures accompanying §83.6007 would revise the model forms for the consumer cost disclosure used by CABs. The proposed amendments implement Texas Finance Code, §393.223(a), which authorizes the commission to adopt rules including the disclosure. The proposed amendments include updated information regarding the cost of comparable forms of consumer credit, as well as updated information on patterns of repayment based on 2022 quarterly and annual reports provided by CABs to the OCCC.

Mirand Diamond, Director of Licensing, Finance and Human Resources, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Huffman Lewis, Director of Consumer Protection, has determined that for each year of the first five years the proposed rule changes are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will be more easily understood by licensees required to comply with the rules, will better enable licensees to comply with Chapter 393 of the Texas Finance Code, and will aid licensees in preparing disclosures that clearly disclose up-to-date information to consumers.

Additional economic costs may be incurred by persons who are required to comply with the proposed amendments to the consumer disclosure rule at §83.6007. The anticipated costs would include the costs associated with producing new forms, and costs attributable to the loss of obsolete forms inventory. For licensees not using the fillable forms provided by the agency online, any additional economic costs are anticipated to be minimal, with an estimated programming time of less than five hours to produce the updated forms.

The agency has attempted to lessen any potential costs by providing on the agency's website fillable PDF versions of the disclosure forms free of charge. Additionally, the agency is considering a delayed implementation date for use of the revised forms, which will help minimize potential costs and allow use of current forms inventory. In particular, the agency is considering a possible implementation date

of July 1, 2024, and invites comments on this issue.

The OCCC does not anticipate economic costs to persons who are required to comply with the other rule changes as proposed.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would expand current §83.3002 by specifying a requirement to identify a compliance officer, would expand current §83.3007 to specify the process to deny a CAB license application, and would expand current §83.4003 to specify requirements for the by amending grounds on which the OCCC may deny, suspend, or revoke a license on grounds of criminal history. The

proposal would limit current §83.3002 by removing a requirement for a license applicant to identify a responsible person for each office. The proposal would not repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule changes are proposed under Texas Finance Code, §393.622, which authorizes the commission to adopt rules necessary to enforce and administer Texas Finance Code, Chapter 393, Subchapter G (governing CABs). In addition, Texas Finance Code, §393.223 authorizes the commission to adopt rules regarding the cost disclosure used by CABs.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 393.

Division 3. Application Procedures

§83.3002. Filing of New Application

An application for issuance of a new credit access business license must be

submitted in a format prescribed by the commissioner at the date of filing and in accordance with the commissioner's instructions. The commissioner may accept the use of prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. Appropriate fees must be filed with the application and the application must include the following:

(1) Required application information. All questions must be answered.

(A) Application for license.

(i) (No change.)

(ii) Compliance officer. The application must list a compliance officer. The compliance officer must be an individual responsible for overseeing compliance, and must be authorized to receive and respond to communications from the OCCC. [~~Responsible person. For each of the applicant's proposed offices, the person with substantial management responsibility for operations must be named.~~]

(iii) - (iv) (No change.)

(B) - (E) (No change.)

(2) Other required filings.

(A) Fingerprints.

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

(v) For individuals who have previously submitted fingerprints to another state agency (e.g., Texas Department of Savings and Mortgage Lending), fingerprints are still required to be submitted under [~~to the~~ OCCC, as per] Texas Finance Code, §14.152.

Fingerprints cannot be disclosed to others, except as authorized by Texas Government Code, §560.002.

(B) - (F) (No change.)

(3) (No change.)

§83.3007. Processing of Application

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

(d) Notice of intent to deny application. If the OCCC does not find that the eligibility requirements for a license have been met, then the OCCC will send a notice of intent to deny the license application to the applicant.

(e) [~~(d)~~] Hearing. An [~~Whenever an application is denied, the~~] affected applicant has 30 calendar days from the date of the notice of intent to deny the license application [~~the application was denied~~] to request in writing a hearing to contest the denial. This hearing will be conducted pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, and the rules of procedure applicable under §9.1(a) of this title (relating to Application, Construction, and Definitions), before an administrative law judge who will recommend a decision to the commissioner. The commissioner will then issue a final decision after review of the recommended decision.

(f) [~~(e)~~] Denial. If an application has been denied, the assessment fee will be refunded to the applicant. The investigation fee and the fingerprint processing fee in §83.3010 of this title (relating to Fees) will be forfeited.

(g) [~~(f)~~] Processing time.

(1) - (3) (No change.)

Division 4. Application Procedures

§83.4003. Denial, Suspension, or Revocation Based on Criminal History

(a) - (b) (No change.)

(c) Crimes directly related to licensed occupation. The OCCC may deny a license application, or suspend or revoke a license, if the applicant or licensee has been convicted of an offense that directly relates to the duties and responsibilities of a credit access business, as provided by Texas Occupations Code, §53.021(a)(1).

(1) (No change.)

(2) In determining whether a criminal offense directly relates to the duties and responsibilities of holding a license, the OCCC will consider the following factors, as specified in Texas Occupations Code, §53.022:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; ~~and~~

(D) the relationship of the crime to the ability or ~~or~~ capacity ~~or fitness~~ required to perform the duties and discharge the responsibilities of a licensee; and ~~and~~

(E) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

(3) (No change.)

(d) Crimes related to character and fitness. The OCCC may deny a license application if the OCCC does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly, as provided by Texas Finance Code, §393.607(a). In conducting its review of character and fitness, the OCCC will consider the criminal history of the applicant and its principal parties. If the applicant or a principal party has been convicted of an offense described by subsections (c)(1) or ~~(f)(1)~~ ~~[(f)(2)]~~ of this section, this reflects negatively on an applicant's character and fitness. The OCCC may deny a license application based on other criminal history of the applicant or its principal parties if, when the application is considered as a whole, the agency does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly. The OCCC will, however, consider the factors identified in subsection (c)(2) - (3) of this section in its review of character and fitness.

(e) - (f) (No change.)

Division 6. Consumer Disclosures and Notices

§83.6007. Consumer Disclosures

(a) Consumer disclosure for single payment payday loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a single payment payday loan is presented in the following figure.

Figure: 7 TAC §83.6007(a) {See attached amendments.}

(b) Consumer disclosure for multiple payment payday loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a multiple payment payday loan is presented in the following figure.

Figure: 7 TAC §83.6007(b) {See attached amendments.}

(c) Consumer disclosure for single payment auto title loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a single payment auto title loan is presented in the following figure.

Figure: 7 TAC §83.6007(c) {See attached amendments.}

(d) Consumer disclosure for multiple payment auto title loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a multiple payment auto title loan is presented in the following figure.

Figure: 7 TAC §83.6007(d) {See attached amendments.}

(e) - (f) (No change.)

Certification

The agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's legal authority to adopt.

Issued in Austin, Texas on October 27, 2023.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner

CAB NAME HERE

Payday Loan

\$_____, One Payment

Cost Disclosure

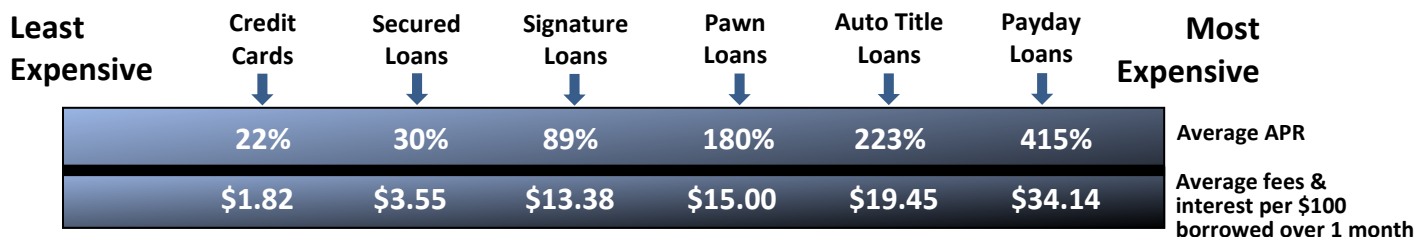
Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u>	\$ _____
Total of payments (if I pay on time)	\$ _____





APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____

Cost of other types of loans:



Repayment:

Of 10 people who get a new single-payment payday loan:	
	5 ¾ will pay the loan on time as scheduled (typically before 30 days)
	1 ½ will renew 1 time before paying off the loan
	1 ¾ will renew 2 to 4 times before paying off the loan
	1 will renew 5 or more times or will never pay off the loan

This data is from 2022 reports to the OCCC.

Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

OCCC notice:

- This company is regulated by the Texas Office of Consumer Credit Commissioner (OCCC).
- OCCC Consumer Helpline: (800) 538-1579, consumer.complaints@occc.texas.gov.
- Visit occc.texas.gov for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

CAB NAME HERE

Payday Loan

\$ _____, _____ Payments

Cost Disclosure

Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u>	\$ _____
Payment amounts (payments due every _____)	Payments #1-# _____ \$ _____ (Final) Payment # _____ \$ _____
Total of payments (if I pay on time)	\$ _____




APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____
_____	\$ _____	\$ _____

Cost of other types of loans:



Repayment:

Of 10 people who get a new multi-payment payday loan:	
	6 ¾ will pay the loan on time as scheduled (typically 5 months)
	¾ will renew 1 to 4 times before paying off the loan
	2 ½ will renew 5 or more times or will never pay off the loan.

This data is from 2022 reports to the OCCC.

Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

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CAB NAME HERE

Auto Title Loan \$_____, One Payment Cost Disclosure



You can lose your car.

If you miss a payment or make a late payment, your car can be repossessed.

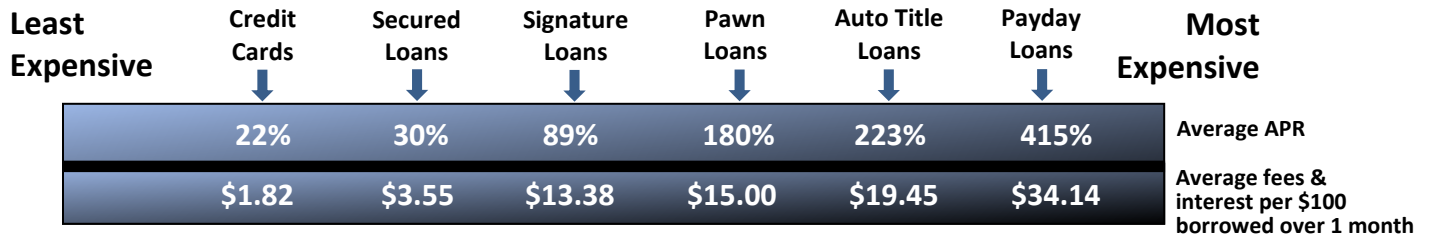
Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u> (includes a one-time \$__ title fee)	\$ _____
Total of payments (if I pay on time)	\$ _____

APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____

Cost of other types of loans:



Repayment:

Of 10 people who get a new single-payment auto title loan:	
	1 ¼ will pay the loan on time as scheduled (typically 30 days)
	¼ will renew 1 time before paying off the loan
	¾ will renew 2 to 4 times before paying off the loan
	7 ¼ will renew 5 or more times or will never pay off the loan

This data is from 2022 reports to the OCCC.

Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

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- Visit occc.texas.gov for more information.
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CAB NAME HERE

Auto Title Loan

\$_____, ____ Payments

Cost Disclosure



You can lose your car.

If you miss a payment or make a late payment, your car can be repossessed.

Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u> (includes a one-time \$__ title fee)	\$ _____
Payment amounts (payments due every _____)	Payments #1-# _____ \$ _____ (Final) Payment # _____ \$ _____
Total of payments (if I pay on time)	\$ _____





APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____
_____	\$ _____	\$ _____

Cost of other types of loans:



Repayment:

Of 10 people who get a new multi-payment auto title loan:	
	4 ¼ will pay the loan on time as scheduled (typically 5 - 6 months)
	¾ will renew 1 time before paying off the loan
	1 will renew 2 to 4 times before paying off the loan
	4 will renew 5 or more times or will never pay off the loan

This data is from 2022 reports to the OCCC.

Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

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