

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) adopts 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 commission adopts the amendments to §83.3002, §83.3007, and §83.4003 without changes to the proposed text as published in the November 10, 2023, issue of the *Texas Register* (48 TexReg 6516).

The commission adopts the amendments to §83.6007 with changes to the proposed figures as published in the November 10, 2023, issue of the *Texas Register* (48 TexReg 6516) and the corrected figures published in the November 24, 2023, issue of the *Texas Register* (48 TexReg 6927).

The commission received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 83, Subchapter B govern credit access businesses (CABs). In general, the purpose of the 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.

Amendments to §83.3002 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 adoption replaces 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 will 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, an amendment to §83.3002(2)(A)(v) removes 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.

Amendments to §83.3007 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. Amendments at §83.3007(d) 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). Amendments at §83.3007(e) 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 will 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.

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 amendments to §83.4003 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. Amendments to §83.4003(c)(2) implement this statutory change from HB 1342. An amendment to §83.4003(d) corrects an internal cross-reference in the rule.

Amendments to the figures accompanying §83.6007 revise the model forms for the consumer cost disclosure used by CABs. The amendments implement Texas Finance Code, §393.223(a), which authorizes the commission to adopt rules including the disclosure. The 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. Since the proposal, minor additional changes have been made to formatting, layout, and text of the figures, in order to improve formatting and ensure that the figures can be effectively used as fillable forms on the OCCC's website.

The commission and the OCCC will allow a delayed implementation date of September 1, 2024, for all licensees to provide the amended versions of the disclosures under §83.6007. From the rule's effective date through August 31, 2024, licensees may provide consumers with either the previous versions of the disclosures or the amended versions. Starting on September 1, 2024, licensees must provide the amended versions. Regardless of which version of the forms they use, licensees must ensure that their disclosures comply with all requirements in Texas Finance Code, §393.223 and the rule text of §83.6007 and §83.6008 (relating to Permissible Changes). In particular, licensees must ensure that they: (1) use the disclosure corresponding to the correct product (e.g., multiple payment payday loan), (2) provide the disclosure at a time that is both before a credit application is provided and before a financial evaluation occurs, and (3) ensure that the disclosure is completed with all required information.

The rule changes are adopted 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 adoption 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 [~~;~~] capacity [~~, or fitness~~] required to perform the duties and discharge the responsibilities of a licensee; 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 adoption and found it to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on February 16, 2024.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner

Figure: 7 TAC §83.6007(a)

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:

Least Expensive	Credit Cards	Secured Loans	Signature Loans	Pawn Loans	Auto Title Loans	Payday Loans	Most Expensive
	↓	↓	↓	↓	↓	↓	
	22%	30%	89%	180%	223%	415%	Average APR
	\$1.82	\$3.55	\$13.38	\$15.00	\$19.45	\$34.14	Average fees & interest per \$100 borrowed over 1 month

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 ¼ 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 CAB name here	\$ _____
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:

Least Expensive	Credit Cards	Secured Loans	Signature Loans	Pawn Loans	Auto Title Loans	Payday Loans	Most Expensive
	↓	↓	↓	↓	↓	↓	
	22%	30%	89%	180%	223%	415%	Average APR
	\$1.82	\$3.55	\$13.38	\$15.00	\$19.45	\$34.14	Average fees & interest per \$100 borrowed over 1 month

Repayment:

Of 10 people who get a new single-payment payday loan:

	6 ¾ will pay the loan on time as scheduled (typically before 5 months)
	¼ 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:

Least Expensive	Credit Cards	Secured Loans	Signature Loans	Pawn Loans	Auto Title Loans	Payday Loans	Most Expensive
	↓	↓	↓	↓	↓	↓	
	22%	30%	89%	180%	223%	415%	Average APR
	\$1.82	\$3.55	\$13.38	\$15.00	\$19.45	\$34.14	Average fees & interest per \$100 borrowed over 1 month

Repayment:

Of 10 people who get a new single-payment payday loan:

	1 ¼ will pay the loan on time as scheduled (typically before 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 ¾ 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

\$ _____, _____ 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:

Least Expensive	Credit Cards	Secured Loans	Signature Loans	Pawn Loans	Auto Title Loans	Payday Loans	Most Expensive
	↓	↓	↓	↓	↓	↓	
	22%	30%	89%	180%	223%	415%	Average APR
	\$1.82	\$3.55	\$13.38	\$15.00	\$19.45	\$34.14	Average fees & interest per \$100 borrowed over 1 month

Repayment:

Of 10 people who get a new single-payment payday 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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