

OCCC CASE NO. L25-024

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|--------------------------------|---|---------------------|
| IN THE MATTER OF: | § | BEFORE THE |
| | § | |
| MASTER FILE NO.: 18103 | § | OFFICE OF CONSUMER |
| FCC FINANCE LLC | § | |
| 17000 N. DALLAS PKY., STE. 120 | § | CREDIT COMMISSIONER |
| DALLAS, TEXAS 75248 | § | |
| | § | STATE OF TEXAS |

ORDER DISAPPROVING PLAIN LANGUAGE CONTRACT SUBMISSION

The Office of Consumer Credit Commissioner (“OCCC”) issues this Order Disapproving Plain Language Contract Submission against FCC Finance LLC (“FCC Finance”).¹

Statement of Facts and Law

Chapter 341 of the Texas Finance Code requires loan contracts entered under Chapter 342 of the Texas Finance Code to be written in plain language designed to be easily understood by the average consumer.² A creditor must use either a model contract adopted by rule of the Finance Commission of Texas or a contract that the creditor has submitted to the OCCC for plain language review.³ Non-standard contracts submitted to the OCCC must be printed in an easily readable type size, must be consistent with Texas and federal law, must include a notice with the OCCC’s contact information, and must not exceed a maximum Flesch-Kincaid grade level score.⁴ For contracts submitted under Chapter 342, Subchapter E, the maximum Flesch-Kincaid score is grade 9.⁵ For contracts submitted under Chapter 342, Subchapter F, the maximum Flesch-Kincaid score is grade 8.⁶

In November 2023, FCC Finance submitted a loan contract to the OCCC for plain language review. The submission form reflects that the form number for the submission is FCCF – REV 221015, and that the loan contract is intended to be

¹ Tex. Fin. Code §§ 14.208, 341.502.

² Tex. Fin. Code § 341.502(a).

³ Tex. Fin. Code § 341.502(b)-(c).

⁴ 7 Tex. Admin. Code § 90.104(a)(1)-(5).

⁵ 7 Tex. Admin. Code § 90.104(c)(4)(B).

⁶ 7 Tex. Admin. Code § 90.104(c)(4)(A).

used under Chapter 342, Subchapter E and Subchapter F of the Texas Finance Code. FCC Finance stated on its submission form that the Flesch-Kincaid grade level score for the submission is grade 11, above the maximum for both Subchapter E and F loan contracts. An OCCC examiner reviewed the submission and found that the Flesch-Kincaid grade level score for the loan contract is 11.5. In July 2024, the OCCC sent a letter to FCC Finance describing this issue. FCC Finance did not respond to the OCCC's letter.

The loan contract submitted by FCC Finance does not have a Flesch-Kincaid grade level score of 8 or below as required for contracts used under Chapter 342, Subchapter F, or a Flesch-Kincaid grade level score of 9 or below as required for contracts used under Chapter 342, Subchapter E of the Texas Finance Code. Therefore, FCC Finance's loan contract is not written in plain language designed to be easily understood by the average consumer, and does not comply with Section 341.502 of the Texas Finance Code and its implementing rules.

Authority

If the Commissioner determines that a plain language contract does not comply with Section 341.502 of the Texas Finance Code or its implementing rules, then the Commissioner shall issue an order disapproving the contract.⁷ If the Commissioner issues an order disapproving a contract, a person may not use the contract after the order takes effect.⁸

The Commissioner has determined that the contract submitted by FCC Finance does not comply with Section 341.502 of the Texas Finance Code and its implementing rules. For this reason, the Commissioner issues this Order.

⁷ Tex. Fin. Code § 341.502(c).

⁸ Tex. Fin. Code § 341.502(d).

Order

IT IS ORDERED that:

1. The plain language loan contract submitted by FCC Finance, form number FCCF – REV 221015, is DISAPPROVED.
2. FCC Finance must cease and desist using the loan contract with form number FCCF – REV 221015.
3. **No later than 30 days after the date of this Order**, FCC Finance must provide the OCCC with a written statement acknowledging that FCC Finance has ceased and desisted using the version of form number FCCF – REV 221015 that was submitted to the OCCC. FCC Finance must send the written statement by email to Audrey Spalding at audrey.spalding@occc.texas.gov.

Violation of Order

If you violate this Order, the OCCC may impose an administrative penalty of up to \$1,000 for each day.⁹

Right to Request Hearing

You have the right to request a hearing regarding this Order.¹⁰ To request a hearing, you must send a written hearing request to the OCCC no later than 30 days after the date of this Order.¹¹ You must send your request to Audrey Spalding, Assistant General Counsel, by mail to 2601 N. Lamar Blvd., Austin, TX 78705, or by email to audrey.spalding@occc.texas.gov.

If you request a hearing, a hearing will be set and conducted in accordance with Chapter 2001 of the Texas Government Code.¹² If you fail to request a hearing by this deadline, the Order will be considered final and enforceable.¹³

All communications with the OCCC concerning this matter must be through Audrey Spalding, Assistant General Counsel, who may be contacted by mail at

⁹ Tex. Fin. Code § 14.208(c).

¹⁰ Tex. Fin. Code § 14.208(b).

¹¹ Tex. Fin. Code § 14.208(b).

¹² Tex. Fin. Code § 14.208(b).

¹³ Tex. Fin. Code § 14.208(c).

2601 N. Lamar Blvd., Austin, TX 78705, by telephone at 512-936-7659, or by email to audrey.spalding@occc.texas.gov.

Signed this 18th day of December, 2024.

/s/ Leslie Pettijohn
Leslie L. Pettijohn
Consumer Credit Commissioner
State of Texas

CERTIFICATE OF SERVICE

I certify that on December 18, 2024, a true and correct copy of this Order Disapproving Plain Language Contract Submission has been sent to FCC Finance LLC by the following:

FCC Finance LLC
Attn: Angela Wilkin James Borschow,
Compliance Officer
17000 N. Dallas Pky., Ste. 120
Dallas, TX 75248
AWILKIN@fccfinance.com

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested
#9214 8901 9403 8300 0092 0664 40

FCC Finance LLC
Attn: Erin Barrentine, Plain Language
Contact Person
16479 Dallas Pky., Ste. 260
Addison, TX 75001
accounting@fccfinance.com

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested
9214 8901 9403 8300 0092 0937 43

FCC Finance LLC
Attn: Corporation Service Company,
Registered Agent
701 Brazos St., Ste. 1050
Austin, TX 78701

- email
- eFileTexas.gov electronic service
- regular mail
- certified mail, return receipt requested
#9214 8901 9403 8300 0092 0664 57

/s/ Audrey Spalding _____
Audrey Spalding
Assistant General Counsel
Office of Consumer Credit Commissioner
State Bar No. 24111055
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Austin, Texas 78705
512-936-7659 (phone)
audrey.spalding@occc.texas.gov