



## NOTICE OF STAKEHOLDER MEETING

### Regarding Credit Services Organizations and Attorney General Opinion KP-0277

December 9, 2019 at 2:30 p.m.

The Office of Consumer Credit Commissioner (OCCC) will hold a stakeholder meeting on December 9, 2019, at 2:30 p.m. in the Finance Commission Building, third floor hearing room, at 2601 North Lamar Blvd., Austin, Texas 78705. At the meeting, the OCCC will solicit comments and suggestions about the opinion issued by the Attorney General under number KP-0277 on November 1, 2019, which is available at:

<https://occc.texas.gov/publications/attorney-general-opinions>

The July 30, 2019 request for the opinion may contain useful background information, and is available on the same webpage.

#### Summary of Background and Purpose

The OCCC has historically interpreted Chapter 393 of the Texas Finance Code to authorize a credit services organization (CSO) to extend credit in only two forms – a deferred presentment transaction (also known as a payday loan) or a motor vehicle title loan. On November 1, 2019, the attorney general issued opinion number KP-0277. This opinion concluded that Chapter 393 does not restrict a CSO from assisting a consumer to obtain an extension of consumer credit in only these two forms. However, the attorney general declined to reach a conclusion as to whether Chapter 393 allows a CSO to assist a consumer to obtain an extension of credit in the form of a “signature loan” without providing any security in the form of a personal check, authorization to debit a deposit account, or a motor vehicle title. Attorney general opinions are not legally binding, but may provide persuasive analysis to courts and agencies.

The purpose of this meeting is to solicit comments and suggestions about the opinion, and its relevance to regulated businesses, consumers, and the regulatory landscape. The opinion describes two types of transactions involving CSOs. In the first type, a CSO acts as a credit access business (CAB) that assists a consumer in obtaining a deferred presentment transaction or motor vehicle title loan. For purposes of discussion, the OCCC calls this activity a “CAB transaction.” In the second type of transaction, the CSO assists a consumer in obtaining an extension of credit in a form other than a deferred presentment transaction or motor vehicle title loan. For purposes of discussion, the OCCC calls this activity a “non-CAB transaction.”

The OCCC is soliciting comments and suggestions about the following questions:

1. Does the opinion's analysis affect the regulatory landscape for CAB transactions (i.e., deferred presentment transactions and motor vehicle title loans)?
2. Must persons engaged in non-CAB transactions comply with all requirements of Chapter 393 other than those that apply specifically to CABs (i.e., Section 393.201(c), Subchapter C-1, Subchapter G)?
3. Are persons engaged in non-CAB transactions subject to the enforcement authority of the attorney general under Section 393.502?
4. Are persons engaged in non-CAB transactions subject to local ordinances and the enforcement authority of local governments?
5. Are persons engaged in non-CAB transactions subject to federal law and the enforcement authority of federal agencies (e.g., the Consumer Financial Protection Bureau, the Federal Trade Commission)?
6. Sections 14.101 and 14.201 of the Texas Finance Code give the OCCC authority to investigate and enforce violations of Chapter 393 with respect to a credit access business. What is the proper role of the OCCC in light of the opinion?
7. Section 393.602 of the Texas Finance Code says a person may not use a device, subterfuge, or pretense to evade the application of Chapter 393, Subchapter G. Under the opinion, what would constitute a device, subterfuge, or pretense to evade the application of Chapter 393, Subchapter G?
8. Section 393.303 of the Texas Finance Code says a credit services organization may not charge or receive from a consumer valuable consideration solely for referring the consumer to a retail seller who will or may extend to the consumer credit that is substantially the same as that available to the public. Under the AG opinion, what would constitute a violation of Section 393.303?
9. Does the opinion's analysis raise other significant policy issues?
10. Should the OCCC and the Finance Commission engage in rulemaking related to any of these issues? If so, what is the statutory basis for the rulemaking?

### **Participating in Meeting**

Stakeholders are invited to attend the meeting in person at the Finance Commission Building, or to listen and participate through an online webinar. To listen or participate online, please follow the instructions available at:

<https://attendee.gotowebinar.com/register/3659168503230489611>

### **Submission of Comments and Suggestions**

Comments and suggestions may be submitted by e-mail to [rule.comments@occc.texas.gov](mailto:rule.comments@occc.texas.gov), or in writing to Michael Rigby, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Blvd., Austin, Texas 78705.

***Please submit your comments and suggestions no later than 5:00 p.m. on December 12, 2019.***