

Title 7. Banking and Securities
Part 1. Finance Commission of Texas
Chapter 4. Credit Card Surcharge Appeal Procedures

The Finance Commission of Texas (the commission) adopts the repeal of 7 TAC, Part 1, Chapter 4, Credit Card Surcharge Appeal Procedures. Chapter 4 consists of Subchapter A, containing §§4.101-4.106, relating to contested case procedure for credit card surcharge violations occurring on or before August 31, 2013.

The commission adopts the repeal without changes to the proposed text as published in the September 1, 2017, issue of the *Texas Register* (42 TexReg 4379).

The commission received no written comments on the proposal.

The purpose of the adopted repeal is to delete obsolete rules contained in 7 TAC, Chapter 4. The commission has determined that Chapter 4 is no longer necessary, as the enforcement of the credit card surcharge prohibition has been transferred to the Office of the Attorney General (OAG).

Through August 31, 2017, Texas Finance Code, §339.001(c) stated that the commission had exclusive jurisdiction to enforce and adopt rules relating to §339.001. As enacted by the 85th Texas Legislature, Senate Bill (SB) 560 amended the credit card surcharge prohibition in §339.001 by transferring enforcement authority from the Office of Consumer Credit Commissioner (OCCC) to the OAG. Effective September 1, 2017, the bill relocates these provisions to §604A.0021 of the Texas Business and Commerce Code, which will ensure consistent enforcement with the existing debit card surcharge prohibition contained in §604A.002 also enforced by the OAG.

Additionally, there are no pending contested cases involving credit card surcharge violations on or before August 31, 2013, which is the time period governed by 7 TAC, Chapter 4.

The repeal is adopted under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to enforce Chapter 14 and Title 4 of the Texas Finance Code. Effective September 1, 2017, SB 560 amended the credit card surcharge prohibition in §339.001 by transferring enforcement authority from the OCCC to the OAG and relocating the prohibition to the Texas Business and Commerce Code.

The statutory provisions affected by the adopted repeal are contained in Texas Business and Commerce Code, §604A.0021 (formerly Texas Finance Code, §339.001).

§4.101. Definitions and Scope.

§4.102. Credit Card Surcharge Complaints.

§4.103. OCCC's Recommendation of Whether to Initiate Credit Card Surcharge Proceeding.

§4.104. Initiation and Notice of Credit Card Surcharge Proceeding.

§4.105. Contested Case on Credit Card Surcharge.

§4.106. Final Order on Credit Card Surcharge.

Certification

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on October 20, 2017.

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