

Title 7. Banking and Securities

Part 1. Finance Commission of Texas

Chapter 2. Chapter 2. Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner

Part 5. Office of Consumer Credit Commissioner

Chapter 82. Administration

Chapter 83. Regulated Lenders and Credit Access Businesses

Chapter 84. Motor Vehicle Installment Sales

Chapter 85. Pawnshops and Crafted Precious Metal Dealers

Chapter 86. Retail Creditors

Chapter 87. Tax Refund Anticipation Loans

Chapter 88. Consumer Debt Management Services

Chapter 89. Property Tax Lenders

7 TAC, Part 1, Chapter 2

The Finance Commission of Texas (commission) adopts amendments to §2.201 (relating to License Term, Renewal, and Expiration) in 7 TAC, Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

The commission adopts the amendments without changes to the proposed text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3380).

The commission received no written comments on the proposal.

In general, the purpose of the adopted amendments in 7 TAC, Chapter 2 is to implement provisions related to licensing and administration in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill authorizes

the commission to set the term of each license or registration issued by the OCCC, for a period up to two years.

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 agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

The adopted amendments specify the license term, renewal process, and expiration date for residential mortgage loan originators. These amendments implement Texas Finance Code, §14.112 (as added by HB 1442), which provides that the commission shall prescribe the licensing or registration period for licenses and registrations issued by the OCCC. In addition, the amendments modernize or remove obsolete language.

The individual purposes of the adopted amendments to Chapter 2 are provided in the following paragraph.

In §2.201, adopted amendments specify the term, renewal process, and expiration

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date for a residential mortgage loan originator license. The amendments maintain the current one-year term, the current December 31 expiration date, and the current reinstatement period from January 1 through the last day of February, all of which are currently described in §2.104. The title of §2.201 is also amended to state "License Term, Renewal, and Expiration," to ensure that the rule's title clearly conveys its contents, and to ensure consistency with other rules being amended in this adoption. In addition, adopted amendments shorten the titles of Chapter 2 and its two subchapters, in order to make these titles more simple and concise, and to clarify that Chapter 2 applies to residential mortgage loan originators regulated by the OCCC, not just those applying for licensure.

The amendments to 7 TAC, Chapter 2 are adopted under Texas Finance Code, §180.004, which authorizes the commission to adopt rules necessary to implement Texas Finance Code, Chapter 180. In addition, the amendments in §2.201 are authorized under Texas Finance Code, §14.112 (as added by HB 1442), which authorizes the commission to set license and registration terms.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14 and 180.

7 TAC, Part 5, Chapter 82

The Finance Commission of Texas (commission) adopts new §82.4 (relating to Consumer Complaint Process), and adopts the repeal of §82.4, in 7 TAC, Chapter 82, concerning Administration.

The commission adopts the amendments with changes to the proposed text as

published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3398).

The commission received two written comments on the proposal, from the Texas Automobile Dealers Association (TADA) and the Texas Independent Automobile Dealers Association (TIADA). The commission's responses to these comments are discussed after the discussion for each subsection of adopted new §82.4.

In general, the purpose of the adopted rule changes in 7 TAC, Chapter 82 is to implement provisions related to complaints in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill simplifies statutory provisions regarding complaint processing, in order to meet the Sunset Advisory Commission's across-the-board requirements.

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. Several stakeholders provided verbal feedback during the stakeholder meeting, and the OCCC received written precomments from stakeholders. The agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

Section 82.4 is being repealed and replaced with a new rule, to specify procedures for complaint processing. The

adopted new rule is based on Texas Finance Code, §14.062 (as amended by HB 1442), which provides that the OCCC will maintain a system to act efficiently on complaints, will make information available describing complaint procedures, and will periodically notify complaint parties of the status of the complaint. The new rule is also adopted in response to a recommendation of the Sunset Advisory Commission, which directed the OCCC and the commission to develop an updated complaint process in rule. The Sunset Advisory Commission identified the following best practices that should be included in the complaint procedure rule: details on the phases of the complaint process; overall timeline goals; intervals for notifying parties of the status of the complaint; a process for providing a summary of complaint resolution to the parties; information about appealing the OCCC's resolution of a complaint; procedures governing administrative dismissal of complaints; procedures for defining, counting, and reporting types of complaints; and definitions of how the OCCC distinguishes between complaints and inquiries. Sunset Advisory Commission, Finance Agencies Staff Report with Final Results, p. 57 (June 2019).

In adopted new §82.4, subsection (a) defines the terms "complainant," "complaint," "inquiry," and "OCCC." The rule distinguishes between a complaint and an inquiry by defining a complaint to refer to a communication that expresses dissatisfaction with a transaction or alleges wrongful conduct, and by defining an inquiry to refer to a communication other than a complaint. In the precomment draft, the OCCC had included communications requesting assistance with a transaction in the definition of "complaint." The OCCC received an informal precomment that

recommended against including requests for assistance in the definition, and pointed to a definition used by the Consumer Financial Protection Bureau. Based on this input, the OCCC believes that the adopted definition appropriately captures the sense of the term "complaint," and will help ensure that the OCCC accurately counts complaints.

Regarding the definition of "complaint," the official comment from TADA states: "The proposed definition of 'complaint' appears to be more expansive than necessary as it includes a person's expressed 'dissatisfaction with a transaction' as well as alleged wrongful conduct. Requiring the agency to process a person's dissatisfaction with a transaction may include compiling information on issues over which no agency has jurisdiction, such as a grievance regarding a lawful interest rate. TADA requests that consideration be given whereby instances in which there is no alleged or actual wrongdoing not be included in the agency's compilation of 'complaints' processed and that a person's 'dissatisfaction with a transaction' not be included within the agency's 'complaint' numbers."

Regarding this same issue, the official comment from TIADA states: "TIADA requests that the definition of 'complaint' be more focused in scope and have a specific nexus to an actual transaction. As currently drafted, any person may file a complaint against a licensed entity to commence an investigation." TIADA recommends replacing the first sentence of the definition of "complaint" with the following: "'Complaint' means a communication received by the OCCC consumer assistance department that expresses dissatisfaction with a consumer's personal financial transaction and alleges actual wrongful conduct."

The commission disagrees with these proposals to limit the definition of "complaint." The commission and the OCCC do not wish to create unnecessary barriers to filing a complaint. Consumers may not be able to articulate the exact nature of a violation or act of wrongdoing when they file a complaint. The OCCC will have to review the facts of a complaint to determine whether it is appropriate for the OCCC to act and whether the conduct is lawful. For this reason, the definition appropriately includes expressions of dissatisfaction with a transaction. Similarly, stating that the consumer must allege "actual wrongdoing" to file a complaint creates an unnecessary barrier. It is unclear how this definition would be administered in practice, because the OCCC must review the facts to determine whether the wrongdoing is actual. Finally, it is entirely appropriate to allow any person to file a complaint. The OCCC often receives complaints from a spouse or relative on behalf of the person who entered a transaction, as well as complaints that are referrals from other government agencies. The OCCC also receives complaints about ongoing business practices that might be broader than an individual personal transaction (e.g., ongoing unlicensed activity). Limiting complaints to the complainant's "personal financial transaction" would create an unnecessary barrier to filing a complaint. The OCCC encourages licensees to work with consumers to resolve issues before a complaint is filed. If a consumer files a complaint and the licensee believes that its actions are lawful, the licensee may be required to explain why the actions are lawful.

Adopted §82.4(b) describes the procedures by which the OCCC processes complaints. The subsection explains that it will send a summary of the complaint and

supporting documentation to the person who is the subject of the complaint, and that the person must respond by the deadline identified by the OCCC. The subsection explains that the OCCC will make reasonable efforts to resolve the complaint within 90 days. The subsection also describes circumstances where the OCCC may close complaints, including situations where the complaint is not supported by the evidence, is not within the OCCC's jurisdiction, contains no violation, or is resolved to the satisfaction of the parties. The subsection describes the process for appealing a complaint determination to senior staff of the OCCC consumer protection department. In response to a precomment, subsection (b) explains that the OCCC will notify the complaint parties of a request to appeal a complaint determination.

As originally proposed, §82.4(b)(11) would have provided a 30-day period for a complainant to appeal the closure of a complaint. After further consideration, the OCCC has determined that a 90-day period for complaint appeals would be more appropriate, to ensure that the complaint process provides an adequate opportunity for complainants to appeal a determination by the OCCC. For this reason, adopted §82.4(b)(11) contains a 90-day period for a complainant to appeal.

Regarding the complaint processing provisions in §82.4(b), the official comment from TADA states: "If a complainant who files a complaint is allowed to appeal, TADA requests that the party who is complained about should also be able to appeal a disposition" TADA suggests adding language allowing a person who is forwarded a complaint to appeal a complaint.

The commission believes that this additional language is unnecessary. The existing complaint process allows businesses to respond to complaints. If a complaint results in an enforcement action against a business, then the business would have due process rights to appeal the enforcement action under Texas Government Code, Chapter 2001 (the Administrative Procedure Act). It would create unnecessary complications for a business to appeal a complaint against it at the same time that it is appealing an enforcement action through a separate process.

The official comment from TADA also suggests adding a new subparagraph in §82.4(b)(11) stating: "If a new allegation or information is submitted with the appeal request, a new complaint will be opened and processed."

The commission believes that this language is unnecessary. A new complaint is just one possible outcome of an appeal. Whether it is appropriate to open a new complaint might depend on whether there is actually a new issue between the complaint parties. It is unnecessary to specify by rule that a new complaint will be opened in this situation.

Regarding references to inquiries throughout §82.4(b), the official comment from TIADA states: "We believe that the term 'inquiry' should not be included anywhere throughout the section titled 'complaint processing' as proposed in 82.4(b)(1)-(11). The inclusion of 'inquiry' terminology in subsections (1)-(11) appears to fall outside of the language contained in Section 14.92 of the Finance Code and otherwise creates confusion in reporting and tracking actual identified complaints."

The commission disagrees with this suggestion. The references to inquiries in §82.4(b) state that inquiries are public information, that the OCCC will determine whether an inquiry relates to an activity that the OCCC regulates, and that the OCCC will close an inquiry and refer the person making the inquiry to an appropriate regulatory entity if known. The commission does not believe that these provisions will create confusion in how complaints are tracked and reported. The term "inquiry" is defined in §82.4(a)(3) to refer to communications that are not complaints. The term is intended to capture questions received by the consumer assistance department that do not express dissatisfaction or allege wrongful conduct (e.g., "What is the maximum documentary fee?" or "Can the dealer repossess my car?"). This is consistent with the instruction from the Sunset Advisory Commission that the complaint processing rule "should clearly define how the agency differentiates between complaints and inquiries." Sunset Advisory Commission, Finance Agencies Staff Report with Final Results, p. 57. The provisions regarding inquiries are also consistent with the commission's general authority to adopt rules necessary to supervise the OCCC under Texas Finance Code, §11.304. Responding to inquiries helps the OCCC carry out its four-part philosophy of regulating fairly, educating consumers and businesses about rights and responsibilities, communicating collaboratively with consumers and businesses, and protecting consumers against abusive practices. Office of Consumer Credit Commissioner, Strategic Plan, Fiscal Years 2019 - 2023, p. 1 (June 2018).

Adopted new §82.4(c) explains that the OCCC will quarterly review certain closed complaints, that the OCCC will quarterly report complaint activity to the commission, and that the OCCC will make complaint

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procedure information available on its website.

In §82.4(c)(1), the official comment from TADA recommends specifying that the OCCC will maintain records of all inquiries, so that the paragraph would state: "The OCCC will maintain records of all complaints and inquiries received in accordance with its retention policy. These records will include the information required in Texas Finance Code, § 14.062." The commission believes that the phrase "and inquiries" is unnecessary in this provision. Some records related to inquiries may be subject to the record retention policy (e.g., phone logs, correspondence), but these records would generally not contain information described by Texas Finance Code, §14.062, which relates to complaints. Adding "and inquiries" in this provision would incorrectly suggest that inquiry records include complaint information.

In §82.4(c)(2), the official comment from TADA recommends specifying that the consumer assistance manager will quarterly review complaints closed due to "no wrongful conduct." In response to this comment, adopted §82.4(c)(2) has been changed since the proposal to specify that the quarterly review will include complaints where there is no violation. The provision has also been amended to specify that the consumer assistance manager will review a sample of closed complaints, consistent with the Sunset Advisory Commission's instruction that the OCCC should establish "a quality control process to ensure the agency checks a sample of complaints closed" for certain reasons. Sunset Advisory Commission, Finance Agencies Staff Report with Final Results, p. 57.

In §82.4(c)(3), the official comment from TADA recommends that the periodic complaint reports to the commission include "alleged misconduct in which the agency has jurisdiction as well as a separate category for inquiries." The commission disagrees with this suggestion. This language seems to suggest that the OCCC would not report nonjurisdictional complaints, or that nonjurisdictional complaints would be considered "inquiries" and reported separately. This is inconsistent with the recommendations of the Sunset Advisory Commission, which state that the complaint processing rule "should specifically require tracking and reporting of administratively dismissed complaints, complaints closed for lack of sufficient evidence, and nonjurisdictional complaints." Sunset Advisory Commission, Finance Agencies Staff Report with Final Results, p. 57.

In §82.4(c)(4), the official comment from TADA recommends specifying that the OCCC will make available on its website information describing procedures for inquiry receipt, investigation, and closure. The commission believes that the phrase "and inquiry" is unnecessary in this provision. As proposed, §82.4 adequately distinguishes between complaints and inquiries, consistent with the purpose of the section. It is not necessary for the rule to specify a website posting requirement for inquiry-related procedures.

The rule changes in 7 TAC, Chapter 82 are adopted under Texas Finance Code, §11.304, which authorizes the Finance Commission to adopt rules to administer Title 4 and Chapter 14 of the Texas Finance Code.

The statutory provisions affected by the adoption are contained in Texas Finance

Code, Chapters 14, 180, 342, 345, 347, 348, 351, 352, 353, 354, 393, and 394; and Texas Occupations Code, Chapter 1956.

7 TAC, Part 5, Chapter 83

The Finance Commission of Texas (commission) adopts amendments to §§83.309 (relating to License Inactivation or Voluntary Surrender), 83.403 (relating to License Term, Renewal, and Expiration), 83.3009 (relating to License Inactivation or Voluntary Surrender), and 83.4002 (relating to License Term, Renewal, and Expiration) in 7 TAC, Chapter 83, concerning Regulated Lenders and Credit Access Businesses.

The commission adopts the amendments without changes to the proposed text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3400).

The commission received no written comments on the proposal.

In general, the purpose of the adopted amendments in 7 TAC, Chapter 83 is to implement provisions related to licensing and administration in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill authorizes the commission to set the term of each license or registration issued by the OCCC, for a period up to two years.

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. Several stakeholders provided verbal feedback during the stakeholder meeting, and the OCCC received written precomments from stakeholders. The agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

The adopted amendments specify the license term, renewal process, and expiration date for regulated lenders and credit access businesses. These amendments implement Texas Finance Code, §14.112 (as added by HB 1442), which provides that the commission shall prescribe the licensing or registration period for licenses and registrations issued by the OCCC. In addition, the amendments modernize or remove obsolete language.

The individual purposes of the adopted amendments to Chapter 83 are provided in the following paragraphs.

In §83.309, an adopted amendment removes a subsection dealing with the date of license expiration for regulated lenders, because expiration is addressed in separate adopted amendments at §83.403. In addition, an adopted amendment changes the title of §83.309 from "License Status" to "License Inactivation or Voluntary Surrender," to provide more clarity about the subject matter of the section. Throughout §83.309 and other sections in this adoption, amendments replace the use of the word "commissioner" with the agency's acronym, "OCCC." The agency believes that the use of "OCCC" will provide better clarity to the rules when the context calls for action by the agency, as opposed to the commissioner specifically. Adopted amendments to the section also

update a citation and simplify references to filing a license amendment.

In §83.403, adopted amendments specify the term, renewal process, and expiration date for a regulated lender license. The amendments maintain the current one-year term and the current December 31 expiration date. New subsection (e) also explains that an expired license may be reinstated during the 180-day period described in Texas Finance Code, Chapter 349. The OCCC received an informal precomment explaining that regulated lenders under Chapter 342, Subchapter F of the Texas Finance Code favor a one-year license period, and that this period may help avoid confusion that could occur if the OCCC used a two-year licensing period.

In §83.3009, an adopted amendment removes a subsection dealing with the date of license expiration for credit access businesses, because expiration is addressed in separate amendments at §83.4002. In addition, an adopted amendment changes the title of §83.3009 from "License Status" to "License Inactivation or Voluntary Surrender," to provide more clarity about the subject matter of the section.

In §83.4002, adopted amendments specify the term, renewal process, and expiration date for a credit access business license. The amendments maintain the current one-year term and the current December 31 expiration date.

The amendments in 7 TAC, Chapter 83, Subchapter A are adopted under Texas Finance Code, §11.304, which authorizes the Finance Commission to adopt rules to administer Title 4 and Chapter 14 of the Texas Finance Code. The amendments to 7 TAC, Chapter 83, Subchapter B 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. In addition, the adopted amendments in §83.403 and §83.4002 are authorized under Texas Finance Code, §14.112 (as added by HB 1442), which authorizes the commission to set license and registration terms.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14, 342, and 393.

7 TAC, Part 5, Chapter 84

The Finance Commission of Texas (commission) adopts amendments in §84.309 (relating to Debt Cancellation Agreements Requiring Insurance) and §84.610 (relating to License Inactivation or Voluntary Surrender) to 7 TAC, Chapter 84, concerning Motor Vehicle Installment Sales. Additionally, the commission adopts new §84.617 (relating to License Term, Renewal, and Expiration), in 7 TAC, Chapter 84, concerning Motor Vehicle Installment Sales.

The commission adopts the amendments without changes to the proposed text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3403).

The commission received two written comments on the proposal, from the Texas Automobile Dealers Association (TADA) and the Texas Independent Automobile Dealers Association (TIADA). The commission's responses to these comments are discussed after the discussion of adopted new §84.617.

In general, the purpose of the adopted amendments and new rule in 7 TAC, Chapter 84 is to implement provisions related to

licensing and administration in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill addresses two issues that are relevant to this adoption. First, the bill authorizes the commission to set the term of each license or registration issued by the OCCC, for a period up to two years. Second, the bill removes current provisions from the Texas Finance Code stating that certain matters may be appealed to the commission, while maintaining a respondent's opportunity for judicial review in district court under the Administrative Procedure Act.

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. Several stakeholders provided verbal feedback during the stakeholder meeting, and the OCCC received written precomments from stakeholders. The agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

In general, this adoption is intended to fulfill two purposes. First, adopted amendments specify the license term, renewal process, and expiration date for motor vehicle sales finance licensees. These amendments implement Texas Finance Code, §14.112 (as added by HB 1442), which provides that the commission shall prescribe the licensing or registration period for licenses and registrations issued by the

OCCC. Second, an adopted amendment specifies procedures for appealing the denial of a debt cancellation agreement. In addition, the amendments modernize or remove obsolete language.

The individual purposes of the adopted amendments and new rule in Chapter 84 are provided in the following paragraphs.

In §84.309, adopted amendments specify the procedure for appealing the denial of a debt cancellation agreement in a contested case. The amendments remove references to appealing a denial to the commission. This is based on Texas Finance Code, §354.005(d) (as amended by HB 1442), which specifies that the denial of a debt cancellation agreement may be appealed to district court after an opportunity for a hearing, and removes references to appealing the denial to the commission.

In §84.610, an adopted amendment removes a subsection dealing with the date of license expiration for motor vehicle sales finance licensees, because expiration is addressed separately in new §84.617. Adopted amendments replace the use of the word "commissioner" with the agency's acronym, "OCCC." The agency believes that the use of "OCCC" will provide better clarity to the rules when the context calls for action by the agency, as opposed to the commissioner specifically. In addition, an adopted amendment changes the title of §84.610 from "License Status" to "License Inactivation or Voluntary Surrender," to provide more clarity about the subject matter of the section.

Adopted new §84.617 specifies the term, renewal process, and expiration date for a motor vehicle sales finance license. The new rule maintains the current one-year term, and

changes the expiration date from July 31 to October 31. Subsections (c) and (d) explain that expiration will occur after a notice of delinquency is sent to the licensee by mail or e-mail. The language on methods of sending the notice of delinquency is substantially similar to the rule previously located at §84.610(d). Subsection (e) also explains that an expired license may be reinstated during the 180-day period described in Texas Finance Code, Chapter 349. A temporary provision explains that licenses obtained or renewed in 2019 will be effective until October 31, 2020. The OCCC has determined that the October 31 date will better align with the OCCC's fiscal year, and will better enable the operational efficiencies associated with staggering different types of license and registration renewals throughout the year.

The official comments from both TADA and TIADA express support for a two-year license term. While the OCCC is open to considering two-year renewal in the future, the OCCC has several concerns. Currently, the motor vehicle sales finance licensee population sees a large amount of yearly turnover, with many new licensees coming into business each year and many other licenses expiring. Based on this turnover, the OCCC is concerned that a two-year renewal period would create additional complex and difficult situations pertaining to communications between licensees who have experienced changes in status or location and the OCCC. The OCCC is also concerned that the process of sending notifications to different portions of the licensed population on different dates would create confusion for licensees, who are most familiar with yearly renewal occurring on a common date for each license type. In addition, the OCCC is concerned about the additional costs that would result for the agency, including costly system modifications and fundamental

changes to budget structure. For these reasons, adopted §84.617 maintains the current one-year license period.

The official comment from TADA recommends that the text of §84.617 allow the OCCC to set the license term for a period up to two years. Under TADA's suggested language, the rule would state that a license "may be renewed annually or some other stated date that is no longer than two years, as provided by the agency's notice, to remain effective." The commission disagrees with this suggestion. Under Texas Finance Code, §14.112 (as added by HB 1442), the "finance commission by rule shall prescribe the licensing or registration period for licenses and registrations issued under" various chapters, including Chapter 348 of the Finance Code. Based on this statutory language, it is appropriate for the rule to specify the one-year license term.

In §84.617(c), the official comment from TADA recommends replacing "or" with "and," so that the OCCC would be required to send the notice of delinquency by both mail and e-mail at least 16 days before expiration. The commission disagrees with this suggestion. The new rule text at §84.617(c), which allows the notice to be sent by e-mail or mail, is substantially similar to the commission's previously adopted rule at §84.610(d). Currently, the OCCC sends the notice of delinquency by e-mail to those licensees that have provided an e-mail address, and by mail to licensees that have not provided an e-mail address. This is consistent with the OCCC's practice of encouraging the use of online electronic communication to make its licensing processes more efficient.

The amendments and new rule in 7 TAC, Chapter 84 are adopted under Texas Finance

Code, §11.304, which authorizes the Finance Commission to adopt rules to administer Title 4 and Chapter 14 of the Texas Finance Code. In addition, adopted new §84.617 is authorized under Texas Finance Code, §14.112 (as added by HB 1442), which authorizes the commission to set license and registration terms.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14, 348, 353, and 354.

7 TAC, Part 5, Chapter 85, Subchapter B

The Finance Commission of Texas (commission) adopts amendments to §85.1007 (relating to Registration Term, Renewal, and Expiration) in TAC, Chapter 85, concerning Pawnshops and Crafted Precious Metal Dealers.

The commission adopts the amendments without changes to the proposed text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3413).

The commission received no written comments on the proposal.

In general, the purpose of the adopted amendments in 7 TAC, Chapter 85, Subchapter B is to implement provisions related to licensing and administration in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill authorizes the commission to set the term of each license

or registration issued by the OCCC, for a period up to two years.

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 agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

The adopted amendments specify the registration term, renewal process, and expiration date for crafted precious metal dealers. These amendments implement Texas Finance Code, §14.112 (as added by HB 1442), which provides that the commission shall prescribe the licensing or registration period for licenses and registrations issued by the OCCC. In addition, the amendments modernize or remove obsolete language.

The individual purposes of the adopted amendments to Chapter 85, Subchapter B are provided in the following paragraph.

In §85.1007, adopted amendments specify the term, renewal process, and expiration date for a crafted precious metal dealer registration. The amendments maintain the current one-year term and the current December 31 expiration date. Additional amendments specify that December 31 is the due date for renewal fees, and that a registration for a temporary location is effective from the date of its issuance until it expires on December 31.

The amendments to 7 TAC, Chapter 85 are adopted under Texas Occupations Code, §1956.0611, which authorizes the commission to adopt rules necessary to implement Texas Occupations Code, Chapter 1956, Subchapter B. In addition, the adopted

amendments in §85.1007 are authorized under Texas Finance Code, §14.112 (as added by HB 1442), which authorizes the commission to set license and registration terms.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 14; and Texas Occupations Code, Chapter 1956.

7 TAC, Part 5, Chapter 86

The Finance Commission of Texas (commission) adopts amendments to §86.102 (relating to Fees) in 7 TAC, Chapter 86, concerning Retail Creditors. Additionally, the commission adopts new §86.103 (relating to Registration Term, Renewal, and Expiration) in 7 TAC, Chapter 86, concerning Retail Creditors.

The commission adopts the amendments without changes to the proposed text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3414).

The commission received no written comments on the proposal.

In general, the purpose of the adopted amendments and new rule in 7 TAC, Chapter 86 is to implement provisions related to licensing and administration in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill authorizes the commission to set the term of each license

or registration issued by the OCCC, for a period up to two years.

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 agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

The adopted amendments specify the registration term, renewal process, and expiration date for registered creditors. These amendments implement Texas Finance Code, §14.112 (as added by HB 1442), which provides that the commission shall prescribe the licensing or registration period for licenses and registrations issued by the OCCC.

The individual purposes of the adopted amendments and new rule in Chapter 86 are provided in the following paragraphs.

In §86.102, an adopted amendment removes a paragraph stating that the registration fee must be paid within 60 days of commencing operations, while another amendment adds a statement that a person must pay a \$250 late filing fee under Chapter 349 of the Texas Finance Code. These adopted amendments would ensure that the rule provides a clear reference to the statutory process for late registration under Chapter 349. Another adopted amendment removes a reference to the October 31 due date for the annual registration fee, because the due date is addressed separately in new §86.103.

Adopted new §86.103 specifies the term, renewal process, and expiration date for registered creditors. The new rule maintains the current one-year term, and specifies that

registrations expire on November 30. Adopted §86.103 also specifies the process for late renewal of an expired registration.

The amendments and new rule in 7 TAC, Chapter 86 are adopted under Texas Finance Code §11.304, which authorizes the Finance Commission to adopt rules to administer Title 4 and Chapter 14 of the Texas Finance Code. In addition, adopted new §86.103 is authorized under Texas Finance Code, §14.112 (as added by HB 1442), which authorizes the commission to set license and registration terms.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14, 345, and 347.

7 TAC, Part 5, Chapter 87

The Finance Commission of Texas (commission) adopts amendments to §87.107 (relating to Registration Term, Renewal, and Expiration) in 7 TAC, Chapter 87, concerning Tax Refund Anticipation Loans.

The commission adopts the amendments without changes to the proposed text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3416).

The commission received no written comments on the proposal.

In general, the purpose of the adopted amendments in 7 TAC, Chapter 87 is to implement provisions related to licensing and administration in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill authorizes the commission to set the term of each license or registration issued by the OCCC, for a period up to two years.

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 agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

The adopted amendments specify the registration term, renewal process, and expiration date for tax refund anticipation loan facilitators. These amendments implement Texas Finance Code, §14.112 (as added by HB 1442), which provides that the commission shall prescribe the licensing or registration period for licenses and registrations issued by the OCCC. In addition, the amendments modernize or remove obsolete language.

The individual purposes of the adopted amendments to Chapter 87 are provided in the following paragraph.

In §87.107, adopted amendments specify the term, renewal process, and expiration date for a refund anticipation loan facilitator registration. The amendments maintain the current one-year term and the current December 31 expiration date. In addition, adopted amendments replace the use of the word "commissioner" with the agency's acronym, "OCCC." The agency believes that the use of "OCCC" will provide better clarity to the rules when the context calls for action

by the agency, as opposed to the commissioner specifically.

The amendments in 7 TAC, Chapter 87 are adopted under Texas Finance Code, §11.304, which authorizes the Finance Commission to adopt rules to administer Title 4 and Chapter 14 of the Texas Finance Code. In addition, the adopted amendments in §87.107 are authorized under Texas Finance Code, §14.112 (as added by HB 1442), which authorizes the commission to set license and registration terms.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14 and 352.

7 TAC, Part 5, Chapter 88

The Finance Commission of Texas (commission) adopts amendments to §88.201 (relating to Registration Term, Renewal, and Expiration) in 7 TAC, Chapter 88, concerning Consumer Debt Management Services.

The commission adopts the amendments without changes to the proposed text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3417).

The commission received no written comments on the proposal.

In general, the purpose of the adopted amendments in 7 TAC, Chapter 88 is to implement provisions related to licensing and administration in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill authorizes the commission to set the term of each license or registration issued by the OCCC, for a period up to two years.

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 agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

The adopted amendments specify the registration term, renewal process, and expiration date for debt management services providers. These amendments implement Texas Finance Code, §14.112 (as added by HB 1442), which provides that the commission shall prescribe the licensing or registration period for licenses and registrations issued by the OCCC.

The individual purposes of the adopted amendments are provided in the following paragraph.

In §88.201, adopted amendments specify the term, renewal process, and expiration date for a debt management services provider registration. The amendments maintain the current one-year term, and specify that a registration expires on January 31.

The amendments to 7 TAC, Chapter 88 are adopted under Texas Finance Code, §394.214, which authorizes the commission to adopt rules to carry out Texas Finance Code, Chapter 394, Subchapter C. In addition, the adopted amendments in §88.201 are authorized under Texas Finance Code,

§14.112 (as added by HB 1442), which authorizes the commission to set license and registration terms.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14 and 394.

7 TAC, Part 5, Chapter 89

The Finance Commission of Texas (commission) adopts to §89.309 (relating to License Inactivation or Voluntary Surrender) and §89.403 (relating to License Term, Renewal, and Expiration) in 7 TAC, Chapter 89, concerning Property Tax Lenders.

The commission adopts the amendments without changes to the proposed text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3418).

The commission received no written comments on the proposal.

In general, the purpose of the adopted amendments in 7 TAC, Chapter 89 is to implement provisions related to licensing and administration in HB 1442, the Sunset legislation for the Office of Consumer Credit Commissioner (OCCC). The Texas Legislature passed HB 1442 in the 2019 legislative session.

HB 1442 continues the OCCC's existence as a state agency, and was passed in response to recommendations of the Texas Sunset Advisory Commission. The bill authorizes the commission to set the term of each license or registration issued by the OCCC, for a period up to two years.

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 agency believes that the participation of stakeholders in the rulemaking process is invaluable in presenting balanced proposals.

The adopted amendments specify the license term, renewal process, and expiration date for property tax lenders. These amendments implement Texas Finance Code, §14.112 (as added by HB 1442), which provides that the commission shall prescribe the licensing or registration period for licenses and registrations issued by the OCCC. In addition, the amendments modernize or remove obsolete language.

The individual purposes of the adopted amendments are provided in the following paragraphs.

In §89.309, an adopted amendment removes a subsection dealing with the date of license expiration for property tax lenders, because expiration is addressed in separate amendments at §89.403. Adopted amendments replace the use of the word "commissioner" with the agency's acronym, "OCCC." The agency believes that the use of "OCCC" will provide better clarity to the rules when the context calls for action by the agency, as opposed to the commissioner specifically. In addition, an adopted amendment changes the title of §89.309 from "License Status" to "License Inactivation or Voluntary Surrender," to provide more clarity about the subject matter of the section.

In §89.403, adopted amendments specify the term, renewal process, and expiration date for a property tax lender license. The amendments maintain the current one-year term and the current December 31 expiration date. New subsection (e) also explains that an expired license may be reinstated during the

180-day period described in Texas Finance Code, Chapter 349.

The amendments in 7 TAC, Chapter 89 are adopted under Texas Finance Code, §11.304, which authorizes the Finance Commission to adopt rules to administer Title 4 and Chapter 14 of the Texas Finance Code. In addition, the adopted amendments in §89.403 are authorized under Texas Finance Code, §14.112 (as added by HB 1442), which authorizes the commission to set license and registration terms.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapters 14 and 351.

Title 7, Texas Administrative Code

Part 1. Finance Commission of Texas

Chapter 2. Residential Mortgage Loan Originators Regulated by [~~Applying for Licensure with~~] the Office of Consumer Credit Commissioner [~~Under the Secure and Fair Enforcement for Mortgage Licensing Act~~]

Subchapter A. Application Procedures [~~for Office of Consumer Credit Commissioner Applicants~~]

Subchapter B. Operational Requirements [~~for Office of Consumer Credit Commissioner Licensees~~]

§2.201. License Term, Renewal, and Expiration.

(a) License term. A new residential mortgage loan originator license is effective from the date of its issuance until December 31. A license must be renewed annually in order to remain effective. After renewal, a

license is effective for a term of one year, from January 1 to December 31.

(b) [(a)] Requirements. A license may be renewed if:

(1) the RMLO submits a completed application for renewal through the NMLS together with the payment of the applicable renewal application fee;

(2) the OCCC determines that the RMLO continues to meet the minimum requirements for license issuance, including financial responsibility, character, and general fitness, as provided in Texas Finance Code, §180.055, and subsection (g) [(d)] of this section; and

(3) the RMLO provides satisfactory evidence that the RMLO has completed the continuing education requirements of Texas Finance Code, §180.060.

(c) Due date for annual fees. Annual renewal fees are due by December 31 of each year.

(d) Expiration. A residential mortgage loan originator license expires on December 31 if the annual renewal fee has not been paid by December 31. After expiration, a license may be reinstated during the period from January 1 through the last day of February.

(e) [(b)] Rejection of renewal. Renewal of a license may be rejected for reasons provided in Texas Finance Code, §180.201.

(f) [(e)] Additional information. The OCCC may require additional, clarifying, or supplemental information from any applicant for the renewal of a license pursuant to Texas Finance Code, Chapter 180 in order to determine compliance with the law.

(g) [~~(d)~~] Additional background checks. After initial issuance of a license, the OCCC may require additional criminal and credit background checks in order to determine an RMLO's continuing compliance with the law.

Part 5. Office of Consumer Credit Commissioner

Chapter 82. Administration

{{The following section will replace current section 82.4, which will be repealed.}}

§82.4. Consumer Complaint Process.

(a) Definitions.

(1) "Complainant" means a person who files a complaint with the OCCC.

(2) "Complaint" means a communication received by the OCCC consumer assistance department that expresses dissatisfaction with a transaction or alleges wrongful conduct. For purposes of this section, the OCCC will collect the following items and information regarding a complaint, if available:

(A) the complainant's name and contact information;

(B) the name of the person against whom the complaint is submitted;

(C) the date and place of the alleged misconduct, violation, or transaction;

(D) a description of the facts or conduct alleged to violate applicable statutes or rules, and the transaction; and

(E) any written documentation supporting the complaint.

(3) "Inquiry" means a communication received by the OCCC consumer assistance department that is not a complaint.

(4) "OCCC" means the Office of Consumer Credit Commissioner of the State of Texas.

(b) Complaint processing.

(1) Complaints and inquiries filed with the OCCC are generally considered public information, unless a specific statutory exception applies.

(2) Upon receipt of a complaint and at the request of the complainant, the OCCC will make a good faith effort to protect the complainant's identity to the extent possible.

(3) The OCCC will determine whether the complaint or inquiry relates to an activity that the OCCC regulates.

(4) If the OCCC does not regulate the activity that is the subject of the complaint or inquiry, the OCCC will close the complaint or inquiry and refer the person making the complaint or inquiry to the appropriate regulatory entity, if known.

(5) If the OCCC regulates the activity that is the subject of a complaint, the OCCC will send a summary of the complaint and appropriate supporting documentation to the person that is the subject of the complaint.

(6) The OCCC will prioritize complaints for purposes of determining the order in which complaints are investigated, taking into account the seriousness of the

allegations made in a complaint and the length of time a complaint has been pending.

(7) A person that receives a complaint forwarded by the OCCC must respond by the deadline identified by the OCCC when it forwards the complaint.

(8) The OCCC will monitor how long each complaint is open, and will make all reasonable efforts to resolve complaints within 90 days of receipt. The OCCC will notify the complainant of their complaint status at least quarterly until final disposition, unless such notice would jeopardize an ongoing complaint analysis, a field investigation, or a pending enforcement action.

(9) If the OCCC determines that the complaint is not supported by the evidence, is not within the OCCC's jurisdiction, contains no violation, or is resolved to the satisfaction of the parties, the complaint will be closed. Upon closure, the OCCC will promptly send a closure summary outlining the results of the complaint analysis to all parties to the complaint.

(10) The OCCC will notify all parties to the complaint within 10 business days of closing the complaint.

(11) A complainant who disagrees with the disposition of a complaint may appeal by sending a written appeal request to the OCCC consumer assistance department within 90 calendar days after the date of the closure summary. Upon receipt of an appeal request, the OCCC will notify the complaint parties of the request, and a senior member of the OCCC consumer protection department will review all information and make a determination regarding the complaint. The

OCCC will send a letter of its final findings to the complaint parties.

(c) Complaint review and reporting.

(1) The OCCC will maintain records of all complaints received in accordance with its retention policy. These records will include the information required in Texas Finance Code, §14.062.

(2) At least quarterly, the consumer assistance manager will review a sample of complaints closed administratively, due to lack of jurisdiction, due to lack of a violation, or due to lack of evidence.

(3) At least quarterly, the OCCC will submit to the Finance Commission a report of the sources, subjects, types, and dispositions of complaint activity during the preceding period.

(4) The OCCC will make available on its website information describing procedures for complaint receipt, investigation, and closure.

[§82.4. Consumer Complaint Process.]

[(a) Purpose. The purpose of this section is to clarify the applicability of Texas Finance Code, §14.062, Consumer Information and Complaints.]

[(b) Definitions. The following terms, when used in this section, have the following meanings:]

[(1) OCCC—The Office of Consumer Credit Commissioner of the State of Texas.]

[(2) Person filing the complaint—An individual who has sought or is seeking to obtain goods, services, or financing from a

~~commercial entity. This definition applies for purposes of Texas Finance Code, §14.062(b) and (c).]~~

~~[(e) Copy of OCCC policies and procedures. As provided by Texas Finance Code, §14.062(b), the OCCC will provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the OCCC's policies and procedures relating to complaint investigation and resolution.]~~

~~[(d) Copy of policies and procedures not required. If the OCCC receives a complaint from a source other than a person filing the complaint (e.g., another state agency), then the OCCC is not required to send the policies and procedures to the subject of the complaint or the source of the complaint.]~~

Chapter 83. Regulated Lenders and Credit Access Businesses

*Subchapter A. Rules for Regulated Lenders
Division 3. Application Procedures*

§83.309. License Inactivation or Voluntary Surrender [Status].

(a) Inactivation of active license. A licensee may cease operating under a regulated loan license and choose to inactivate the license. A license may be inactivated by giving notice of the cessation of operations not less than 30 calendar days prior to the anticipated inactivation date. Notification must be provided by filing a license amendment ~~[filed on the Amendment to a License]~~ or an approved electronic submission as prescribed by the OCCC ~~[commissioner]~~. The notice must include the new mailing address for the license, the effective date of the inactivation, and the fee for amending the license. A licensee must

continue to pay the yearly renewal fees for an inactive license as outlined in §83.310 of this title (relating to Fees), or the license will expire as described by §83.403 of this title (relating to License Term and Annual Renewal).

(b) Activation of inactive license. A licensee may activate an inactive license by giving notice of the intended activation not less than 30 calendar days prior to the anticipated activation date. Notification must be provided by filing a license amendment ~~[filed on the Amendment to a License]~~ or an approved electronic submission as prescribed by the OCCC ~~[commissioner]~~. The notice must include the contemplated new address of the licensed office, the approximate date of activation, and the fee for amending the license as outlined in §83.310 of this title.

(c) (No change.)

~~[(d) Expiration. A license will expire on the later of December 31 of each year or the 16th day after the written notice of delinquency is given unless the annual assessment fees have been paid by the due date for license renewal. A licensee that pays the annual assessment fees will automatically be renewed even though a new license may not be issued.]~~

Division 4. License

§83.403. License Term, Renewal, and Expiration ~~[Notice of Delinquency in Payment of Annual Assessment Fee].~~

(a) License term and renewal. A new license is effective from the date of its issuance until December 31. A license must be renewed annually to remain effective. After renewal, a license is effective for a term of one year, from January 1 to December 31.

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(b) Due date for annual assessment fee. The annual assessment fee is due by December 1 of each year.

(c) Notice of delinquency. If a licensee does not pay the annual assessment fee, the OCCC will send a notice of delinquency. Notice [For purposes of Texas Finance Code, §342.155, and §83.309(d) of this title (relating to License Status), notice] of delinquency [in the payment of an annual assessment fee] is given when the OCCC sends the [delinquency] notice:

(1) by mail to the address on file with the OCCC as a master file address; or

(2) by e-mail to the address on file with the OCCC as a master file e-mail address, if the licensee has provided a master file e-mail address.

(d) Expiration. If a licensee does not pay the annual assessment fee, the license will expire on the later of:

(1) December 31 of each year; or

(2) the 16th day after notice of delinquency is given under subsection (c) of this section.

(e) Reinstatement. As provided by Texas Finance Code, §349.301 and §349.303(a), if a license was in good standing when it expired, a person may reinstate the expired license not later than the 180th day after its expiration date by paying the annual assessment fee and a \$1,000 late filing fee.

Subchapter B. Rules for Credit Access Businesses

Division 3. Application Procedures

§83.3009. License Inactivation or Voluntary Surrender [Status].

(a) Inactivation of active license. A licensee may cease operating under a credit access business license and choose to inactivate the license. A license may be inactivated by giving notice of the cessation of operations not less than 30 calendar days prior to the anticipated inactivation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC [commissioner]. The notice must include the new mailing address for the license, the effective date of the inactivation, and the fee for amending the license. A licensee must continue to pay the yearly renewal fees for an inactive license as outlined in §83.3010 of this title (relating to Fees), or the license will expire as described by §83.4002 of this title (relating to License Term and Annual Renewal).

(b) Activation of inactive license. A licensee may activate an inactive license by giving notice of the intended activation not less than 30 calendar days prior to the anticipated activation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC [commissioner]. The notice must include the contemplated new address of the licensed office, the approximate date of activation, and the fee for amending the license as outlined in §83.3010 of this title.

(c) (No change.)

~~[(d) Expiration. A license will expire on the later of December 31 of each year or the 16th day after the written notice of delinquency is given unless the annual assessment fees have been paid by the due~~

date for license renewal. A licensee that pays the annual assessment fees will automatically be renewed even though a new license may not be issued.]

Division 4. License

§83.4002. License Term, Renewal, and Expiration [~~Notice of Delinquency in Payment of Annual Assessment Fee~~].

(a) License term and renewal. A new license is effective from the date of its issuance until December 31. A license must be renewed annually to remain effective. After renewal, a license is effective for a term of one year, from January 1 to December 31.

(b) Due date for annual assessment fee. The annual assessment fee is due by December 1 of each year.

(c) Notice of delinquency. If a licensee does not pay the annual assessment fee, the OCCC will send a notice of delinquency. Notice [~~For purposes of Texas Finance Code, §393.613, notice~~] of delinquency [~~in the payment of an annual assessment fee~~] is given when the OCCC sends the [~~delinquency~~] notice:

(1) by mail to the address on file with the OCCC as a master file address; or

(2) by e-mail to the address on file with the OCCC as a master file e-mail address, if the licensee has provided a master file e-mail address.

(d) Expiration. If a licensee does not pay the annual assessment fee, the license will expire on the later of:

(1) December 31 of each year; or

(2) the 16th day after notice of delinquency is given under subsection (c) of this section.

Chapter 84. Motor Vehicle Installment Sales

Subchapter C. Insurance and Debt Cancellation Agreements

§84.309. Debt Cancellation Agreements Requiring Insurance.

(a) Purpose and scope. This section applies to a debt cancellation agreement described by Texas Finance Code, Chapter 354, that includes insurance coverage as part of the retail buyer's responsibility to the holder. Debt cancellation agreements must be submitted to the OCCC for approval, as provided by Texas Finance Code, §354.005(a). The denial of a debt cancellation agreement may be appealed in a contested case [~~to the Finance Commission of Texas~~], as provided by Texas Finance Code, §354.005(d). This section describes the requirements for submitting a debt cancellation agreement to the OCCC and the requirements for appealing the denial of a debt cancellation agreement [~~to the commission~~].

(b) - (f) (No change.)

(g) Proposal for decision. In connection with a contested case under this section, the administrative law judge will issue a proposal for decision to the commissioner [~~commission~~]. The proposal for decision will include a recommendation regarding whether the OCCC's denial of the agreement should be affirmed or reversed. The proposal for decision may include a recommendation that costs be assigned to a party, to the extent authorized by law.

(h) Final [~~Commission's final~~] order. The commissioner [~~commission~~] will issue a final order after review of the administrative law judge's proposal for decision. The final order will include a statement of whether the OCCC's denial of the agreement is affirmed or reversed. The final order may include an assignment of costs to a party, to the extent authorized by law.

(i) Judicial review of [~~commission's~~] final order. A final order [~~of the commission~~] under subsection (h) of this section may be appealed to a Travis County district court, as provided by Texas Government Code, §2001.176.

Subchapter F. Licensing

§84.610. License Inactivation or Voluntary Surrender [*Status*].

(a) Inactivation of active license. A licensee may cease operating under a motor vehicle sales finance license and choose to inactivate the license. A license may be inactivated by giving notice of the cessation of operations not less than 10 calendar days prior to the anticipated inactivation date. Registered offices will be designated as closed when a license is inactivated. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC [~~commissioner~~]. The notice must include the new mailing address for the license, the effective date of the inactivation, and the fee for amending the license. A licensee must continue to pay the yearly renewal fees for an inactive license as outlined in §84.611 of this title (relating to Fees), or the license will expire.

(b) Activation of inactive license. A licensee may activate an inactive license by

giving notice of the intended activation not less than 10 calendar days prior to the anticipated activation date. Registered offices must be listed and appropriate fees paid upon activation of a license. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC [~~commissioner~~]. The notice must include the contemplated new address of the licensed office, the approximate date of activation, and the fee for amending the license as outlined in §84.611 of this title.

(c) (No change.)

~~[(d) Expiration. A license will expire the later of July 31 of each year or the 16th day after the written notice of delinquency is given unless the annual assessment fees have been paid by the due date for license renewal. A licensee that pays the annual assessment fees will automatically be renewed even though a new license may not be issued. For purposes of this subsection, notice of delinquency in the payment of an annual assessment fee is given when the OCCC sends the delinquency notice.]~~

~~[(1) by mail to the address on file with the OCCC as a master file address; or]~~

~~[(2) by e-mail to the address on file with the OCCC as a master file e-mail address, if the licensee has provided a master file e-mail address.]~~

(d) [~~(e)~~] Surrendering to avoid administrative action. A licensee may not surrender a license after an administrative action has been initiated without the written agreement of the OCCC.

§84.617. License Term, Renewal, and Expiration.

(a) License term and renewal. A new license is effective from the date of its issuance until October 31. A license must be renewed annually to remain effective. After renewal, a license is effective for a term of one year, from November 1 of a calendar year to October 31 of the next calendar year.

(b) Due date for annual assessment fee. The annual assessment fee is due by October 1 of each year.

(c) Notice of delinquency. If a licensee does not pay the annual assessment fee, the OCCC will send a notice of delinquency. Notice of delinquency is given when the OCCC sends the notice:

(1) by mail to the address on file with the OCCC as a master file address; or

(2) by e-mail to the address on file with the OCCC as a master file e-mail address, if the licensee has provided a master file e-mail address.

(d) Expiration. If a licensee does not pay the annual assessment fee, the license will expire on the later of:

(1) October 31 of each year; or

(2) the 16th day after notice of delinquency is given under subsection (c) of this section.

(e) Reinstatement. As provided by Texas Finance Code, §349.301 and §349.303(a), if a license was in good standing when it expired, a person may reinstate the expired license not later than the 180th day after its

expiration date by paying the annual assessment fee and a \$1,000 late filing fee.

(f) Temporary provision. Notwithstanding subsections (a) and (d) of this section, if a licensee renews a license during 2019, or obtains a new license on or after August 1, 2019, then the license will be effective until October 31, 2020. The license must be renewed in order to remain in effect after October 31, 2020. This subsection expires on January 1, 2021.

Subchapter B. Rules for Crafted Precious Metal Dealers

Division 1. Registration Procedures

§85.1007. Registration Term, [Annual] Renewal, and Expiration.

(a) Generally. An initial registration for a permanent location is effective from the date of its issuance until December 31. For each calendar year following the initial registration for a permanent registered location, a crafted precious metal dealer must renew the registration annually. A registration for a permanent registered location expires on December 31 of each year. After renewal, a registration is effective for a term of one year, from January 1 to December 31.

(b) Renewal procedure. A crafted precious metal dealer may renew its registration for a permanent registered location by providing the following:

(1) the fees required by §85.1011 of this title (relating to Fees); and

(2) any information required by the OCCC.

(c) Due date for renewal fees and information. The fees and information described by subsection (b) of this section are due by December 31 of each year.

(d) [(e)] Late renewal.

(1) If a crafted precious metal dealer renews its registration on or before the 30th day following expiration (i.e., on or before January 30), then there is no late renewal fee.

(2) If a crafted precious metal dealer renews its registration after the 30th day following expiration, but on or before the 180th day following expiration, then the dealer must pay a late renewal fee of \$50 for each permanent registered location, in addition to the fees described by §85.1011 of this title.

(3) A registration for a permanent registered location may not be renewed after the 180th day following expiration. In order to obtain a registration, the crafted precious metal dealer must reapply under §85.1002 of this title (relating to Filing of New Application).

(e) [(d)] Administrative penalty. If a person has engaged in the purchase of crafted precious metal while its registration was not effective, the person may be subject to an administrative penalty under Texas Occupations Code, §1956.0615.

(f) [(e)] Temporary locations. A registration for a temporary location is effective from the date of its issuance until it expires on December 31. A registration for a temporary location is not renewable.

Chapter 86. Retail Creditors

Subchapter A. Registration of Retail Creditors

§86.102. [~~Annual Registration~~] Fees.

(a) (No change.)

(b) Annual fee. An annual fee is required under the provisions of Texas Finance Code, §345.351 or §347.451 and will be payable as follows:

(1) A retail seller, creditor, holder, or assignee must pay a registration fee for every chapter under which business is conducted.

~~[(2) A retail seller, holder, creditor, or assignee who begins business under Texas Finance Code, Chapter 345 or 347 must pay the annual fee within 60 days after the first day of commencing regulated operations.]~~

~~[(3) The annual fee for each subsequent calendar year will be due and payable by October 31 of each year.]~~

(2) [(4)] The registration is not transferable between locations. A retail seller, creditor, holder, or assignee must obtain a registration for each new location. ~~[Each new location must comply with the provisions in paragraph (2) of this subsection.]~~

(3) [(5)] No annual fee is required for a location operated by a retail seller, creditor, holder, or assignee operating under the provisions of Texas Finance Code, Chapter 345 or 347, provided the personnel at the location are not conducting regulated business with the consumer (e.g., storage, web-hosting, or data processing facility).

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(c) Late filing fee. As provided by Texas Finance Code, §349.302(b), a person must pay a \$250 late filing fee for each registered location if the person:

(1) obtains a new registration after the person has begun engaging in business under Texas Finance Code, Chapter 345 or 347; or

(2) obtains a renewal more than 30 days after expiration.

(d) [~~e~~] Evidence of registration. The Office of Consumer Credit Commissioner (OCCC) will issue a certificate evidencing registration under the provisions of Texas Finance Code, Chapter 345 or 347, and this section. A registrant may print a copy of its registration certificate through the OCCC's online licensing portal.

(e) [~~d~~] Registration duplicates sent by mail. If a registrant does not print its registration certificate online, the registrant may request that the OCCC mail a registration duplicate for a fee of \$10 per certificate mailed.

§86.103. Registration Term, Renewal, and Expiration.

(a) Registration term and renewal. An initial registration is effective from the date of its issuance until November 30. A registration must be renewed annually to remain effective. After renewal, a registration is effective for a term of one year, from December 1 of a calendar year to November 30 of the next calendar year.

(b) Due date for annual fee. The annual fee is due by November 30 of each year.

(c) Expiration. If a registrant does not pay the annual fee, the registration will expire on November 30.

(d) Late renewal. A person may renew an expired registration by December 30 by paying the annual fee. In order to renew an expired registration after December 30, a person must pay any registration fee for a prior year and the late filing fee described by §86.102 of this title (relating to Fees).

Chapter 87. Tax Refund Anticipation Loans

Subchapter A. Registration Procedures

§87.107. Registration Term, [~~Annual~~] Renewal, and Expiration.

(a) Registration term and renewal. An initial registration is effective from the date of its issuance until December 31. A registration must be renewed annually to remain effective. After renewal, a registration is effective for a term of one year, from January 1 to December 31.

(b) [~~a~~] Renewal requirements. A registered tax refund anticipation loan facilitator may renew its registration by providing the following:

(1) the renewal fees required by §87.105(c) of this title (relating to Fees);

(2) any late filing fees required by §87.105(d) of this title; and

(3) any other information required by the OCCC [~~commissioner~~].

(c) Due date for renewal fee. The annual renewal fee and information described by subsection (b) are due by December 31 of each year.

(d) [(b)] Expiration. If a facilitator does not pay the annual renewal fee, the registration will expire on December 31. A facilitator may not renew a registration that has been expired for more than one year. If a facilitator's registration has been expired for more than one year, then the facilitator must apply for a new registration under §87.102 of this title (relating to Filing of New Application) in order to obtain a registration.

Chapter 88. Consumer Debt Management Services

Subchapter B. Annual Requirements

§88.201. Registration Term, [Annual] Renewal, and Expiration.

(a) Registration term and renewal. An initial registration is effective from the date of its issuance until January 31. A registration must be renewed annually to remain effective. After renewal, a registration is effective for a term of one year, from February 1 of a calendar year to January 31 of the next calendar year.

(b) Renewal requirements. A [Not later than February 1, a] registered debt management services provider may renew its registration by providing the following:

(1) an annual report, according to §88.202 of this title (relating to Annual Report);

(2) the annual fee [fees] required by §88.107(f) [§88.107(e)] of this title (relating to Fees); and

(3) any other information required by the OCCC.

(c) Due date for renewal fee. The annual fee and information described by subsection (b) of this section are due by January 31 of each year.

(d) Expiration. If a provider does not renew its registration, the registration will expire on January 31.

Chapter 89. Property Tax Lenders

Subchapter C. Application Procedures

§89.309. License Inactivation or Voluntary Surrender [~~Status~~].

(a) Inactivation of active license. A licensee may cease operating under a license and choose to inactivate the license. A license may be inactivated by giving notice of the cessation of operations not less than 30 calendar days prior to the anticipated inactivation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC [eommissioner]. The notice must include the new mailing address for the license, the effective date of the inactivation, and the fee for amending the license. A licensee must continue to pay the yearly renewal fees for an inactive license as outlined in §89.310 of this title (relating to Fees), or the license will expire as described by §89.403 of this title (relating to License Term, Renewal, and Expiration).

(b) Activation of inactive license. A licensee may activate an inactive license by giving notice of the intended activation not less than 30 calendar days prior to the anticipated activation date. Notification must be provided by filing a license amendment or an approved electronic submission as prescribed by the OCCC [eommissioner]. The notice must include the contemplated

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new address of the licensed office, the approximate date of activation, and the fee for amending the license as outlined in §89.310 of this title.

(c) (No change.)

~~[(d) Expiration. A license will expire on the later of December 31 of each year or the 16th day after the written notice of delinquency is given unless the annual assessment fees have been paid by the due date for license renewal. A licensee that pays the annual assessment fees will automatically be renewed even though a new license may not be issued.]~~

Subchapter D. License

§89.403. License Term, Renewal, and Expiration [~~Notice of Delinquency in Payment of Annual Assessment Fee~~].

(a) License term and renewal. A new license is effective from the date of its issuance until December 31. A license must be renewed annually to remain effective. After renewal, a license is effective for a term of one year, from January 1 to December 31.

(b) Due date for annual assessment fee. The annual assessment fee is due by December 1 of each year.

(c) Notice of delinquency. If a licensee does not pay the annual assessment fee, the OCCC will send a notice of delinquency. Notice [For purposes of Texas Finance Code, §351.155, and §89.309(d) of this title (relating to License Status), notice] of delinquency [in the payment of an annual assessment fee] is given when the OCCC sends the [delinquency] notice:

(1) by mail to the address on file with the OCCC as a master file address; or

(2) by e-mail to the address on file with the OCCC as a master file e-mail address, if the licensee has provided a master file e-mail address.

(d) Expiration. If a licensee does not pay the annual assessment fee, the license will expire on the later of:

(1) December 31 of each year; or

(2) the 16th day after notice of delinquency is given under subsection (c) of this section.

(e) Reinstatement. As provided by Texas Finance Code, §349.301 and §349.303(a), if a license was in good standing when it expired, a person may reinstate the expired license not later than the 180th day after its expiration date by paying the annual assessment fee and a \$1,000 late filing fee.

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 August 16, 2019.

Matthew J. Nance
Deputy General Counsel
Office of Consumer Credit Commissioner