

Title 7, Texas Administrative Code

Part 5. Office of Consumer Credit Commissioner

Chapter 83. Regulated Lenders and Credit Access Businesses

Subchapter B. Rules for Credit Access Businesses

The Finance Commission of Texas (commission) proposes amendments to §83.3001 (relating to Definitions), §83.3002 (relating to Filing of New Application), §83.3003 (relating to Transfer of License; New License Application on Transfer of Ownership), §83.3006 (relating to Updating Application and Contact Information), §83.3007 (relating to Processing of Application), §83.3008 (relating to Relocation of Licensed Offices), §83.3009 (relating to License Inactivation or Voluntary Surrender), §83.3011 (relating to Applications and Notices as Public Records), §83.4002 (relating to License Term, Renewal, and Expiration), §83.4003 (relating to Denial, Suspension, or Revocation Based on Criminal History), and §83.5003 (relating to Files and Records Required); and proposes the repeal of §83.3004 (relating to Change in Form or Proportionate Ownership), §83.3005 (relating to Amendments to Pending Application), and §83.4001 (relating to License Display) in 7 TAC Chapter 83, concerning Regulated Lenders and Credit Access Businesses.

The rules in 7 TAC Chapter 83, Subchapter B govern credit access businesses. In general, the purposes of the proposed rule changes to 7 TAC Chapter 83, Subchapter B are to implement the OCCC's transition to the NMLS licensing system for credit access businesses, to remove rule text that is no longer necessary, and to make other technical corrections and updates related to licensing and recordkeeping. The proposed rule changes also incorporate recommendations from the Texas Regulatory Efficiency Office.

Proposed amendments and repeals in §83.3001 through §83.4003 would implement the OCCC's transition to the NMLS system. The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. NMLS was created in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and states are increasingly using the system to license consumer finance companies. NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types, including credit access business licenses under Texas Finance Code, Chapter 393. The OCCC has begun a phased process of migrating license groups from ALECS (the OCCC's previous licensing platform) to NMLS. In 2026, a majority of licensed credit access businesses completed their transition to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Proposed amendments to §83.3001 would replace the term "principal party" with "key individual" to be consistent with the terminology in NMLS.

Proposed amendments to §83.3002 would streamline license application requirements and refer to instructions that the OCCC has published through NMLS. Currently, §83.3002 contains a detailed list of license application items, with requirements that differ based on the applicant's entity type (e.g., partnership, corporation, limited liability company). In addition to ensuring consistency with NMLS, the proposed amendments would significantly simplify §83.3002, and ensure that an applicant can easily read and understand the rule. A proposed amendment at §83.3002(d) explains that the OCCC may require additional, clarifying, or supplemental information to determine that the applicant meets statutory licensing requirements. A proposed amendment at §83.3002(e) explains that an applicant must immediately amend a pending application if any information changes requiring a materially different response, replacing language that would be removed from §83.3006(a), as explained later in this preamble.

Proposed amendments to §83.3003 would streamline and simplify requirements for transfer of ownership and license transfer to ensure consistency with NMLS. In §83.3003(b)(3), proposed amendments to the definition of "transfer of ownership" would streamline the definition of "transfer of ownership" while maintaining references to changes in management or control of a business, and also maintaining current exclusions relating to changes in proportionate ownership and relocations of transactions. Going forward in NMLS, the OCCC anticipates that changes to the

identifies of a single company's owners will be handled through the advance change notice process, as explained later in this preamble in the discussion of proposed amendments to §83.3006. A proposed amendment to §83.3003(c) would explain that to transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. Other proposed amendments throughout §83.3003 would ensure consistency with this revised transfer process.

The proposal would repeal §83.3004, which currently requires licensees to notify the OCCC of changes to organizational form, mergers resulting in creation of a new or different surviving entity, and certain changes in proportionate ownership. Going forward in NMLS, the OCCC anticipates that these changes will be handled through the advance change notice process, as explained later in this preamble in the discussion of proposed amendments to §83.3006. Therefore, §83.3004 will no longer be necessary.

The proposal would repeal §83.3005, which currently requires license applicants to provide supplemental information to the OCCC on request. Because of the proposed amendment at §83.3002(d) explaining the OCCC may require additional information, §83.3005 will no longer be necessary.

Proposed amendments to §83.3006 would consolidate and simplify the types of required notifications that a licensee must provide to the OCCC when a change occurs. In §83.3006(a), the proposed amendments would list advance change notices. NMLS uses the term "advance change notice" to refer to notifications that must be provided on or before the date of the change, in

accordance with an agency's written instructions. As explained in the proposed amendments to §83.3006(a), this includes changes to the legal name of the entity, the legal status of the entity, names of key individuals, branch location addresses, and other listed items. In §83.3006(b), proposed amendments would list notifications that are required not later than 30 days after the licensee has knowledge of the information. These items include bankruptcies of the licensee or its direct owners, because a bankruptcy is a significant event that may impact the financial responsibilities of a licensee and its ability to address compliance issues. These items also include notifications of data breaches affecting at least 250 Texas residents. Data security is a crucial issue. The OCC's 2027-2031 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." Recent data breaches affecting financial institutions highlight the urgent need for vigilance in this industry. The proposed notification amendments will help ensure that the OCC can monitor this crucial issue.

Proposed amendments to §83.3007 would revise license application processing requirements to be consistent with NMLS and with the statute at Texas Finance Code, §393.607. A proposed amendment at §83.3007(d) would explain that a license application may be considered withdrawn if a complete application has not been filed within 30 days after a notice of deficiency has been sent to the applicant, consistent with how license applications are processed in NMLS. Proposed amendments at §83.3007(d) would specify that if the eligibility requirements for a license have not been met, the OCC will send a notice of

intent to deny the license application, as described by Texas Finance Code, §393.607(b). A proposed amendment would remove current §83.3007(f), regarding disposition of fees, because this language unnecessarily duplicates language in §83.3010 (regarding Fees). Proposed amendments to §83.3007(f) would clarify the 30-day target period to process a license application and the 30-day target period to set a requested hearing on an application denial, in accordance with Texas Finance Code, §393.607(c)-(d).

Proposed amendments to §83.3008 would revise requirements for notice of relocation of licensed offices. The proposal would remove current §83.3008(a), because the requirement to notify the OCC of a branch office relocation will be moved to §83.3006(a) as an advance change notice, as discussed earlier in this preamble.

Proposed amendments to §83.3009 would revise requirements for license surrender. The proposed amendment would explain that a licensee may surrender a license by providing the information required by the OCC's written instruction, in accordance with Texas Finance Code, §393.617, and that a surrender is effective when the OCC approves the surrender.

Proposed amendments to §83.3011 would remove a sentence about the return of original documents filed with a license application. This sentence is no longer necessary because the OCC no longer accepts original paper documents with a license application.

The proposal would repeal §83.4001, which describes the requirement to display a license. This section is unnecessary because it duplicates the statutory license display requirement at Texas Finance Code,

§393.610. Going forward, licensees may comply with the statutory license display requirement by printing out company license information from NMLS.

Proposed amendments to §83.4002 would revise requirements for license renewal. A proposed amendment at §83.4002(b) would explain that a licensee must maintain an active account in NMLS (or a designated successor system) in order to maintain and renew a license, and that renewal may be unavailable to a licensee that fails to maintain an active account. A proposed amendment at §83.4002(d) would specify that the OCCC may send notice of delinquency of an annual assessment fee electronically through NMLS or by email to the primary company contact, removing current language that refers to a "master file" address under the OCCC's current system.

Proposed amendments to §83.4003 would revise criminal history review requirements to explain that the OCCC will obtain criminal history record information through NMLS and to use the term "key individual."

Proposed amendments to §83.5004 would update recordkeeping requirements for credit access businesses. Currently, provisions throughout §83.5004 refer to both paper and electronic recordkeeping systems. Proposed amendments throughout §83.5004 would simplify and rearrange this language to refer to electronic recordkeeping systems before referring to paper systems, based on licensees' increasing use of electronic systems rather than paper systems. Proposed amendments at §83.5004(5) would merge provisions related to websites and advertising, and would include common language for the retention period, in order to make these provisions more concise and easier to understand. Additional proposed

amendments to §83.5004 relate to data security recordkeeping. A proposed amendment at §83.5004(10)(A) specifies that licensees must maintain written policies and procedures for an information security program to protect consumers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. Another proposed amendment at §83.5004(10)(B) specifies that if a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4. A proposed amendment at §83.5004(11) specifies that licensees must maintain data breach notifications to consumers and to the Office of the Attorney General under Texas Business & Commerce Code, §521.053. As discussed earlier in this preamble, data security is a crucial issue. The proposed data security recordkeeping amendments will help ensure that the OCCC can monitor this crucial issue.

Mirand Diamond, Director of Licensing, Finance and Human Resources, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Christine Graham, Director of Consumer Protection, has determined that for each year of the first five years the proposed rule changes are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will be more easily understood by licensees required to comply with the rules. In particular, the rule changes governing the transition to the NMLS licensing system will better enable the OCCC use its existing authority under Texas Finance Code, §14.109, to use NMLS as a

licensing system, resulting in an improved user experience, efficiency for multistate entities, and an improved ability for consumers to access data about business licenses. Transitioning to NMLS will help minimize the costs of updating the OCCC's legacy technological systems.

In general, the OCCC anticipates that any economic costs for persons required to comply with the proposed rule changes will be minimal. Following an NMLS transition period earlier in 2026, credit access business licensees have transitioned to NMLS. During the NMLS transition period, the OCCC attempted to minimize costs by requiring existing licensees to provide only a core set of information and documents. Regarding the proposed amendments related to information security programs and data breach notifications in §83.5004, licensees are required to develop this information by existing statutes and regulations outside of the proposed amendments, so any costs do not result from the proposed amendments.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee

positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would both expand and limit current §83.3006 and §83.5004 by adding references to certain cybersecurity-related information and removing unnecessary rule text. The proposal would limit current §83.3002, §83.3003, §83.3008, and §83.3011 by simplifying and streamlining current requirements. The proposal would repeal current §83.3004, §83.3005, and §83.4001. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review. The OCCC received one precomment from an association of credit access businesses, which supported the proposed changes. The OCCC appreciates the thoughtful input of stakeholders.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. The commission invites any comments with information related to the cost, benefit, or effect of the proposed rule changes, including any applicable data, research, or analysis, from any person required to comply with the proposed rule changes or any other interested

person. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule changes are proposed under Texas Finance Code, §393.622, which authorizes the commission to adopt rules to enforce and administer Texas Finance Code, Chapter 393, Subchapter G. In addition, the rule changes relating to the NMLS transition are proposed under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 393. The rule changes relating to the NMLS transition are also proposed under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 14, which includes Texas Finance Code, §14.109.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 393.

Division 3. Application Procedures

§83.3001. Definitions

Words and terms used in this chapter that are defined in Texas Finance Code, Chapter 393, have the same meanings as defined in Chapter 393. The following words and terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) Key individual--An individual owner, officer, director, or employee with a substantial relationship to the lending

business of an applicant or licensee. The following are key individuals:

(A) any individual who is a direct owner of 10% or more of an applicant or licensee;

(B) any individual who is a control person or executive officer of an applicant or licensee, including an individual who has the power to direct management or policies of a company (e.g., president, chief executive officer, general partner, managing member, vice president, treasurer, secretary, chief operating officer, chief financial officer); and

(C) an individual designated as a key individual where necessary to fairly assess the applicant or licensee's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly.

(2) [(4)] Net assets--The total value of acceptable assets used or designated as readily available for use in the business, less liabilities, other than those liabilities secured by unacceptable assets. Unacceptable assets include, but are not limited to, goodwill, unpaid stock subscriptions, lines of credit, notes receivable from an owner, property subject to the claim of homestead or other property exemption, and encumbered real or personal property to the extent of the encumbrance. Generally, assets are available for use if they are readily convertible to cash within 10 business days. Debt that is either unsecured or secured by current assets may be subordinated to the net asset requirement pursuant to an agreement of the parties providing that the creditor forfeits its security priority and any rights it may have to current

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assets in the amount of \$25,000. Debt subject to such a subordination agreement would not be an applicable liability for purposes of calculating net assets.

~~(3) NMLS--The Nationwide Multistate Licensing System. [(2) Parent entity--A direct owner of a licensee or applicant.]~~

~~[(3) Principal party--An adult individual with a substantial relationship to the applicant by ownership of more than 10% of the applicant, or having control of the proposed credit access business of the applicant. The following individuals are principal parties:]~~

~~[(A) a proprietor;]~~

~~[(B) general partners;]~~

~~[(C) officers of privately held corporations, to include the chief executive officer or president, the chief operating officer or vice president of operations, the chief financial officer or treasurer, and those with substantial management responsibility for credit access operations or compliance with Texas Finance Code, Chapter 393;]~~

~~[(D) directors of privately held corporations;]~~

~~[(E) individuals associated with publicly held corporations designated by the applicant as follows:]~~

~~[(i) officers as provided by subparagraph (C) of this paragraph (as if the corporation were privately held); or]~~

~~[(ii) three officers or similar employees with significant involvement in the corporation's activities governed by~~

~~Texas Finance Code, Chapter 393. One of the persons designated must be responsible for assembling and providing the information required on behalf of the applicant and must sign the application for the applicant;]~~

~~[(F) managers or voting members of a limited liability company;]~~

~~[(G) trustees and executors; and]~~

~~[(H) individuals designated as principal parties where necessary to fairly assess the applicant's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly as required by the commissioner.]~~

§83.3002. Filing of New Application

(a) NMLS. In order to submit a credit access business license application, an applicant must submit a complete, accurate, and truthful license application through NMLS (or a successor system designated by the OCCC), using the current form prescribed by the OCCC. An application is complete when it conforms to the OCCC's written instructions and necessary fees have been paid. The OCCC has made application checklists available through NMLS, outlining the necessary information for a license application. [An application for issuance of a new credit access business license must be submitted in a format prescribed by the commissioner at the date of filing and in accordance with the commissioner's instructions. The commissioner may accept the use of prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. Appropriate fees must be filed

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with the application and the application must include the following:]

~~[(1) Required application information. All questions must be answered.]~~

~~[(A) Application for license.]~~

~~[(i) Location information. A physical street address must be listed for the applicant's proposed address, or if the applicant will have no such location, a statement to that effect must be provided. For applicants with a proposed location in Texas, a post office box or a mail box location at a private mail receiving service generally may not be used. If the address has not yet been determined or if the application is for an inactive license, then the application must so indicate.]~~

~~[(ii) Compliance officer. The application must list a compliance officer. The compliance officer must be an individual responsible for overseeing compliance, and must be authorized to receive and respond to communications from the OCCC.]~~

~~[(iii) Registered agent. The registered agent must be provided by each applicant. The registered agent is the person or entity to whom any legal notice may be delivered. The agent must be a Texas resident and list an address for legal service. If the registered agent is a natural person, the address must be a different address than the licensed location address. If the applicant is a corporation or a limited liability company, the registered agent should be the one on file with the Office of the Texas Secretary of State. If the registered agent is not the same as the agent filed with the Office of the Texas Secretary of State, then the applicant must submit a certification from the secretary of~~

~~the company identifying the registered agent.]~~

~~[(iv) Owners and principal parties.]~~

~~[(I) Proprietorships. The applicant must disclose the name of any individual holding an ownership interest in the business and the name of any individual responsible for operating the business. If requested, the applicant must also disclose the names of the spouses of these individuals.]~~

~~[(II) General partnerships. Each partner must be listed and the percentage of ownership stated. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided. General partnerships that register as limited liability partnerships should provide the same information as that required for general partnerships.]~~

~~[(III) Limited partnerships. Each partner, general and limited, fulfilling the requirements of items (a) - (c) of this subclause must be listed and the percentage of ownership stated.]~~

~~[(a) General partners. The applicant should provide the complete ownership, regardless of percentage owned, for all general partners. If a general partner is wholly or partially owned by a legal entity and not a natural person, a narrative or diagram must be included that lists the names and titles of all meeting the definition of "managerial official," as~~

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~~contained in Texas Business Organizations Code, §1.002, and a description of the ownership of each legal entity must be provided.]~~

~~[(b) — Limited partners. The applicant should provide a complete list of all limited partners owning 10% or more of the partnership.]~~

~~[(c) — Limited partnerships that register as limited liability partnerships. The applicant should provide the same information as that required for limited partnerships.]~~

~~[(IV) Corporations. Each officer and director must be named. Each shareholder holding 10% or more of the voting stock must be named if the corporation is privately held. If a parent corporation is the sole or part owner of the proposed business, a narrative or diagram must be included that describes each level of ownership of 10% or greater.]~~

~~[(V) Limited liability companies. Each "manager," "officer," and "member" owning 10% or more of the company, as those terms are defined in Texas Business Organizations Code, §1.002, and each agent owning 10% or more of the company must be listed. If a member is a legal entity and not a natural person, a narrative or diagram must be included that describes each level of ownership of 10% or greater.]~~

~~[(VI) Trusts or estates. Each trustee or executor, as appropriate, must be listed.]~~

~~[(B) Disclosure questions. All applicable questions must be answered. Questions requiring a "yes" answer must be~~

~~accompanied by an explanatory statement and any appropriate documentation requested.]~~

~~[(C) Personal information.]~~

~~[(i) Personal affidavit. Each individual meeting the definition of "principal party" as defined in §83.3001 of this title (relating to Definitions) or who is a person responsible for day-to-day operations must provide a personal affidavit. All requested information must be provided.]~~

~~[(ii) Personal questionnaire. Each individual meeting the definition of "principal party" as defined in §83.3001 of this title or who is a person responsible for day-to-day operations must provide a personal questionnaire. Each question must be answered. If any question, except question 1, is answered "yes," an explanation must be provided.]~~

~~[(iii) Employment history. Each individual meeting the definition of "principal party" as defined in §83.3001 of this title or who is a person responsible for day-to-day operations must provide an employment history. Each principal party should provide a continuous 10-year history, accounting for time spent as a student, unemployed, or retired. The employment history must also include the individual's association with the entity applying for the license.]~~

~~[(D) Additional requirements.]~~

~~[(i) Statement of experience. Each applicant should provide a statement setting forth the details of the applicant's prior experience in the credit access business. If the applicant or its principal parties do not have significant experience in the same type of~~

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~~credit access business as planned for the prospective licensee, the applicant must provide a written statement explaining the applicant's relevant business experience or education, why the commissioner should find that the applicant has the requisite experience, and how the applicant plans to obtain the necessary knowledge to operate lawfully and fairly.]~~

~~[(ii) Business operating plan. Each applicant must provide a brief narrative to the application explaining the type of operation that is planned. This narrative should discuss each of the following topics:]~~

~~[(I) the source of customers;]~~

~~[(II) the purpose(s) of the extensions of consumer credit;]~~

~~[(III) the size of the extensions of consumer credit;]~~

~~[(IV) the source of working capital for planned operations;]~~

~~[(V) the types of consumer credit products to be extended to consumers, as advertised by the business; and]~~

~~[(VI) the contractual loan term, in days, of each consumer credit product to be offered to consumers.]~~

~~[(iii) Statement of records. Each applicant must provide a statement of where records of Texas transactions will be maintained. If these records will be maintained at a location outside of Texas, the applicant must acknowledge responsibility for the travel cost associated with examinations in addition to the assessment~~

~~fees or agree to make all records available for examination in Texas.]~~

~~[(E) Consent form. Each applicant must submit a consent form signed by an authorized individual. Electronic signatures will be accepted in a manner approved by the commissioner. The following are authorized individuals:]~~

~~[(i) If the applicant is a proprietor, the owner must sign.]~~

~~[(ii) If the applicant is a partnership, one general partner must sign.]~~

~~[(iii) If the applicant is a corporation, an authorized officer must sign.]~~

~~[(iv) If the applicant is a limited liability company, an authorized member or manager must sign.]~~

~~[(v) If the applicant is a trust or estate, the trustee or executor, as appropriate, must sign.]~~

~~[(2) Other required filings:]~~

~~[(A) Fingerprints:]~~

~~[(i) For all persons meeting the definition of "principal party" as defined in §83.3001 of this title, a complete set of legible fingerprints must be provided. All fingerprints should be submitted in a format prescribed by the OCCC and approved by the Texas Department of Public Safety and the Federal Bureau of Investigation.]~~

~~[(ii) For limited partnerships, if the owners and principal parties under paragraph (1)(A)(iv)(III)(a) of this section does not produce a natural person, the applicant must provide a complete set of~~

~~legible fingerprints for individuals who are associated with the general partner as principal parties.]~~

~~[(iii) For entities with complex ownership structures that result in the identification of individuals to be fingerprinted who do not have a substantial relationship to the proposed applicant, the applicant may submit a request to fingerprint three officers or similar employees with significant involvement in the proposed business. The request should describe the relationship and significant involvement of the individuals in the proposed business. The OCCC may approve the request, seek alternative appropriate individuals, or deny the request.]~~

~~[(iv) For individuals who have previously been licensed by the OCCC and are principal parties of entities currently licensed, fingerprints are generally not required if the fingerprints are on record with the OCCC, are less than 10 years old, and have been processed by both the Texas Department of Public Safety and the Federal Bureau of Investigation. Upon request, individuals and principal parties previously licensed by the OCCC may be required to submit a new set of fingerprints in order to complete the OCCC's records.]~~

~~[(v) For individuals who have previously submitted fingerprints to another state agency (e.g., Texas Department of Savings and Mortgage Lending), fingerprints are still required to be submitted under Texas Finance Code, §14.152. Fingerprints cannot be disclosed to others, except as authorized by Texas Government Code, §560.002.]~~

~~[(B) Entity documents:]~~

~~[(i) Partnerships. A partnership applicant must submit a complete and executed copy of the partnership agreement. This copy must be signed and dated by all partners. If the applicant is a limited partnership or a limited liability partnership, provide evidence of filing with the Office of the Texas Secretary of State.]~~

~~[(ii) Corporations. A corporate applicant, domestic or foreign, must provide the following documents:]~~

~~[(I) a complete copy of the certificate of formation or articles of incorporation, with any amendments;]~~

~~[(II) a certification from the secretary of the corporation identifying the current officers and directors as listed in the owners and principal parties section of the application for license form;]~~

~~[(III) if the registered agent is not the same as the agent on file with the Office of the Texas Secretary of State, a certification from the secretary of the corporation identifying the registered agent;]~~

~~[(IV) if requested, a copy of the relevant portions of the bylaws addressing the required number of directors and the required officer positions for the corporation;]~~

~~[(V) if requested, a copy of the minutes of corporate meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application for license form.]~~

~~[(iii) Publicly held corporations. In addition to the items required for corporations, a publicly held corporation~~

must file the most recent 10K or 10Q for the applicant or for the parent company.]

~~[(iv) Limited liability companies. A limited liability company applicant, domestic or foreign, must provide the following documents:]~~

~~[(I) a complete copy of the articles of organization;]~~

~~[(II) a certification from the secretary of the company identifying the current officers and directors as listed in the owners and principal parties section of the application for license form;]~~

~~[(III) if the registered agent is not the same as the agent on file with the Office of the Texas Secretary of State, a certification from the secretary of the company identifying the registered agent;]~~

~~[(IV) if requested, a copy of the relevant portions of the operating agreement or regulations addressing responsibility for operations;]~~

~~[(V) if requested, a copy of the minutes of company meetings that record the election of all current officers and directors as listed in the owners and principal parties section of the application for license form.]~~

~~[(v) Trusts. A copy of the relevant portions of the instrument that created the trust addressing management of the trust and operations of the applicant must be filed with the application.]~~

~~[(vi) Estates. A copy of the instrument establishing the estate must be filed with the application.]~~

~~[(vii) Foreign entities. In addition to the items required by this section, a foreign entity must provide a certificate of authority to do business in Texas, if applicable.]~~

~~[(C) Financial statement and supporting financial information.]~~

~~[(i) All entity types. The financial statement must be dated no earlier than 90 days prior to the date of application. Applicants may also submit audited financial statements dated within one year prior to the application date in lieu of completing the Supporting Financial Information. All financial statements must be certified as true, correct, and complete, and must comply with generally accepted accounting principles (GAAP).]~~

~~[(ii) Sole proprietorships. Sole proprietors must complete all sections of the Personal Financial Statement and the Supporting Financial Information, or provide a personal financial statement that contains all of the same information requested by the Personal Financial Statement and the Supporting Financial Information. The Personal Financial Statement and Supporting Financial Information must be as of the same date.]~~

~~[(iii) Partnerships. A balance sheet for the partnership itself as well as each general partner must be submitted. In addition, the information requested in the Supporting Financial Information must be submitted for the partnership itself and each general partner. All of the balance sheets and Supporting Financial Information documents for the partnership and all general partners must be as of the same date.]~~

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~~[(iv) Corporations and limited liability companies. Corporations and limited liability companies must file a balance sheet. The information requested in the Supporting Financial Information must be submitted. The balance sheet and Supporting Financial Information must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the corporate or limited liability company applicant should contain no personal financial information.]~~

~~[(v) Trusts and estates. Trusts and estates must file a balance sheet. The information requested in the Supporting Financial Information must be submitted. The balance sheet and Supporting Financial Information must be as of the same date. Financial statements are generally not required of related parties, but may be required if the commissioner believes they are relevant. The financial information for the trust or estate applicant should contain no personal financial information.]~~

~~[(D) Assumed name certificates. For any applicant that does business under an "assumed name" as that term is defined in Texas Business and Commerce Code, §71.002, an Assumed Name Certificate must be filed as provided in this subparagraph.]~~

~~[(i) Unincorporated applicants. Unincorporated applicants using or planning to use an assumed name must file an assumed name certificate with the county clerk of the county where the proposed business is located in compliance with Texas Business and Commerce Code, Chapter 71. An applicant must provide a copy of the assumed name certificate that shows the~~

~~filing stamp of the county clerk or, alternatively, a certified copy.]~~

~~[(ii) Incorporated applicants. Incorporated applicants using or planning to use an assumed name must file an assumed name certificate in compliance with Texas Business and Commerce Code, Chapter 71. Evidence of the filing bearing the filing stamp of the Office of the Texas Secretary of State must be submitted or, alternatively, a certified copy.]~~

~~[(E) Third party lender organizations. As required by Texas Finance Code, §393.604(a)(4), each applicant must provide the names, physical addresses, and telephone numbers of the third party lender organizations with which the business contracts to provide services or from which the business arranges extensions of consumer credit.]~~

~~[(F) Bond. The commissioner may require a bond under Texas Finance Code, §393.605, if the commissioner finds that this would serve the public interest. If a bond is required, the commissioner will give written notice to the applicant. Should a bond not be submitted within 40 calendar days of the date of the commissioner's notice, any pending application may be denied.]~~

~~[(3) Subsequent applications for branch offices.]~~

~~[(A) Branch applications received after 90 days from last new or transfer license approval. If the applicant is currently licensed and filing an application for a new office after 90 days from its last new or transfer license approval, the applicant must submit a new application as provided by this section. Required information need not be resubmitted if the information on file with the~~

~~OCCC is current and valid. All fees for new licenses required by §83.3010(a) of this title (relating to Fees) must be paid for each new branch location.]~~

~~[(B) Branch applications received within 90 days from last new or transfer license approval. If the applicant is currently licensed and filing an application for a new office within 90 days from its last new or transfer license approval, and no action, fact, or information has changed that would require a materially different answer than that given in the last new or transfer license application, the applicant must provide the following information:]~~

~~[(i) the branch consent form verifying that there have been no changes from the last application, signed by an authorized individual as provided by paragraph (1)(E) of this section;]~~

~~[(ii) the location information and responsible person for each new branch location, as provided by paragraph (1)(A)(i) and (ii) of this section;]~~

~~[(iii) the fees required by §83.3010(a) of this title must be paid for each new branch location, with the exception of the \$200 investigation fee;]~~

~~[(iv) if requested, a new financial statement as provided in paragraph (2)(C) of this section; and]~~

~~[(v) if requested, any other information required by the commissioner that may be necessary to process the branch application.]~~

~~[(C) Last new or transfer license approval. For purposes of this section, a subsequent branch application filed under~~

~~subparagraph (B) of this paragraph does not qualify as the "last new or transfer license approval."]~~

(b) Company license application. A company license application will include the following information and any other information listed in the OCC's written instructions:

(1) A company form including the name of the applicant entity, contact information, registered agent, location of books and records, bank account information, legal status, and responses to disclosure questions.

(2) An individual form for each key individual, including name, contact information, and responses to disclosure questions.

(3) A business operating plan describing the source of consumers, purpose of loans, types of loans offered, size of loans, contractual loan term (in days) of each type of loan offered, and source of working capital.

(4) A management chart showing the applicant's divisions, officers, and managers.

(5) An organizational chart if the applicant is owned by another entity or entities, or has subsidiaries or affiliated entities.

(6) A statement of experience detailing prior experience relevant to the license sought.

(7) A certificate of formation or other formation document.

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(8) Any assumed names or other trade names that the applicant will use, and an assumed name certificate for each assumed name or other trade name.

(9) Franchise tax account information showing that the applicant entity is authorized to do business in Texas.

(10) Financial statement and supporting financial information complying with generally accepted accounting principles (GAAP). The OCCC may require a bank confirmation to confirm account balance information with financial institutions.

(A) If a financial statement is unaudited, then it should be dated no earlier than 90 days before the application date.

(B) If a financial statement is audited, then it should be dated no earlier than one year before the application date.

(11) The applicant's credit services organization certificate issued by the Texas Secretary of State.

(12) The name, physical address, and phone number of each third-party lender organization with which the applicant contracts to provide services or from which the business arranges extensions of consumer credit, as described by Texas Finance Code, §393.604(a)(4).

(13) For a license application involving a transfer of ownership, documentation of the transfer of ownership as described by §83.303 of this title (relating to Transfer of License; New License Application on Transfer of Ownership).

(c) Branch license application. A branch license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A branch form including the address of the branch, contact details, and business activities.

(2) Any assumed name or other trade name that the applicant will use, and an assumed name certificate for each assumed name or other trade name.

(3) A financial statement and supporting financial information, as described by subsection (b)(10) of this section.

(4) For a license application involving a transfer of ownership, documentation of the transfer of ownership as described by §83.303 of this title

(d) Supplemental information. The OCCC may require additional, clarifying, or supplemental information or documentation as necessary or appropriate to determine that an applicant meets the licensing requirements of Texas Finance Code, Chapter 393.

(e) Amendments to pending application. An applicant must immediately amend a pending application if any information changes requiring a materially different response from information provided in the original application.

§83.3003. Transfer of License; New License Application on Transfer of Ownership

(a) Purpose. This section describes the license application requirements when a licensed entity transfers ~~[its license or]~~ ownership of the entity. If a transfer of

ownership occurs, the transferee must submit ~~[either a license transfer application or]~~ a new license application on transfer of ownership under this section.

(b) Definitions. The following words and terms, when used in this section, will have the following meanings:

(1) License transfer--A sale, assignment, or transfer of a credit access business license.

(2) Permission to operate--A temporary authorization from the OCCC, allowing a transferee to operate under a transferor's license while final approval is pending for a license transfer application or a new license application on transfer of ownership.

(3) Transfer of ownership--Any purchase or acquisition of control of a licensed entity (including acquisition by gift, devise, or descent), or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs. The term does not include a change in proportionate ownership that results in the exact same owners still owning the business (unless an owner that previously held less than 10% obtains an interest of 10% or more) [as defined in §83.3004 of this title (relating to Change in Form or Proportionate Ownership)]. Transfer of ownership includes the following:

(A) an existing owner of a sole proprietorship relinquishes that owner's entire interest in a license or an entirely new entity has obtained an ownership interest in a sole proprietorship license;

~~[(B) any purchase or acquisition of control of a licensed general partnership,~~

~~in which a partner relinquishes that owner's entire interest or a new general partner obtains an ownership interest;]~~

~~[(C) any change in ownership of a licensed limited partnership interest in which:]~~

~~[(i) a limited partner owning 10% or more relinquishes that owner's entire interest;]~~

~~[(ii) a new limited partner obtains an ownership interest of 10% or more;]~~

~~[(iii) a general partner relinquishes that owner's entire interest; or]~~

~~[(iv) a new general partner obtains an ownership interest (transfer of ownership occurs regardless of the percentage of ownership exchanged of the general partner);]~~

~~[(D) any change in ownership of a licensed corporation in which:]~~

~~[(i) a new stockholder obtains 10% or more of the outstanding voting stock in a privately held corporation;]~~

~~[(ii) an existing stockholder owning 10% or more relinquishes that owner's entire interest in a privately held corporation;]~~

~~[(iii) any purchase or acquisition of control of 51% or more of a company that is the parent or controlling stockholder of a licensed privately held corporation occurs; or]~~

~~[(iv) any stock ownership changes that result in a change of control (i.e.,~~

~~51% or more) for a licensed publicly held corporation occur;~~

~~[(E) any change in the membership interest of a licensed limited liability company:]~~

~~[(i) in which a new member obtains an ownership interest of 10% or more;]~~

~~[(ii) in which an existing member owning 10% or more relinquishes that member's entire interest; or]~~

~~[(iii) in which a purchase or acquisition of control of 51% or more of any company that is the parent or controlling member of a licensed limited liability company occurs;]~~

(B) ~~[(F)]~~ any transfer of a substantial portion of the assets of a licensed entity under which a new entity controls business at a licensed location; and

(C) ~~[(G)]~~ any other purchase or acquisition of control of a licensed entity, or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs.

(4) Transferee--The entity that controls business at a licensed location after a transfer of ownership.

(5) Transferor--The licensed entity that controls business at a licensed location before a transfer of ownership.

(c) License transfer approval. No credit access business license may be sold, transferred, or assigned without the written approval of the OCCC, as provided by Texas

Finance Code, §393.620. To transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. A license transfer is complete ~~[approved]~~ when the OCCC has approved the transferee's new license application and the transferor's license surrender ~~[issues its final written approval of a license transfer application].~~

(d) Timing. No later than 30 days after the event of a transfer of ownership, the transferee must file a complete ~~[license transfer application or]~~ new license application on transfer of ownership in accordance with subsection (e). A transferee may file an application before this date.

(e) Application requirements.

(1) Generally. This subsection describes the application requirements for ~~[a license transfer application or]~~ a new license application on transfer of ownership. A transferee must submit the application in a format prescribed by the OCCC. The OCCC may accept prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. The transferee must pay appropriate fees in connection with the application.

(2) Documentation of transfer of ownership. The application must include documentation evidencing the transfer of ownership. The documentation should include one or more of the following:

(A) a copy of the asset purchase agreement when only the assets have been purchased;

(B) a copy of the purchase agreement or other evidence relating to the acquisition of the equity interest of a licensee that has been purchased or otherwise acquired;

(C) any document that transferred ownership by gift, devise, or descent, such as a probated will or a court order; or

(D) any other documentation evidencing the transfer event.

(3) Application information for new licensee. If the transferee does not hold a credit access business license at the time of the application, then the application must include the information required for new license applications under §83.3002 of this title (relating to Filing of New Application). The instructions in §83.3002 of this title apply to these filings.

(4) Application information for transferee that holds a license. If the transferee holds a credit access business license at the time of the application, then the application must include amendments to the transferee's original license application describing the information that is unique to the transfer event, including disclosure questions, owners and principal parties, and a new financial statement, as provided in §83.3002 of this title. The instructions in §83.3002 of this title apply to these filings. The responsible person at the new location must file a personal affidavit, personal questionnaire, and employment history, if not previously filed. Other information required by §83.3002 of this title need not be filed if the information on file with the OCCC is current and valid.

(5) Request for permission to operate. The application may include a request for

permission to operate. The request must be in writing and signed by the transferor and transferee. The request must include all of the following:

(A) a statement by the transferor granting authority to the transferee to operate under the transferor's license while final approval of the application is pending;

(B) an acknowledgement that the transferor and transferee each accept responsibility to any consumer and to the OCCC for any acts performed under the license while the permission to operate is in effect; and

(C) if the application is a new license application on transfer of ownership, an acknowledgement that the transferor will immediately surrender or inactivate its license if the OCCC approves the application.

(f) Permission to operate. If the application described by subsection (e) includes a request for permission to operate and all required information, and the transferee has paid all fees required for the application, then the OCCC may issue a permission to operate to the transferee. A request for permission to operate may be denied even if the application contains all of the required information. The denial of a request for permission to operate does not create a right to a hearing. If the OCCC grants a permission to operate, the transferor must cease operating under the authority of the license. Two companies may not simultaneously operate under a single license. A permission to operate terminates if the OCCC denies an application described by subsection (e).

(g) Transferee's authority to engage in business. If a transferee has filed a complete

application including a request for permission to operate as described by subsection (e), by the deadline described by subsection (d), then the transferee may engage in business as a credit access business. However, the transferee must immediately cease doing business if the OCCC denies the request for permission to operate or denies the application. If the OCCC denies the application, then the transferee has a right to a hearing on the denial, as provided by §83.3007(d) of this title (relating to Processing of Application).

(h) Responsibility.

(1) Responsibility of transferor. Before the transferee begins performing credit access business activity under a license, the transferor is responsible to any consumer and to the OCCC for all credit access business activity performed under the license.

(2) Responsibility of transferor and transferee. If a transferee begins performing credit access business activity under a license before the OCCC's final approval of an application described by subsection (e), then the transferor and transferee are each responsible to any consumer and to the OCCC for activity performed under the license during this period.

(3) Responsibility of transferee. After a transferee begins performing credit access business activity under a license, the transferee is responsible to any consumer and to the OCCC for all credit access business activity performed under the license. The transferee is responsible for any transactions that it purchases from the transferor. In addition, if the transferee receives a license transfer, then the transferee's responsibility

includes all activity performed under the license before the license transfer.

~~[§83.3004. Change in Form or Proportionate Ownership]~~

~~[(a) Organizational form. When any licensee or parent of a licensee changes the organizational form of its business (e.g., from corporation to limited partnership), the licensee must advise the commissioner of the change in writing within 10 calendar days after the change, by filing a license amendment and paying the required fees as provided in §83.3010 of this title (relating to Fees). In addition, the licensee must submit a copy of the relevant portions of the organizational document for the new entity (e.g., articles of conversion and partnership agreement) addressing the ownership and management of the new entity.]~~

~~[(b) Merger.]~~

~~[(1) If a licensee is a party to a merger that results in a new or different surviving entity other than the licensee, then the merger is a transfer of ownership, and the licensee must file a license transfer application or a new license application on transfer of ownership pursuant to §83.3003 of this title (relating to Transfer of License; New License Application on Transfer of Ownership).]~~

~~[(2) If a licensee's parent entity is a party to a merger that leads to the creation of a new entity or results in a different surviving parent entity, the licensee must advise the commissioner of the change in writing within 10 calendar days after the change, by filing a license amendment and paying the required fees as provided in §83.3010 of this title. Mergers or transfers of other entities with a beneficial interest beyond the parent entity level only require notification within 10~~

calendar days in accordance with the OCCC's instructions.]

~~[(c) Proportionate ownership.]~~

~~[(1) A change in proportionate ownership that results in the exact same owners still owning the business, and does not meet the requirements described in paragraph (2) of this subsection, does not require a transfer. Such a proportionate change in ownership does not require the filing of a license transfer application or a new license application on transfer of ownership, but does require notification when the cumulative ownership change to a single entity or individual amounts to 10% or greater. No later than 10 calendar days following the actual change, the licensee is required to notify the commissioner in writing of the change in proportionate ownership by filing a license amendment and paying the required fees as provided in §83.3010 of this title. This section does not apply to a publicly held corporation that has filed with the OCCC the most recent 10K or 10Q filing of the licensee or the publicly held parent corporation, although a license transfer application or a new license application on transfer of ownership may be required under §83.3003 of this title.]~~

~~[(2) A proportionate change in which an owner that previously held under 10% obtains an ownership interest of 10% or more, requires a license transfer application or a new license application on transfer of ownership under §83.3003 of this title.]~~

~~[§83.3005. Amendments to Pending Application]~~

~~[Upon request, each applicant must provide information supplemental to that~~

~~contained in the applicant's original application documents.]~~

§83.3006. Required Notifications ~~[Updating Application and Contact Information]~~

(a) Advance change notice. No later than the date of the change (or an earlier date specified in the OCCC's written instructions), a licensee must notify the OCCC of a change to any of the following information provided in the original license application: [Applicant's updates to license application information. Before a license application is approved, an applicant must report to the OCCC any information that would require a materially different answer than that given in the original license application and that relates to the qualifications for license within 10 calendar days after the person has knowledge of the information.]

(1) legal name of entity;

(2) any assumed names of entity;

(3) legal status of entity (e.g., change in organizational form from partnership to corporation); or

(4) names of direct owners or indirect owners;

(5) names of affiliates or subsidiaries;

(6) names of any key individuals;

(7) main address; or

(8) address of any branch location.

(b) Other required notifications. No later than 30 days after the licensee has knowledge of the information, a licensee must report the following information to the OCCC:

~~[Licensee's updates to license application information. A licensee must report to the OCCC any information that would require a different answer than that given in the original license application within 30 calendar days after the licensee has knowledge of the information, if the information relates to any of the following:]~~

(1) any civil or regulatory actions against the licensee or key individuals that were not disclosed in the original application and would require a different answer than that given in the original license application [the names of principal parties];

(2) the names of third-party lender organizations;

(3) criminal history of the licensee or key individuals that was not disclosed in the original application;

(4) any bankruptcy of the licensee or a direct owner [actions by regulatory agencies]; or

(5) any breach of system security under Texas Business & Commerce Code, §521.053, affecting at least 250 residents of this state [court judgments].

(c) Contact information. Each applicant or licensee is responsible for ensuring that all contact information on file with the OCCC is current and correct, including all mailing addresses, all phone numbers, and all email [e-mail] addresses. The OCCC may send notices to the mailing address or email address on file. It is a best practice for licensees to regularly review contact information on file with the OCCC to ensure that it is current and correct.

§83.3007. Processing of Application

(a) Initial review. A response to an incomplete application will ordinarily be made within 14 calendar days of receipt stating that the application is incomplete and specifying the information required for acceptance.

(b) Complete application. An application is complete when:

(1) it conforms to the rules and published instructions;

(2) all fees have been paid; and

(3) all requests for additional information have been satisfied.

(c) Failure to complete application and deemed withdrawal. If a complete application has not been filed within 30 calendar days after notice of deficiency has been sent to the applicant, the application may be considered withdrawn [denied].

(d) Notice of intent to deny application. If an applicant files a complete license application but the OCCC does not find that the eligibility requirements for a license have been met, then the OCCC will send a notice of intent to deny the license application to the applicant.

(e) Hearing. An affected applicant has 30 calendar days from the date of the notice of intent to deny the license application to request in writing a hearing to contest the denial. This hearing will be conducted pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, and the rules of procedure applicable under §9.1(a) of this title (relating to Application, Construction, and Definitions), before an administrative law judge who will

recommend a decision to the commissioner. The commissioner will then issue a final decision after review of the recommended decision.

~~[(f) Denial. If an application has been denied, the assessment fee will be refunded to the applicant. The investigation fee and the fingerprint processing fee in §83.3010 of this title (relating to Fees) will be forfeited.]~~

(f) ~~[(g)]~~ Processing time.

(1) A license application will ordinarily be approved or denied within ~~[a maximum of]~~ 30 calendar days after the date of filing of a completed application.

(2) When a hearing is requested following an initial license application denial, the hearing will ordinarily be scheduled for a date ~~[held]~~ within 30 calendar days after a request for a hearing is made unless the parties agree to an extension of time. A final decision approving or denying the license application will be made after receipt of the proposal for decision from the administrative law judge.

(3) Exceptions. More time may be taken where good cause exists, as defined by Texas Government Code, §2005.004, for exceeding the established time periods in paragraphs (1) and (2) of this subsection.

§83.3008. Relocation of Licensed Offices

~~[(a) Filing requirements. A licensee may move the licensed office from the licensed location to any other location by paying the appropriate fees and giving notice of intended relocation to the commissioner not less than 30 calendar days prior to the anticipated moving date. Notification must be provided by filing a license amendment or~~

~~an approved electronic submission as prescribed by the commissioner. The notice must include the contemplated new address of the licensed office, the approximate date of relocation, a copy of the notice to consumers, and the applicable fee as outlined in §83.3010 of this title (relating to Fees).]~~

(a) ~~[(b)]~~ Notice to consumers. Written notice of a relocation of an office, or of transactions as outlined in subsection (b) ~~[(e)]~~ of this section, must be mailed to all consumers with active accounts at least five calendar days prior to the date of relocation. Notices must identify the licensee, provide both old and new addresses, provide both old and new telephone numbers, and state the date relocation is effective. The notice to consumers can be waived or modified by the commissioner when it is in the public interest. A request for waiver or modification must be submitted in writing for approval. In lieu of notification by mail, a licensee may provide notice to a consumer by reasonable signage, electronic mail, text messaging, or other electronic means if a consumer has approved electronic notices, or by any other means the commissioner may approve.

(b) ~~[(e)]~~ Relocation of transactions. If the licensee is only relocating or transferring transactions from one licensed location to another licensed location, the licensee must comply with subsection (a) ~~[(b)]~~ of this section and provide, if transferred to more than one location, a list of transactions relocated or transferred. This list of relocated or transferred transactions must include the contract number and the full name of the consumer.

§83.3009. License Inactivation or Voluntary Surrender

(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. 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. 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) Voluntary surrender of license. Subject to §83.4005(b) of this title (relating to Effect of Revocation, Suspension, or Surrender of License), a licensee may request voluntary [voluntarily] surrender of a license by providing the information required by the OCCC's written instructions [written notice of the cessation of operations, a request to surrender the license, and by submitting the license certificate]. A surrender is effective when the OCCC approves the surrender. A

voluntary surrender will result in cancellation of the license.

§83.3011. Applications and Notices as Public Records

Once a license application or notice is filed with the OCCC, it becomes a "state record" under Texas Government Code, §441.180(11), and "public information" under Government Code, §552.002. Under Government Code, §441.190, §441.191 and §552.004, the original applications and notices must be preserved as "state records" and "public information" unless destroyed with the approval of the director and librarian of the State Archives and Library Commission under Government Code, §441.187. ~~[Under Government Code, §441.191, the OCCC may not return any original documents associated with a credit access business license application or notice to the applicant or licensee.]~~ An individual may request copies of a state record under the authority of the Texas Public Information Act, Government Code, Chapter 552.

Division 4. License

~~[§83.4001. License Display]~~

~~[(a) In-person sales. Licenses must be prominently displayed in a licensee's office in a conspicuous location visible to the general public.]~~

~~[(b) Internet sales. For business conducted through the Internet, a credit access business must fulfill one of the following two options on any website maintained by the business and on any website where the business advertises to or transacts with the public:]~~

~~[(1) include a complete copy of its license in a prominent and conspicuous location which may be accessible via a direct link; or]~~

~~[(2) include the following information in a prominent and conspicuous location:]~~

~~[(A) name of the licensed business followed by the phrase "credit access business";]~~

~~[(B) license number of the business;]~~

~~[(C) address of the licensed location of the business; and]~~

~~[(D) a statement that the licensed business is regulated by the Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207.]~~

§83.4002. License Term, Renewal, and Expiration

(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) NMLS. To maintain and renew a license, a licensee must maintain an active account in NMLS (or a successor system designated by the OCCC). The OCCC may make renewal unavailable to a licensee that fails to maintain an active account.

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

(d) [(e)] 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 electronically through NMLS or by email to the primary company contact. [:]

~~[(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.]~~

(e) [(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 (d) [(e)] of this section.

§83.4003. Denial, Suspension, or Revocation Based on Criminal History

(a) Criminal history record information. After an applicant submits a complete license application, including all required fingerprints, and pays the fees required by §83.3010 of this title (relating to Fees), the OCCC will investigate the applicant and its principal parties. The OCCC will obtain criminal history record information through NMLS ~~[from the Texas Department of Public Safety and the Federal Bureau of Investigation based on the applicant's fingerprint submission]~~. The OCCC will continue to receive information on new criminal activity reported after the license

application has [~~fingerprints have~~] been initially processed.

(b) Disclosure of criminal history. The applicant must disclose all criminal history information required to file a complete application with the OCCC. Failure to provide any information required as part of the application or requested by the OCCC reflects negatively on the belief that the business will be operated lawfully and fairly. The OCCC may request additional criminal history information from the applicant, including the following:

(1) information about arrests, charges, indictments, and convictions of the applicant and its key individuals [~~principal parties~~];

(2) reliable documents or testimony necessary to make a determination under subsection (c) of this section, including letters of recommendation from prosecution, law enforcement, and correctional authorities;

(3) proof that the applicant has maintained a record of steady employment, has supported the applicant's dependents, and has otherwise maintained a record of good conduct; and

(4) proof that all outstanding court costs, supervision fees, fines, and restitution as may have been ordered have been paid or are current.

(c) (No change.)

(d) Crimes related to character and fitness. The OCCC may deny a license application if the OCCC does not find that the financial responsibility, experience, character, and general fitness of the applicant

are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly, as provided by Texas Finance Code, §393.607(a). In conducting its review of character and fitness, the OCCC will consider the criminal history of the applicant and its key individuals [~~principal parties~~]. If the applicant or a key individual [~~principal party~~] has been convicted of an offense described by subsections (c)(1) or (f)(1) of this section, this reflects negatively on an applicant's character and fitness. The OCCC may deny a license application based on other criminal history of the applicant or its key individuals [~~principal parties~~] if, when the application is considered as a whole, the agency does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly. The OCCC will, however, consider the factors identified in subsection (c)(2) - (3) of this section in its review of character and fitness.

(e) - (f) (No change.)

Division 5. Operational Requirements

§83.5004. Files and Records Required

A licensee must maintain records for each transaction under Texas Finance Code, Chapter 393, and make those records available to the OCCC for examination. The records required by this section may be maintained by using an electronic recordkeeping system, a paper or manual recordkeeping system, [~~electronic recordkeeping system, optically imaged recordkeeping system,~~] or a combination of these types of systems, unless otherwise specified. All records must be prepared and

maintained in accordance with generally accepted accounting principles. If federal law requirements for record retention are different from the provisions contained in this section, the federal law requirements prevail only to the extent of the conflict with the provisions of this section.

(1) (No change.)

(2) Consumer's transaction file. A licensee must maintain an electronic or [a] paper [or electronic] transaction file for each individual transaction under Texas Finance Code, Chapter 393, or be able to produce this information within a reasonable amount of time. The transaction file must contain documents that show the licensee's compliance with applicable state and federal law, including Texas Finance Code, Chapter 393. If a substantially equivalent electronic record for any of the following documents exists, a paper copy of the record does not have to be included in the transaction file if the electronic record can be accessed upon request.

(A) - (C) (No change.)

(3) - (4) (No change.)

(5) Website, [and] online disclosures, and advertisements. ~~[If a licensee maintains a website, it must make the website available to the OCCC for inspection. The website must include a fee schedule to show the licensee's compliance with §83.6003(b) of this title, and applicable consumer disclosures to show the licensee's compliance with §83.6007(f) of this title. If a licensee amends the website's fee schedule, consumer disclosures, or method of accessing the fee schedule or consumer disclosures, the licensee must maintain documentation of the previous version of the website to show~~

~~compliance with §83.6003(b) of this title and §83.6007(f) of this title. This must include the home page, any pages used in accessing the fee schedule and disclosures, and copies of the previously used fee schedule and disclosures. The licensee must maintain this documentation for one year from the date of amendment or until the next examination by OCCC staff, whichever is later. This paragraph does not require a licensee to maintain previously used pages of the website that were not the home page or pages used in accessing the fee schedule and consumer disclosures. The licensee may maintain the documentation of previous versions of the website at a centralized location other than the licensed location or branch office. In this case, the documentation must be maintained for one year from the date of amendment or until the OCCC's next examination of the centralized location, whichever is later. However, upon the OCCC's request, the licensee must have the ability to promptly obtain or access copies of the complete documentation so that the OCCC can examine it.]~~

(A) If a licensee maintains a website, it must make the website available to the OCCC for inspection. The website must include a fee schedule to show the licensee's compliance with §83.6003(b) of this title, and applicable consumer disclosures to show the licensee's compliance with §83.6007(f) of this title.

(B) If a licensee amends a website's fee schedule, consumer disclosures, or method of accessing the fee schedule or consumer disclosures, the licensee must maintain documentation of the previous version of the website to show compliance with §83.6003(b) of this title and §83.6007(f) of this title. This must include the home page, any pages used in accessing the fee schedule

and disclosures, and copies of the previously used fee schedule and disclosures.

(C) A licensee must maintain records of any advertisements and solicitations, including examples of all written and electronic communications soliciting transactions (including advertisements at the place of business, scripts of radio and television broadcasts, and reproductions of billboards and signs not at the licensed place of business). If any language other than English is used in any advertising material, a true and correct translation must be maintained along with the advertising material.

(D) Information described in subparagraphs (A) through (C) of this paragraph must be maintained for one year from the last date of the information's publication or issuance, or until the next examination by OCCC staff, whichever is later. A licensee may maintain the information at a centralized location that the licensee has designated for maintaining books and records. Upon the OCCC's request, the licensee must have the ability to promptly obtain or access copies of the complete documentation so that the OCCC can examine it.

~~[(6) Advertisements. A licensee must maintain advertising and solicitation records, including examples of all written and electronic communications soliciting transactions (including advertisements at the place of business, scripts of radio and television broadcasts, and reproductions of billboards and signs not at the licensed place of business) for one year from the date of use or until the next examination by OCCC staff, whichever is later. If any language other than English is used in any advertising material, a true and correct translation must be~~

~~maintained along with the advertising material. The licensee may maintain the documentation of advertising at a centralized location other than the licensed location or branch office. In this case, the documentation must be maintained for one year from the date of amendment or until the OCCC's next examination of the centralized location, whichever is later. However, upon the OCCC's request, the licensee must have the ability to promptly obtain or access copies of the complete documentation so that the OCCC can examine it.]~~

(6) [(7)] Adverse action records. Each licensee must maintain adverse action records for all applications relating to Texas Finance Code, Chapter 393 transactions. Adverse action records must be maintained according to the record retention requirements in Regulation B, 12 C.F.R. §1002.12(b). The current retention period is 25 months for consumer credit. These records include the loan application, any written or recorded information used in evaluating the application, the adverse action notice (if required), the notice of incompleteness (if applicable), and counteroffer notice (if applicable).

(7) [(8)] Index of transfers, assignments, and sales. The licensee must maintain (or be able to produce within a reasonable period of time) an index of all loans transferred, assigned, or sold to or from another person, including a third-party lender, or to a different location of the licensee. Each record in the index must be retained for four years from the date of the transaction, or two years from the date of the final entry made on the consumer's account, whichever is later. (For transfers from the licensee, the date of transfer is the date of the final entry.)

(8) ~~[(9)]~~ Index of litigation, criminal charges, and repossessions. A licensee must maintain (or be able to produce within a reasonable period of time) an index of each litigation action and criminal charge or referral filed by or against the licensee, as well as each repossession initiated by the licensee. The index must show the consumer's name, account number, and date of action. Each record in the index must be retained for a period of four years from the date of the transaction, or two years from the date of the final entry made on the consumer's account, whichever is later.

(9) ~~[(10)]~~ Registration and surety bond records. A licensee must maintain documentation of its registration as a credit services organization with the Texas Secretary of State, including its registration statement and registration certificate, to show its compliance with Texas Finance Code, §393.101. A licensee must maintain complete documentation of any surety bond obtained by the licensee under Texas Finance Code, §393.401, and any surety bond required by the OCCC under Texas Finance Code, §393.605. If a registration or surety bond terminates, the licensee must maintain the documentation for one year after the date of termination or until the next examination by OCCC staff, whichever is later.

(10) Information security program. A licensee must maintain the following for an information security program:

(A) written policies and procedures for an information security program to protect consumers' customer information under the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314; and

(B) if a licensee maintains customer information concerning 5,000 or more consumers, a written incident response plan and written risk assessments under 16 C.F.R. §314.4.

(11) Data breach notifications. A licensee must maintain the following for data breach notifications:

(A) the text of any data breach notification provided to consumers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification; and

(B) any data breach notification provided to a government agency, including any notification provided to the Office of the Attorney General under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification.

(12) ~~[(11)]~~ Official correspondence file. A licensee must maintain an official correspondence file, including all communications from the OCCC, copies of correspondence and reports addressed to the OCCC (including quarterly and annual reports), examination reports issued by the OCCC, and notices of relocation described by §83.3008 of this title (relating to Relocation of Licensed Office).

(13) ~~[(12)]~~ General business records. A licensee must maintain any other business records showing its compliance with applicable law, including accounting records showing that the licensee maintains net assets required by Texas Finance Code, §393.611, records used to compile quarterly and annual reports, records of disbursement of funds between the licensee and third-party lenders,

receipts, bank statements, and any master insurance policies.

Certification

The agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's legal authority to adopt.

Issued in Austin, Texas on August 21, 2026.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner