TEXAS OFFICE OF CONSUMER CREDIT COMMISSIONER

NOTICE OF PRECOMMENT DRAFT & ONLINE WEBINAR
Motor Vehicle Licensing and Recordkeeping Rules
September 21, 2026 at 3:00 p.m.

The Office of Consumer Credit Commissioner (OCCC) will hold an online webinar on September 21, 2026, at 3:00 p.m. During the webinar, the OCCC will discuss the September 4 precomment draft of motor vehicle licensing and recordkeeping rule amendments. The OCCC will also accept informal written precomments until 5:00 p.m. on September 25. The OCCC plans to present this rule action for proposal at the Finance Commission's October 16 meeting.

Summary of Rule Amendments

The amendments would revise the OCCC's rules for motor vehicle sales finance licensees at 7 Tex. Admin. Code Chapter 84. The amendments include changes to implement the OCCC's transition to the NMLS licensing system, as well as changes related to recordkeeping. The amendments incorporate recommendations from the Texas Regulatory Efficiency Office (TREO).

The proposed rule amendments include the following:

- ***License application terminology:*** Amendments to the definitions rule at Section 84.601 would replace the term "principal party" with "key individual," and replace the term "registered office" with "branch," to be consistent with the terminology in NMLS.
- ***NMLS license application requirements:*** Section 84.602 would be amended to streamline license application requirements and refer to instructions that the OCCC has published through NMLS.
- ***Transfer of ownership and license transfer:*** Section 84.604 would be amended to ensure consistency with the NMLS transition. The amendments would specify that a license transfer occurs after the transferee has obtained a new license and the transferor has surrendered its license.
- ***Required notifications and advance change notice:*** Section 84.607 would be amended to describe the notifications that a licensee is required to provide to the OCCC. Subsection (a) would describe advance change notices (i.e., notices that the licensee must provide on or before the date of the change, such as the legal name of the company, names of owners, or addresses of branch locations). Subsection (b) would describe other notices that must be reported within 30 days of the change (e.g., civil or regulatory actions, criminal history, bankruptcy, or data breaches). Subsection (c) would continue specifying a licensee's responsibility to maintain updated contact information, while also explaining that the OCCC may send notices to the mailing address or email address on file.
- ***License application denial procedure and deemed withdrawal:*** Section 84.608 would be amended to specify that the OCCC may deem an incomplete application to be withdrawn.
- ***License surrender:*** Section 84.610 would be amended to explain that a license surrender is effective when the OCCC approves it.
- ***Criminal history review:*** Section 84.613 would be amended to explain that the OCCC will obtain criminal history information through NMLS and to use the term "key individual."

- ***Return of application documents:*** Section 84.615 would be amended to remove a reference to original documents with a license application, because the OCCC no longer accepts original paper documents.
- ***License display:*** Section 84.616, concerning license display, would be repealed.
- ***License renewal:*** Section 84.617 would be amended to explain that a licensee must maintain an active account in NMLS (or a successor system) in order to renew a license.
- ***Recordkeeping rules consolidation:*** The recordkeeping rules at Sections 84.707, 84.708, and 84.709 would be consolidated into a single rule located at Section 84.708, in order to streamline the recordkeeping requirements and minimize duplicative rule text.

The OCCC invites stakeholders to comment on these proposed rule amendments.

Participating in Webinar

Stakeholders are invited to listen and participate in the online webinar. Please follow the instructions available at: https://attendee.gotowebinar.com/register/8545669811247196253

Submission of Informal Precomments

Informal precomments on the draft rules may be submitted by email to rule.comments@occc.texas.gov, or by mail to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Blvd., Austin, Texas 78705.

Precomments submitted to the OCCC are generally public. Please redact all confidential information before submitting precomments to the OCCC.

Informal precomments on the OCCC's September 4 precomment draft must be received by 5:00 p.m. on September 25, 2026.

OCCC Motor Vehicle Licensing and Recordkeeping Rule Amendments

9/4/2026 Precomment Draft

Title 7, Texas Administrative Code

Part 5. Office of Consumer Credit Commissioner

Chapter 84. Motor Vehicle Installment Sales

Subchapter F. Licensing

§84.601. Definitions

Words and terms used in this chapter that are defined in Texas Finance Code, Chapter 348 <u>or 353</u>, have the same meanings as defined in Chapter 348 <u>or 353</u>. The following words and terms, when used in this chapter, will have the following meanings, unless the context clearly indicates otherwise.

[~~(1) Affiliate--A business entity directly or indirectly through one or more intermediaries that is under common control with the applicant or licensee.~~]

<u>(1)</u> [~~(2)~~] Applicant--An entity that has filed the required forms and fees to operate under a license from the Office of Consumer Credit Commissioner pursuant to Texas Finance Code, Chapter 348.

<u>(2) Branch--A location other than the licensed location where a licensee will originate, service, or collect on retail installment sales contracts. A branch may also be referred to as a "registered office."</u>

(3) Commissioner--The Consumer Credit Commissioner of the State of Texas.

<u>(4) Key individual--An individual owner, officer, director, or employee with a substantial relationship to the business of an applicant or licensee. The following are key individuals:</u>

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

<u>(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</u>

<u>(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.</u>

[~~(4) Foreign entity--An entity formed under the laws of a jurisdiction other than the State of Texas.~~]

(5) Licensed location--The central or main location of the entity.

<u>(6) NMLS--The Nationwide Multistate Licensing System.</u>

<u>(7)</u> [~~(6)~~] OCCC--The Office of Consumer Credit Commissioner of the State of Texas.

[~~(7) Principal party--An individual with a substantial relationship to the proposed business of the applicant. The following individuals are principal parties:~~]

[~~(A) a proprietor holding a 100% ownership interest;~~]

[~~(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, and those with substantial responsibility for operations or compliance with Texas Finance Code, Chapter 348;~~]

[~~(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 was privately held); or~~]

[~~(ii) three officers or similar employees with significant involvement in the corporation's activities governed by Texas Finance Code, Chapter 348. 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) voting members of a limited liability company;~~]

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

[~~(H) officers of nonprofit organizations;~~]

[~~(I) 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; and~~]

[~~(J) individuals may be accepted as principal parties in compliance with this paragraph upon approval by the commissioner for certain privately held entities with complex ownership structures. Three officers or similar employees with significant involvement in the~~

~~entity's activities governed by Texas Finance Code, Chapter 348 may be designated upon approval by the commissioner.~~]

[~~(8) Privately held corporation--A corporation that is not publicly held.~~]

[~~(9) Publicly held corporation--A corporation:~~]

[~~(A) subject to the registration provisions of the Securities Act of 1933 in order to allow a public offering of voting stock; or~~]

[~~(B) owned directly or indirectly by a parent corporation that is subject to the registration provisions of the Securities Act of 1933.~~]

[~~(10) Registered offices--Each location other than the licensed location where a licensee will originate, service, or collect on retail installment sales contracts subject to Texas Finance Code, Chapter 348. The term also includes any additional assumed name that the licensee uses at a single location to engage in a Chapter 348 transaction.~~]

§84.602. Filing of New Application

<u>(a) NMLS. In order to submit a motor vehicle sales finance license application under Texas Finance Code, Chapter 348, or a commercial motor vehicle sales finance license application under Texas Finance Code, Chapter 353, 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.</u> [~~An application for issuance of a new motor vehicle sales finance license issued under Texas Finance Code, Chapter 348 or 353 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 in order to accept approved electronic submissions. Appropriate fees must be filed 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. A physical street address must be listed for the applicant's proposed licensed location. 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 regarding the OCCC, and must be authorized to receive and respond to communications from the OCCC.~~]

[~~(iii) Registered agent. The registered agent must be designated 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) List of registered offices. Each additional location, other than the licensed location shown on the application, must be listed. The applicant should provide the assumed name (DBA), physical address, telephone number, and the person responsible for day-to-day operations for each registered office. A registered office is required for any additional assumed name that the licensee uses at a single location to engage in a Texas Finance Code, Chapter 348 or 353 transaction.~~]

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

[~~(I) Proprietorships. The applicant must disclose the name of the individual holding a 100% 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 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.~~]

[~~(VII) Nonprofit organizations. Each officer must be listed.~~]

[~~(VIII) All entity types. If a parent entity is a different type of legal business entity than the applicant, the parent entity's owners and principal parties should be disclosed according to the parent's entity type.~~]

[~~(IX) Alternative filings for all entity types. The commissioner may also accept other filings submitted to a governmental authority that the commissioner deems to have information substantially equivalent in coverage and reliability to a filing under subclauses (I) - (VIII) of this clause.~~]

[~~(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 §84.601 of this title (relating to Definitions) 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 §84.601 of this title 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 §84.601 of this title 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 information that relates to the applicant's prior experience in the motor vehicle sales finance business. If the applicant or its principal parties do not have significant experience in the same type of 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. An applicant must attach a brief narrative to the application explaining:~~]

[~~(I) an estimate of how many motor vehicles will be financed by the applicant each year;~~]

[~~(II) whether the applicant will hold the retail installment sales contracts or whether the applicant will assign its retail installment sales contracts;~~]

[~~(III) whether the applicant will only be accepting contracts from another entity (assignor), and, if so, list the types of entities; and~~]

[~~(IV) whether the collections will occur at the licensed location.~~]

[~~(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.~~]

[~~(F) Statement regarding previous installment transactions. Each applicant must submit a statement that it has or has not made or collected on any retail installment sales contract or accepted the cash payment for a motor vehicle in one or more installments from September 1, 2002, to date. This includes any contracts signed by applicant as seller that are subsequently~~

~~assigned to a third party. If the applicant is purchasing another dealership and has permission to operate under an existing license, as described in §84.604 of this title (relating to Transfer of License; New License Application on Transfer of Ownership), the statement outlined by this subparagraph is not required. If the applicant has engaged in any of the referenced activities, the applicant must provide the following information:~~]

[~~(i) A list of all contracts used to finance the sale of a motor vehicle in one or more installments (whether the applicant was the original seller or whether the applicant became a holder). The list should include the name of the buyer, contract date, vehicle cash price, amount of down payment, net trade-in amount, total amount financed, payment frequency (monthly, semi-monthly, bi-weekly, weekly), total number of payments, and payment amount(s).~~]

[~~(ii) From the list provided by the applicant, copies of ten (10) complete files. The complete file includes, but is not limited to, the buyer's order, signed retail installment sales contract, payment history, certificate of title, and other documents related to that transaction. If there are fewer than ten (10) accounts, provide a complete copy of each file.~~]

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

[~~(A) Fingerprints.~~]

[~~(i) For all persons meeting the definition of "principal party" as defined in §84.601 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)(v)(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 agency may approve the request, seek alternative appropriate individuals, or deny the request.~~]

[~~(iv) For individuals who have previously been licensed by the OCCC and 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 Motor Vehicles), 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) Contract forms. The applicant must provide information regarding the retail installment sales contract forms it intends to use for retail installment sales transactions involving ordinary vehicles. The applicant does not have to provide retail installment sales contract forms involving commercial vehicles.~~]

[~~(i) Custom forms. If a custom contract form is to be prepared, a preliminary draft or proof that is complete as to format and content and which indicates the number and distribution of copies to be prepared for each transaction must be submitted.~~]

[~~(ii) Stock forms. If an applicant purchases or plans to purchase stock forms from a supplier, the applicant must include a statement that includes the supplier's name and address and a list identifying the forms to be used, including the revision date of the form, if any.~~]

[~~(C) 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 one 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;~~]

[~~(VI) if requested, a certificate of good standing from the Texas Comptroller of Public Accounts.~~]

[~~(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 one 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;~~]

[~~(VI) if requested, a certificate of good standing from the Texas Comptroller of Public Accounts.~~]

[~~(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.~~]

[~~(viii) Nonprofit organizations. The applicant must provide a copy of the relevant portions of the instrument creating the nonprofit organization addressing management of the organization and operations of the applicant. A nonprofit applicant must also provide a copy of its filing with the Internal Revenue Service or other evidence to verify that the applicant is a nonprofit organization exempt from taxation under Internal Revenue Code of 1986, §501(c)(3).~~]

[~~(ix) Formation document alternative. As an alternative to the entity-specific formation document applicable to the applicant's entity type (e.g., for a corporation, articles of incorporation), an applicant may submit a "certificate of formation" as defined in Texas Business Organizations Code, §1.002, if the certificate of formation provides the entity formation information required by this section for that entity type.~~]

[~~(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.~~]

[~~(3) Late filing. An applicant who desires to retroactively file a license application may do so by complying with Texas Finance Code, §349.303, and the rules adopted under this chapter.~~]

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

<u>(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.</u>

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

<u>(3) A business operating plan.</u>

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

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

<u>(6) A statement of experience detailing prior experience relevant to the license sought.</u>

<u>(7) A certificate of formation or other formation document.</u>

<u>(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.</u>

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

(10) A statement regarding previous motor vehicle retail installment transactions, with records for transactions that the applicant made, held, serviced, or collected before obtaining a license.

(11) For a license application involving a transfer of ownership, documentation of the transfer of ownership as described by §84.604 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 statement regarding previous motor vehicle retail installment transactions at the branch, including the statement and information described by subsection (b)(10) of this section.

(4) For a license application involving a transfer of ownership at a branch, documentation of the transfer of ownership as described by §84.604 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 348 or 353.

(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.

(f) Late filing. An eligible applicant may obtain a company or branch license after the date on which the applicant was required to obtain the license by complying with Texas Finance Code, §349.301 and §349.303, and the rules adopted under this chapter.

[~~*§84.603. New Registered Offices*~~]

[~~(a) A licensee may conduct Texas Finance Code, Chapter 348 transactions at different locations or under additional assumed names at a single location by filing notice of a new registered office and paying the applicable fee.~~]

[~~(b) Notice of a new registered office must be filed before a licensee can engage in a Chapter 348 transaction at the different location or under the additional assumed name.~~]

[~~(1) Date registered office began conducting Chapter 348 transactions. If the registered office has commenced business, provide the date the registered office began conducting Texas Finance Code, Chapter 348 transactions. If the notice is filed in advance, provide the date the licensee anticipates commencing business under this registered office.~~]

[~~(2) License number of licensed location. Provide the license number shown on the license of the licensed location issued by the Office of Consumer Credit Commissioner.~~]

[~~(3) Assumed name certificate. If the registered office is using 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 paragraph.~~]

[~~(A) Unincorporated applicants. Unincorporated applicants using or planning to use an assumed name at a new registered office 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.~~]

[~~(B) Incorporated applicants. Incorporated applicants using or planning to use an assumed name at a new registered office 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.~~]

[~~(c) Late filing. A licensee who desires to retroactively register an office may do so by complying with Texas Finance Code, §349.302, and the rules adopted under this chapter.~~]

§84.604. 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) Grandparent entity--A direct owner of a parent entity.~~]

<u>(1)</u> [~~(2)~~] License transfer--A sale, assignment, or transfer of a license under Texas Finance Code, Chapter 348 or 353.

[~~(3) Parent entity--A direct owner of a licensee or applicant.~~]

<u>(2)</u> [~~(4)~~] 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.

<u>(3)</u> [~~(5)~~] 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 <u>that results in the exact same owners still owning the business (unless an owner that previously held less than 10% obtains an interest</u>

of 10% or more). [~~as defined in §84.605 of this title (relating to Change in Form or Proportionate Ownership). The term does not include a change in ownership above the level of the grandparent entity.~~] 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 entity 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 entity 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) [~~(6)~~] Transferee--The entity that controls business at a licensed location after a transfer of ownership.

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

(c) License transfer approval. No license may be sold, transferred, or assigned without the written approval of the OCCC, as provided by Texas Finance Code, §348.512 and §353.512. 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) of this section. 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 license at the time of the application, then the application must include the information required for new license applications under §84.602 of this title (relating to Filing of New Application). The instructions in §84.602 of this title apply to these filings.

(4) Application information for transferee that holds a license. If the transferee holds a 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 key individuals [~~principal parties, and a new financial statement~~], as provided in §84.602 of this title. The instructions in §84.602 of this title apply to these filings. Any key individual for [~~The responsible person at~~] the new location must file a complete individual form [~~personal affidavit, personal questionnaire, and employment history~~], if not previously filed. Other information required by §84.602 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) of this section 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) of this section.

(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) of this section, by the deadline described by subsection (d) of this section, then the transferee may engage in business under Texas Finance Code, Chapter 348 or 353, as applicable. 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 §84.608(d) of this title (relating to Processing of Application).

(h) Responsibility.

(1) Responsibility of transferor. Before the transferee begins performing motor vehicle sales finance activity under a license, the transferor is responsible to any consumer and to the OCCC for all motor vehicle sales finance activity performed under the license.

(2) Responsibility of transferor and transferee. If a transferee begins performing motor vehicle sales finance activity under a license before the OCCC's final approval of an application described by subsection (e) of this section, 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 the OCCC's final approval of an application described by subsection (e) of this section, the transferee is responsible to any consumer and to the OCCC for all motor vehicle sales finance 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.

[~~*§84.605. Change in Form or Proportionate Ownership*~~]

[~~(a) Organizational form. When any licensee or parent of a licensee desires to change the organizational form of its business (e.g., from proprietorship to corporation; or from corporation to limited partnership), the licensee must advise the commissioner in writing of the change within 14 calendar days by filing a license amendment and paying the required fees as provided in §84.611 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 incorporation; or articles of conversion and partnership agreement) addressing the ownership and management of the new entity. Failure to meet the application filing deadline does not invalidate transactions unless the agency has obtained a contrary finding through the administrative process.~~]

[~~(b) Merger. A merger of a licensee is a change of ownership that results in a new or different surviving entity and requires the filing of a license transfer application or a new license application on transfer of ownership pursuant to §84.604 of this title (relating to Transfer of License; New License Application on Transfer of Ownership). If the merger of the parent entity of a licensee 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 14 calendar days after the change, by filing a license amendment and paying the required fees as provided in §84.611. Mergers or transfers of other entities with a beneficial interest beyond the parent entity level only require notification within 14 calendar days. Failure to meet the application filing deadline does not invalidate transactions unless the agency has obtained a contrary finding through the administrative process.~~]

[~~(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 14 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 §84.611 of this title. This subsection does not apply to a legal entity that has filed with the OCCC the most recent Form 10-K or 10-Q filing of the licensee or of the parent entity, although a license transfer application or a new license application on transfer of ownership may be required under §84.604 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 §84.604 of this title.~~]

[~~(3) Failure to meet the notification filing deadline does not invalidate transactions unless the agency has obtained a contrary finding through the administrative process.~~]

[~~*§84.606. Amendments to Pending Application*~~]

[~~Upon request, each applicant must provide information supplemental to that contained in the applicant's original application documents.~~]

§84.607. 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 14 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);

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

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

(4) 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.

§84.608. 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 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 §84.611 of this title (relating to Fees) will be forfeited.~~]

<u>(f)</u> [~~(g)~~] Processing time.

(1) A license application will ordinarily be approved or denied within [~~a maximum of~~] 60 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 <u>ordinarily</u> be <u>scheduled for a date</u> [~~held~~] within 60 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.

[~~*§84.609. Relocation of Licensed Offices*~~]

[~~(a) Relocation of licensed location. A licensee may move a licensed location to any other location by paying the appropriate fees and giving notice of intended relocation to the commissioner not less than 10 calendar days prior to the anticipated moving date.~~]

[~~(b) Relocation of registered office. A licensee may move a registered office from the registered location to any other location by paying the appropriate fees and giving notice of intended relocation to the commissioner not less than 10 calendar days prior to the anticipated moving date.~~]

[~~(c) Notice requirements. 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 location or registered office, the approximate date of relocation, and the applicable fee as outlined in §84.611 of this title (relating to Fees). Failure to meet the notification deadline does not invalidate transactions unless the agency has obtained a contrary finding through the administrative process.~~]

§84.610. License Inactivation or Voluntary Surrender

(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. 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. 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) Voluntary surrender of license. Subject to subsection (d) [~~(e)~~] of this section, 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.

(d) 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.

[~~*§84.612. Implementation Provisions of Licensing*~~]

[~~Effective date. The effective date of the statutory licensing requirement is September 1, 2002. After September 1, 2002, a motor vehicle seller may not engage in any retail installment sales transaction without a motor vehicle sales finance license granted under this title. Any motor vehicle seller engaging in a motor vehicle sales finance transaction prior to September 1, 2002, must comply with Texas Finance Code, §348.401 and §348.402, and 7 TAC, Part 1, Chapter 1, Subchapter P, as those provisions were in effect. Failure to comply with previously required registration provisions is grounds for denial of an application made under §84.608 of this title (relating to Processing of Application).~~]

84.613. 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 §84.611 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, §348.504(a) and §353.504(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.)

§84.615. 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. In response to a public information request, to the extent permitted by Government Code, Chapter 552 and other applicable law, the OCCC will withhold information deemed confidential by law (e.g., social security numbers, criminal history information). 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 Texas State Library and 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 motor vehicle sales finance 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.

[~~*§84.616. License Display*~~]

[~~If a licensed location or registered office is open to the general public, then the licensee must prominently display the license in the location or office, in a conspicuous location visible to the general public. This requirement does not apply to a location or office that is not open to the general public (e.g., a servicing or collection office that operates exclusively online or by phone).~~]

§84.617. 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.

<u>(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.</u>

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

<u>(d)</u> [~~(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 <u>electronically through NMLS or by email to the primary company contact</u> [~~:~~]

[~~(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.~~]

<u>(e)</u> [~~(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.

<u>(f)</u> [~~(e)~~] Reinstatement. As provided by Texas Finance Code, §349.301 and §349.303(a), if a <u>company or branch</u> 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. [~~The late filing fee for a registered office is $250 under Texas Finance Code, §349.302.~~]

Subchapter G. Examinations

[~~*§84.707 Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)*~~]

[~~(a) Applicability. The recordkeeping requirements of this section apply to retail sellers that immediately assign or transfer all retail installment sales contracts to another authorized creditor. If a retail seller collects any installments, excluding downpayments, on a retail installment sales contract, the retail seller must comply with the recordkeeping requirements established under §84.708 of this title (relating to Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)). The recordkeeping requirements of this section do not apply to motor vehicle retail installment sales transactions involving commercial vehicles.~~]

[~~(b) Records required for each retail installment sales transaction. Each licensee must maintain records with respect to the licensee's compliance with Texas Finance Code, Chapter 348 for each motor vehicle retail installment sales contract made, acquired, serviced, or held under Chapter 348 and make those records available for examination. This requirement includes any conditional delivery agreement or retail installment sales contract signed by a retail buyer for a vehicle that has been delivered, including contracts that are subsequently voided or canceled after a seller regains possession and ownership of the vehicle.~~]

[~~(c) Recordkeeping systems. The records required by this section may be maintained by using either an electronic recordkeeping system, a legible paper or manual recordkeeping system, or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. Licensees may maintain records on one or more recordkeeping systems, so long as the licensee is able to integrate records pertaining to an account into one or more reports as required by this section. 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.~~]

[~~(d) Records required.~~]

[~~(1) Retail installment sales transaction report.~~]

[~~(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract entered into by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (7) of this subsection.~~]

[~~(B) Recordkeeping systems. The retail installment sales transaction report can be maintained either as an electronic system or as a paper record, so long as the licensee can integrate the following information into a report. If the retail installment sales transaction report is maintained under a manual recordkeeping system, the retail installment sales transaction report must be updated within a reasonable time from the date the contract is entered into by the licensee.~~]

[~~(C) Dealer's Motor Vehicle Inventory Tax Statement option.~~]

[~~(i) A licensee may utilize a copy of the Dealer's Motor Vehicle Inventory Tax Statement (VIT Statement) submitted to the Texas Comptroller of Public Accounts to satisfy the requirements of this paragraph if the following two conditions are met when the VIT Statement is provided to the commissioner's representative:~~]

[~~(I) on a copy of the submitted VIT Statement, the licensee identifies (e.g., highlights, marks with abbreviations) which transactions were cash transactions and which were retail installment sales transactions; and~~]

[~~(II) the licensee supplements the VIT Statement with the identification of all transactions in which VIT was not charged or collected.~~]

[~~(ii) A licensee who assigns account numbers and utilizes the Dealer's Motor Vehicle Inventory Tax Statement option must provide the account numbers for all retail installment sales transactions contained in the VIT Statement.~~]

[~~(D) Required information. A retail installment sales transaction report must contain the following information:~~]

[~~(i) the date of contract or date of sale (day, month, and year);~~]

[~~(ii) the retail buyer's name(s);~~]

[~~(iii) a method of identifying the vehicle, such as the last six digits of the vehicle identification number or the stock number; and~~]

[~~(iv) the account number, if the retail seller assigns an account number.~~]

[~~(E) Sorting or filtering. Upon request, if a licensee maintains some or all transaction records electronically, the licensee must be able to sort or filter the retail installment transaction report by each of the following:~~]

[~~(i) the date of contract or date of sale;~~]

[~~(ii) the retail buyer's name(s);~~]

[~~(iii) the status of the transaction (open or closed); and~~]

[~~(iv) whether the transaction has been assigned to another person and the name of any assignee.~~]

[~~(2) Retail installment sales transaction file. A licensee must maintain an electronic or paper copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for~~

~~any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:~~]

[~~(A) for all retail installment sales transactions:~~]

[~~(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;~~]

[~~(ii) if prepared by the retail seller, the purchase or buyer's order reflecting a written computation of the cash price of the vehicle and itemized charges, a description of the motor vehicle being purchased, and a description of each motor vehicle being traded in;~~]

[~~(iii) the credit application and any other written or recorded information used in evaluating the application;~~]

[~~(iv) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;~~]

[~~(v) copies of other agreements or disclosures signed by the retail buyer applicable to the retail installment sales transaction; and~~]

[~~(vi) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (P) of this paragraph.~~]

[~~(B) for a vehicle titled in Texas, a copy of the completed Texas Department of Motor Vehicles'/Texas Comptroller of Public Accounts' Application for Texas Certificate of Title (Form 130-U) signed by the retail buyer and seller that was filed with the appropriate county tax assessor-collector.~~]

[~~(C) for a vehicle titled outside of Texas, a copy of the application for certificate of title for the buyer or the properly assigned evidence of ownership to the buyer including the Texas Comptroller of Public Accounts' Texas Motor Vehicle Sales Tax Exemption Certificate (Form 14-312).~~]

[~~(D) for a retail installment sales transaction in which a power of attorney is necessary to transfer title to the buyer, a copy of the Texas Department of Motor Vehicles' Power of Attorney to Transfer a Motor Vehicle (Form VTR-271) or any other similar document used as a power of attorney.~~]

[~~(E) for a retail installment sales transaction involving a downpayment, a copy of any document relating to the downpayment including:~~]

[~~(i) receipts for cash downpayments;~~]

[~~(ii) promissory notes or other documents evidencing the retail buyer's agreement to pay the cash downpayment over time;~~]

[~~(iii) documents or forms signed by the retail buyer relating to a manufacturer's or distributor's rebate as permitted by the Texas Finance Code, §348.404(a); and~~]

[~~(iv) documents or forms evidencing the payoff of any trade-in vehicle shown on the retail installment sales contract as required by Texas Finance Code, §348.408(c).~~]

[~~(F) for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).~~]

[~~(G) for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document relating to the disbursement of funds for money advanced.~~]

[~~(H) for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.~~]

[~~(I) for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction from a holder to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:~~]

[~~(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;~~]

[~~(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (7) of this subsection;~~]

[~~(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.~~]

[~~(J) for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.~~]

[~~(K) for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:~~]

[~~(i) a transaction where disclosures required by the Truth in Lending Act are not incorporated into the text of the retail installment sales contract and the credit was extended for primarily for personal, family, or household purposes, a copy of the Truth in Lending statement required by Regulation Z, Truth in Lending, 12 C.F.R. §226.18;~~]

[~~(ii) a transaction involving a cosigner, the notice to cosigner required by the Federal Trade Commission's Credit Practices Trade regulation, 16 C.F.R. §444.3.~~]

[~~(L) for a retail installment sales contract that has an itemized charge for the inspection of a used motor vehicle, access to a copy of the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.~~]

[~~(M) for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:~~]

[~~(i) a copy of the trade-in credit agreement and any written notice or disclosure provided to the retail buyer;~~]

[~~(ii) evidence of the contractual liability reimbursement policy in effect at the time of the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and~~]

[~~(iii) documentation of any refund provided upon cancellation of a trade-in credit agreement.~~]

[~~(N) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:~~]

[~~(i) a copy of the trade-in credit agreement;~~]

[~~(ii) evidence of the amount of any credit applied under the trade-in credit agreement; and~~]

[~~(iii) any documentation used to process a claim, including:~~]

[~~(I) any proof of insurance settlement documents obtained from the retail buyer;~~]

[~~(II) any accident record or vehicle condition report obtained to process a claim; and~~]

[~~(III) any supplemental claim records supporting the approval or denial of the claim.~~]

[~~(O) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):~~]

[~~(i) evidence of the amount of any credit applied under the depreciation benefit optional member program; and~~]

[~~(ii) any documentation obtained by the licensee to process the benefit.~~]

[~~(P) any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.~~]

[~~(3) Assignment information.~~]

[~~(A) Required information. Assignment information must cover any Texas Finance Code, Chapter 348 retail installment sales contract made by or acquired by the licensee that is assigned from its licensed or registered location. The assignment information must show the name of the retail buyer, the account number or other unique number given to the retail buyer, the date of assignment, and the name and address to which the accounts are assigned.~~]

[~~(B) Electronic recordkeeping systems. If a licensee is able to produce an assignment report containing the required information provided in subparagraph (A) of this paragraph electronically without any additional programming costs, the licensee must produce the report upon request. If the licensee's software programs are unable to produce an assignment report containing the required information provided in subparagraph (A) of this paragraph, the licensee may maintain assignment information for each individual retail installment sales transaction in the retail installment sales transaction file. A licensee must be able to access assignment information for a specific transaction as requested by the commissioner's representative.~~]

[~~(C) Manual recordkeeping systems. If a licensee is not able to produce an assignment report as provided in subparagraph (B) of this paragraph, the licensee may maintain assignment information for each individual retail installment sales transaction in the retail installment sales transaction file. A licensee must be able to access assignment information for a specific transaction as requested by the commissioner's representative.~~]

[~~(4) General business and accounting records. General business and accounting records concerning retail installment sales transactions must be maintained. The licensee is not required to produce information protected under the attorney-client privilege or work product privilege. The business and accounting records must include receipts, documents, or other records for each disbursement made by the licensee at the retail buyer's direction or request, on his behalf, or for his benefit, that is charged to the retail buyer, including:~~]

[~~(A) Texas Comptroller of Public Accounts' Dealer Motor Vehicle Inventory Tax Statement (Form 50-246); and~~]

[~~(B) Texas Comptroller of Public Accounts' Texas Motor Vehicle Seller-Financed Sales Tax Report (Form 14-117).~~]

[~~(5) Adverse action records. Each licensee must maintain adverse action records regarding all applications relating to Texas Finance Code, Chapter 348 retail installment sales transactions. Adverse action records must be maintained according to the record retention requirements contained in Regulation B, Equal Credit Opportunity Act, 12 C.F.R. §1002.12(b). The current retention periods are 25 months for consumer credit and 12 months for business credit.~~]

[~~(6) Trade-in credit agreement records. Each licensee that enters a trade-in credit agreement or provides a benefit in connection with a trade-in credit agreement must:~~]

[~~(A) maintain a copy of any contractual liability reimbursement policy related to the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and~~]

[~~(B) maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, and the date of satisfaction or denial.~~]

[~~(7) Retention and availability of records. All books and records required by this subsection must be available for inspection at any time by Office of Consumer Credit Commissioner staff, and must be retained for a period of four years from the date of the contract, two years from the date of the final entry made thereon by the licensee, whichever is later, or a different period of time if required by federal law. For licensees who assign retail installment sales contracts, the final entry may be the date of the assignment if the licensee makes no other entries on the account after the assignment. Upon notification of an examination pursuant to Texas Finance Code, §348.514(f), the licensee must be able to produce or access required books and records within a reasonable time at the licensed location or registered office specified on the license. The records required by this subsection must be available or accessible at an office in the state designated by the licensee except when the retail installment sales transactions are transferred under an agreement which gives the commissioner access to the documents. Documents may be maintained out of state if the licensee has in writing acknowledged responsibility for either making the records available within the state for examination or by acknowledging responsibility for additional examination costs associated with examinations conducted out of state.~~]

[~~(8) Information security program. A licensee must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. 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.~~]

[~~(9) Data breach notifications. A licensee must maintain the text of any data breach notification provided to retail buyers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification. A licensee must maintain 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.~~]

§84.708. Files and Records Required [~~*(Retail Sellers Collecting Installments on Retail Installment Sales Contracts)*~~]

(a) Applicability. The recordkeeping requirements of this section apply to motor vehicle retail installment sales transactions [~~retail sellers that service or collect installments on retail installment sales contracts~~] involving ordinary vehicles. The recordkeeping requirements of this section do not apply to motor vehicle retail installment sales transactions involving commercial vehicles.

(b) Records required for each retail installment sales transaction. Each licensee must maintain records with respect to the licensee's compliance with Texas Finance Code, Chapter 348 for each motor vehicle retail installment sales contract made, acquired, serviced, or held under Chapter 348 and make those records available for examination. For a retail seller, this [~~This~~] requirement includes any conditional delivery agreement or retail installment sales contract signed by a retail buyer for a vehicle that has been delivered, including contracts that are subsequently voided or canceled after a seller regains possession and ownership of the vehicle.

(c) Recordkeeping systems. The records required by this section may be maintained by using either an electronic recordkeeping system, a legible paper or manual recordkeeping system, or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. Licensees may maintain records on one or more recordkeeping systems, so long as the licensee is able to integrate records pertaining to an account into one or more reports as required by this section. 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.

(d) Record search requirements for licensees servicing or collecting on retail installment sales contracts.

(1) Open retail installment sales transactions. A licensee that services or collects on retail installment sales contracts must be able to access or produce a list of all open retail installment sales transactions. If the list of open transactions is accessed through an electronic system, the licensee must be able to generate a separate report of open transactions. Alternatively, a licensee may provide a list containing open and closed retail installment sales transactions as long as the open transactions are designated as "open."

(2) Alphabetical search. A licensee that services or collects on retail installment sales contracts must be able to access records in alphabetical order by retail buyer name for open and closed transactions during the record retention period required by subsection (e)(10) of this section. A licensee may comply with the alphabetical requirement by providing the commissioner's representative files by retail buyer name upon request by the commissioner's representative.

(3) Sorting or filtering. Upon request, if a licensee services or collects on retail installment sales contracts and maintains some or all transaction records electronically, a licensee must be able to sort or filter a records search by each of the following:

(A) the date of contract or date of sale;

(B) the retail buyer's name(s);

(C) the status of the transaction (open or closed); and

(D) whether the transaction has been assigned to another person and the name of any assignee.

(e) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract made, held, serviced, or collected [~~or acquired~~] by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (10) of this subsection.

(B) Recordkeeping systems. The retail installment sales transaction report can be maintained either an electronic system or as a paper record, so long as the licensee can integrate the following information into a report. If the retail installment sales transaction report is maintained under a manual recordkeeping system, the retail installment sales transaction report must be updated within a reasonable time from the date the contract is made or acquired.

(C) Dealer's Motor Vehicle Inventory Tax Statement option for retail sellers.

(i) A licensee that is a retail seller may utilize a copy of the Dealer's Motor Vehicle Inventory Tax Statement (VIT Statement) submitted to the Texas Comptroller of Public Accounts to satisfy the requirements of this paragraph if the following two conditions are met when the VIT Statement is provided to the commissioner's representative:

(I) on a copy of the submitted VIT Statement, the licensee identifies (e.g., highlights, marks with abbreviations) which transactions were cash transactions and which were retail installment sales transactions; and

(II) the licensee supplements the VIT Statement with the identification of all transactions in which VIT was not charged or collected.

(ii) A licensee who assigns account numbers and utilizes the Dealer's Motor Vehicle Inventory Tax Statement option must provide the account numbers for all retail installment sales transactions contained in the VIT Statement.

(D) Required information. A retail installment sales transaction report must contain the following information:

(i) the date of contract or date of sale (day, month, and year);

(ii) the retail buyer's name(s);

(iii) a method of identifying the vehicle, such as the last six digits of the vehicle identification number or the stock number; and

(iv) the account number.

(E) Sorting or filtering. Upon request, a licensee must be able to sort or filter the retail installment transaction report by each of the following:

(i) the date of contract or date of sale;

(ii) the retail buyer's name(s);

(iii) the status of the transaction (open or closed); and

(iv) whether the transaction has been assigned to another person and the name of any assignee.

(2) Retail installment sales transaction file. A licensee must maintain an electronic or paper copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) All licensees must maintain the following in the retail installment sales transaction file: [~~for all retail installment sales transactions~~]:

(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;

[~~(ii) if prepared by the retail seller, the purchase or buyer's order reflecting a written computation of the cash price of the vehicle and itemized charges, a description of the motor vehicle being purchased, and a description of each motor vehicle being traded in;~~]

(ii) [~~(iii)~~] the credit application and any other written or recorded information used in evaluating the application;

(iii) [~~(iv)~~] the original certificate of title to the vehicle, a certified copy of the negotiable certificate of title, or a copy of the front and back of either the original or certified copy of the title;

(iv) for any vehicle titled in Texas, a copy of the completed Texas Department of Motor Vehicles'/Texas Comptroller of Public Accounts' Application for Texas Certificate of Title (Form 130-U) signed by the retail buyer and seller that was filed with the appropriate county tax assessor-collector.

[~~(v) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;~~]

(v) for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

(vi) for a retail installment sales transaction in which the licensee issues or takes assignment of a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(I) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(II) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (10) of this subsection;

(III) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(vii) separate disclosures required by federal or state law, including the following:

(I) if disclosures required by the Truth in Lending Act are not incorporated into the text of the retail installment sales contract and the credit was extended for primarily for personal, family, or household purposes, a copy of the Truth in Lending statement required by Regulation Z, Truth in Lending, 12 C.F.R. §1026.18;

(II) if the transaction involves a cosigner, the notice to cosigner required by the Federal Trade Commission's Credit Practices Trade regulation, 16 C.F.R. §444.3.

(viii) [~~(vi)~~] copies of other agreements or disclosures signed by the retail buyer applicable to the retail installment sales transaction. [~~; and~~]

[~~(vii) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (U) of this paragraph.~~]

(B) If the licensee is the retail seller, then the licensee must maintain the following in the retail installment sales transaction file: [~~for a vehicle titled in Texas, a copy of the completed~~

~~Texas Department of Motor Vehicles'/Texas Comptroller of Public Accounts' Application for Texas Certificate of Title (Form 130-U) signed by the retail buyer and seller that was filed with the appropriate county tax assessor-collector.~~]

(i) if prepared by the retail seller, the purchase or buyer's order reflecting a written computation of the cash price of the vehicle and itemized charges, a description of the motor vehicle being purchased, and a description of each motor vehicle being traded in;

(ii) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(iii) for a vehicle titled outside of Texas, a copy of the application for certificate of title for the buyer or the properly assigned evidence of ownership to the buyer including the Texas Comptroller of Public Accounts' Texas Motor Vehicle Sales Tax Exemption Certificate (Form 14-312).

(iv) for a retail installment sales transaction in which a power of attorney is necessary to transfer title to the buyer, a copy of the Texas Department of Motor Vehicles' Power of Attorney to Transfer a Motor Vehicle (Form VTR-271) or any other similar document used as a power of attorney.

(v) for a retail installment sales transaction involving a downpayment, a copy of any record or document relating to the downpayment including:

(I) receipts for cash downpayments;

(II) promissory notes or other documents evidencing the retail buyer's agreement to pay the cash downpayment over time;

(III) documents or forms signed by the retail buyer relating to a manufacturer's or distributor's rebate as permitted by Texas Finance Code, §348.404(a); and

(IV) documents or forms evidencing the payoff of any trade-in vehicle shown on the retail installment sales contract as required by Texas Finance Code, §348.408(c).

(vi) for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).

(vii) for a retail installment sales contract that has an itemized charge for the inspection of a new or used motor vehicle, a copy of or access to the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

(viii) any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(ix) for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document, form, or agreement relating to the disbursement of funds for money advanced.

(x) for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(xi) for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(I) a copy of the trade-in credit agreement and any written notice or disclosure provided to the retail buyer;

(II) evidence of the contractual liability reimbursement policy in effect at the time of the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and

(III) documentation of any refund provided upon cancellation of a trade-in credit agreement.

(xii) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(I) a copy of the trade-in credit agreement;

(II) evidence of the amount of any credit applied under the trade-in credit agreement; and

(III) any documentation used to process a claim, including:

(-a-) any proof of insurance settlement documents obtained from the retail buyer;

(-b-) any accident record or vehicle condition report obtained to process a claim; and

(-c-) any supplemental claim records supporting the approval or denial of the claim.

(xiii) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(I) evidence of the amount of any credit applied under the depreciation benefit optional member program; and

(II) any documentation obtained by the licensee to process the benefit.

(C) If the licensee holds, services, or collects on the retail installment sales contract, then the licensee must maintain the following in the retail installment sales transaction file: [~~for a vehicle titled outside of Texas, a copy of the application for certificate of title for the buyer or the properly assigned evidence of ownership to the buyer including the Texas Comptroller of Public Accounts' Texas Motor Vehicle Sales Tax Exemption Certificate (Form 14-312).~~]

(i) for a retail installment sales transaction that has been repaid in full, evidence of the discharge or release of lien as prescribed by 43 TAC §217.106 (relating to Discharge of Lien).

(ii) for a retail installment sales transaction in which the licensee agrees to defer all or part of one or more payments:

(I) a copy of any written deferment agreement; and

(II) any written notice to the retail buyer regarding a deferment under Texas Finance Code, §348.114(c).

(iii) for a retail installment sales transaction involving a repossession, the records required by subsection (f) of this section.

(ii) for a retail installment sales transaction involving insurance claims for credit life, credit accident and health, credit property, credit involuntary unemployment, collateral protection, or credit gap insurance:

(I) if the licensee does not negotiate or transact insurance claims on behalf of the retail buyer, records are not required to be maintained under this clause.

(II) if the licensee negotiates or transacts insurance claims on behalf of the retail buyer, supplemental insurance records, to the extent received by the licensee, supporting the settlement or denials of claims reported in the insurance loss records provided by paragraph (6) of this subsection including:

(-a-) Credit life insurance claims. The supplemental insurance records for credit life insurance claims must include the death certificate or other written records relating to the death of the retail buyer; proof of loss or claim form that discloses the amount of indebtedness at the time of death; check copies or electronic payment receipts that reflect the gross amount of the claim paid, including the amount of insurance benefits paid to beneficiaries other than the licensee which is in excess of the net amount necessary to pay the indebtedness; and the amount that is paid to beneficiaries other than the licensee.

(-b-) Credit accident and health insurance claims. The supplemental insurance records for credit accident and health insurance claims must include any written records relating to the disability, including statements from the physician, employer, and retail buyer; the proof of loss or claim form filed by the retail buyer; and copies of the checks or electronic payment receipts reflecting disability payments paid by the insurance carrier.

(-c-) Credit involuntary unemployment insurance claims. The supplemental insurance records for credit involuntary unemployment insurance claims must include any written document relating to the termination, layoff, or dismissal of the retail buyer; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the involuntary unemployment insurance claim.

(-d-) Collateral protection insurance claims. The supplemental insurance records for collateral protection insurance claims must include the law enforcement report, fire department report, or other written record reflecting the loss or destruction of any covered motor vehicle; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the collateral protection insurance claim.

(-e-) Credit gap insurance claims. The supplemental insurance records for credit gap insurance claims must include the gap insurance claim form; proof of loss and settlement check from the retail buyer's basic comprehensive, collision, or uninsured/underinsured policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle; documents that provide verification of the retail buyer's primary insurance deductible; if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle; if the accident was not investigated by a law enforcement officer, a copy of any law enforcement crash report form filed in connection with the total loss of the motor vehicle; and copies of the checks reflecting the settlement amount paid by the licensee for the gap insurance claim.

(iii) for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle:

(I) the licensee must maintain copies of the following records on debt cancellation agreements for total loss or theft of ordinary vehicles that include insurance coverage as part of the retail buyer's responsibility to the holder:

(-a-) supplemental claim records supporting the settlement or denials of claims reported in the debt cancellation agreement loss records provided by paragraph (7) of this subsection including the debt cancellation request form;

(-b-) proof of loss and settlement payment from the retail buyer's primary comprehensive, collision, or uninsured/underinsured policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle;

(-c-) documents that provide verification of the retail buyer's primary insurance deductible;

(-d-) if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle;

(-e-) if the accident was not investigated by a law enforcement officer, a copy of the Texas Department of Public Safety's "Crash Report" (Form CR-2) filed in connection with the total loss of the motor vehicle; and

(-f-) evidence of the credit for the debt cancellation applied to the account or a copy of the check reflecting the balance canceled by the licensee; or

(II) the licensee must maintain copies of the following records on debt cancellation agreements for total loss or theft of ordinary vehicles in which the holder bears complete responsibility for the balance canceled after the total loss or theft:

(-a-) if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle;

(-b-) if the accident was not investigated by a law enforcement officer, a copy of the Texas Department of Public Safety's "Crash Report" (Form CR-2) filed in connection with the total loss of the motor vehicle; and

(-c-) any records relating to the denial of the cancellation of the balance under the debt cancellation agreement for total loss or theft of any ordinary vehicle.

[~~(D) for a retail installment sales transaction in which a power of attorney is necessary to transfer title to the buyer, a copy of the Texas Department of Motor Vehicles' Power of Attorney to Transfer a Motor Vehicle (Form VTR-271) or any other similar document used as a power of attorney.~~]

[~~(E) for a retail installment sales transaction involving a downpayment, a copy of any record or document relating to the downpayment including:~~]

[~~(i) receipts for cash downpayments;~~]

[~~(ii) promissory notes or other documents evidencing the retail buyer's agreement to pay the cash downpayment over time;~~]

[~~(iii) documents or forms signed by the retail buyer relating to a manufacturer's or distributor's rebate as permitted by Texas Finance Code, §348.404(a); and~~]

[~~(iv) documents or forms evidencing the payoff of any trade-in vehicle shown on the retail installment sales contract as required by Texas Finance Code, §348.408(c).~~]

[~~(F) for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).~~]

[~~(G) for a retail installment sales contract that has an itemized charge for the inspection of a new or used motor vehicle, a copy of or access to the work order, inspection receipt,~~

~~or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.~~]

[~~(H) for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document, form, or agreement relating to the disbursement of funds for money advanced.~~]

[~~(I) for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.~~]

[~~(J) for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:~~]

[~~(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;~~]

[~~(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (10) of this subsection;~~]

[~~(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.~~]

[~~(K) for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.~~]

[~~(L) for a retail installment sales transaction involving insurance claims for credit life, credit accident and health, credit property, credit involuntary unemployment, collateral protection, or credit gap insurance:~~]

[~~(i) if the licensee does not negotiate or transact insurance claims on behalf of the retail buyer, records are not required to be maintained under this subparagraph.~~]

[~~(ii) if the licensee negotiates or transacts insurance claims on behalf of the retail buyer, supplemental insurance records, to the extent received by the licensee, supporting the~~

~~settlement or denials of claims reported in the insurance loss records provided by paragraph (6) of this subsection including:~~]

[~~(I) Credit life insurance claims. The supplemental insurance records for credit life insurance claims must include the death certificate or other written records relating to the death of the retail buyer; proof of loss or claim form that discloses the amount of indebtedness at the time of death; check copies or electronic payment receipts that reflect the gross amount of the claim paid, including the amount of insurance benefits paid to beneficiaries other than the licensee which is in excess of the net amount necessary to pay the indebtedness; and the amount that is paid to beneficiaries other than the licensee.~~]

[~~(II) Credit accident and health insurance claims. The supplemental insurance records for credit accident and health insurance claims must include any written records relating to the disability, including statements from the physician, employer, and retail buyer; the proof of loss or claim form filed by the retail buyer; and copies of the checks or electronic payment receipts reflecting disability payments paid by the insurance carrier.~~]

[~~(III) Credit involuntary unemployment insurance claims. The supplemental insurance records for credit involuntary unemployment insurance claims must include any written document relating to the termination, layoff, or dismissal of the retail buyer; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the involuntary unemployment insurance claim.~~]

[~~(IV) Collateral protection insurance claims. The supplemental insurance records for collateral protection insurance claims must include the law enforcement report, fire department report, or other written record reflecting the loss or destruction of any covered motor vehicle; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the collateral protection insurance claim.~~]

[~~(V) Credit gap insurance claims. The supplemental insurance records for credit gap insurance claims must include the gap insurance claim form; proof of loss and settlement check from the retail buyer's basic comprehensive, collision, or uninsured/underinsured policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle; documents that provide verification of the retail buyer's primary insurance deductible; if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle; if the accident was not investigated by a law enforcement officer, a copy of any law enforcement crash report form filed in connection with the total loss of the motor vehicle; and copies of the checks reflecting the settlement amount paid by the licensee for the gap insurance claim.~~]

[~~(M) for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle:~~]

[~~(i) the licensee must maintain copies of the following records on debt cancellation agreements for total loss or theft of ordinary vehicles that include insurance coverage as part of the retail buyer's responsibility to the holder:~~]

[~~(I) supplemental claim records supporting the settlement or denials of claims reported in the debt cancellation agreement loss records provided by paragraph (7) of this subsection including the debt cancellation request form;~~]

[~~(II) proof of loss and settlement payment from the retail buyer's primary comprehensive, collision, or uninsured/underinsured policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle;~~]

[~~(III) documents that provide verification of the retail buyer's primary insurance deductible;~~]

[~~(IV) if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle;~~]

[~~(V) if the accident was not investigated by a law enforcement officer, a copy of the Texas Department of Public Safety's "Crash Report" (Form CR-2) filed in connection with the total loss of the motor vehicle; and~~]

[~~(VI) evidence of the credit for the debt cancellation applied to the account or a copy of the check reflecting the balance canceled by the licensee; or~~]

[~~(ii) the licensee must maintain copies of the following records on debt cancellation agreements for total loss or theft of ordinary vehicles in which the holder bears complete responsibility for the balance canceled after the total loss or theft:~~]

[~~(I) if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle;~~]

[~~(II) if the accident was not investigated by a law enforcement officer, a copy of the Texas Department of Public Safety's "Crash Report" (Form CR-2) filed in connection with the total loss of the motor vehicle; and~~]

[~~(III) any records relating to the denial of the cancellation of the balance under the debt cancellation agreement for total loss or theft of any ordinary vehicle.~~]

[~~(N) for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:~~]

[~~(i) a transaction where disclosures required by the Truth in Lending Act are not incorporated into the text of the retail installment sales contract and the credit was extended for primarily for personal, family, or household purposes, a copy of the Truth in Lending statement required by Regulation Z, Truth in Lending, 12 C.F.R. §1026.18;~~]

[~~(ii) a transaction involving a cosigner, the notice to cosigner required by the Federal Trade Commission's Credit Practices Trade regulation, 16 C.F.R. §444.3.~~]

[~~(O) for a retail installment sales transaction that has been repaid in full, evidence of the discharge or release of lien as prescribed by 43 TAC §217.106 (relating to Discharge of Lien).~~]

[~~(P) for a retail installment sales transaction involving a repossession, the records required by subsection (f) of this section.~~]

[~~(Q) for a retail installment sales transaction in which the licensee agrees to defer all or part of one or more payments:~~]

[~~(i) a copy of any written deferment agreement; and~~]

[~~(ii) any written notice to the retail buyer regarding a deferment under Texas Finance Code, §348.114(c).~~]

[~~(R) for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:~~]

[~~(i) a copy of the trade-in credit agreement and any written notice or disclosure provided to the retail buyer;~~]

[~~(ii) evidence of the contractual liability reimbursement policy in effect at the time of the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and~~]

[~~(iii) documentation of any refund provided upon cancellation of a trade-in credit agreement.~~]

[~~(S) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:~~]

[~~(i) a copy of the trade-in credit agreement;~~]

[~~(ii) evidence of the amount of any credit applied under the trade-in credit agreement; and~~]

[~~(iii) any documentation used to process a claim, including:~~]

[~~(I) any proof of insurance settlement documents obtained from the retail buyer;~~]

[~~(II) any accident record or vehicle condition report obtained to process a claim; and~~]

[~~(III) any supplemental claim records supporting the approval or denial of the claim.~~]

[~~(T) for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):~~]

[~~(i) evidence of the amount of any credit applied under the depreciation benefit optional member program; and~~]

[~~(ii) any documentation obtained by the licensee to process the benefit.~~]

[~~(U) any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.~~]

(3) Account record for each retail installment sales contract (including payment and collection contact history). A licensee that holds, services, or collects on retail installment contracts must maintain a separate electronic or paper record [~~must be maintained~~] covering each retail installment sales contract. The electronic or paper account record must be readily available by reference to either a retail buyer's name or account number.

(A) Required information. The account record for each retail installment sales contract must contain at least the following information, unless stated otherwise:

(i) account number as recorded in the retail installment sales transaction report;

(ii) date of contract;

(iii) name and address of retail buyer;

(iv) payment history information:

(I) itemized payment entries showing date payment received; dual postings are acceptable if date of posting is other than date of receipt;

(II) for a transaction using the true daily earnings method, if requested during an examination or investigation, a breakdown for each payment showing the amount applied toward principal, time price differential, late charges, and any other charges;

(III) if requested during an examination or investigation, a payoff amount that denotes amounts applied to principal, time price differential, default, deferment, or other authorized charges;

(v) for a retail installment sales contract where the licensee receives or issues a refund of insurance charges, debt cancellation agreements, or authorized ancillary products, a licensee is responsible for maintaining sufficient documentation of any refund including final entries and is also responsible for providing refunds to the retail buyer or correctly applying refunds to the retail buyer's account. Refund amounts must be itemized to show:

(I) time price differential refunded, if any;

(II) the amount of any insurance charges refunded;

(III) the amount of any debt cancellation agreement fees refunded;

(IV) the amount of any authorized ancillary products charges refunded;

(vi) collection contact history, including a written record of:

(I) all collection contacts made by a licensee with the retail buyer or any other person in connection with the collection of amounts due under a motor vehicle retail installment sales contract;

(II) all collection contacts made by the retail buyer with the licensee in connection with the collection of amounts due under a motor vehicle retail installment sales contract;

(III) for the collection contacts in subclauses (I) and (II) of this clause, the written record must include the date, method of contact, contacted party, person initiating the contact, and a summary of the contact;

(IV) copies of individual collection notices or letters or references to standard collection letters sent to the retail buyer.

(B) Recommended information. In addition to the required information under subparagraph (A) of this paragraph, it is recommended that the account record for each retail installment sales contract contain the following information:

(i) retail installment sales contract payment schedule and terms itemized to show:

(I) number of installments;

(II) due date of installments;

(III) amount of each installment; and

(IV) maturity date;

(ii) telephone number of retail buyer;

(iii) names and addresses of co-retail buyer or other obligors, if any;

(iv) amount financed;

(v) total time price differential charge;

(vi) total of payments;

(vii) amount of premium charges for insurance products;

(viii) amount of fees charged for debt cancellation agreements.

(C) Corrective entries. A licensee may make corrective entries to the account record for each retail installment sales contract if the corrective entry is justified. A licensee must maintain the reason and supporting documentation for each corrective entry made to the account record. The reason for the corrective entry may be recorded in the collection contact history of the account record. The supporting documentation justifying the corrective entry can be maintained in the individual account record for each retail installment sales contract or properly stored and indexed in a licensee's optically imaged recordkeeping system. If a licensee manually maintains the account record, the licensee must properly correct an improper entry by drawing a single line through the improper entry and entering the correct information above or below the improper entry. No erasures or other obliterations may be made on the payments received or collection contact history section of the manual account record for each retail installment sales contract.

(4) Assignment information.

(A) Required information. Assignment information must cover any Texas Finance Code, Chapter 348 retail installment sales contract made by or acquired by the licensee that is assigned from its licensed [~~or registered~~] location. The assignment information must show the name of the retail buyer, the account number or other unique number given to the retail buyer, the date of assignment, and the name and address to which the accounts are assigned.

(B) Electronic recordkeeping systems. If a licensee is able to produce an assignment report containing the required information provided in subparagraph (A) of this paragraph electronically without any additional programming costs, the licensee must produce the report upon request. If the licensee's software programs are unable to produce an assignment report containing the required information provided in subparagraph (A) of this paragraph, the licensee may maintain assignment information for each individual retail installment sales transaction in the retail installment sales transaction file. A licensee must be able to access assignment information for a specific transaction as requested by the commissioner's representative.

(C) Manual recordkeeping systems. If a licensee is not able to produce an assignment report as provided in subparagraph (B) of this paragraph, the licensee may maintain assignment information for each individual retail installment sales transaction in the retail installment sales transaction file. A licensee must be able to access assignment information for a specific transaction as requested by the commissioner's representative.

(D) Securitization or financing exception. If the servicing rights are retained by the licensee, then the licensee is not required to include in the assignment report retail installment sales transactions that were assigned to a legal entity as part of a securitization agreement. A licensee is also not required to include in the assignment report retail installment sales transactions that have been pledged as collateral for a bona fide financing arrangement to the licensee.

(5) General business and accounting records. General business and accounting records concerning retail installment sales transactions must be maintained. The licensee is not required to produce information protected under the attorney-client privilege or work product privilege. The business and accounting records must include receipts, documents, or other records for each disbursement made by the licensee at the retail buyer's direction or request, on his behalf, or for his benefit, that is charged to the retail buyer, including:

(A) <u>for a retail seller, the</u> Texas Comptroller of Public Accounts' Dealer Motor Vehicle Inventory Tax Statement (Form 50-246);

(B) <u>for a retail seller, the</u> Texas Comptroller of Public Accounts' Texas Motor Vehicle Seller-Financed Sales Tax Report (Form 14-117); and

(C) repossession, sequestration, disposition, or legal fees relating to repossession, sequestration, or disposition.

(6) Insurance loss records. Each licensee who negotiates or transacts the filing of insurance claims must maintain a register or be able to generate a report, electronic or paper, reflecting information to the extent received by the licensee on credit life, credit accident and health, credit property, credit involuntary unemployment, and single-interest insurance claims whether paid or denied by the insurance carrier. If the reason for the denial of a credit life insurance or credit accident and health insurance claim is based upon the medical records of the retail buyer, supplemental records supporting the denial of the claim must be made available upon request.

(7) Debt cancellation agreement for total loss or theft loss records. Each licensee who cancels entire balances or who cancels only partial balances under debt cancellation agreements must maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, an indication of whether the agreement was satisfied or denied (e.g., "paid," "denied"), and the date of satisfaction or denial.

(8) Adverse action records. Each licensee must maintain adverse action records regarding all applications relating to Texas Finance Code, Chapter 348 retail installment sales transactions. Adverse action records must be maintained according to the record retention requirements contained in Regulation B, Equal Credit Opportunity Act, 12 C.F.R. §1002.12(b). The current retention periods are 25 months for consumer credit and 12 months for business credit.

(9) Trade-in credit agreement records. Each licensee that enters a trade-in credit agreement or provides a benefit in connection with a trade-in credit agreement must:

(A) maintain a copy of any contractual liability reimbursement policy related to the trade-in credit agreement, as required by Texas Finance Code, §348.125(c); and

(B) maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, and the date of satisfaction or denial.

(10) Retention and availability of records. All books and records required by this subsection must be available for inspection at any time by Office of Consumer Credit Commissioner staff, and must be retained for a period of four years from the date of the contract, two years from the date of the final entry made thereon, whichever is later, or a different period of time if required by federal law. Upon notification of an examination pursuant to Texas Finance Code, §348.514(f), the licensee must be able to produce or access required books and records within a reasonable time at the licensed location or registered office specified on the license. The

records required by this subsection must be available or accessible at an office in the state designated by the licensee except when the retail installment sales transactions are transferred under an agreement which gives the commissioner access to the documents. Documents may be maintained out of state if the licensee has in writing acknowledged responsibility for either making the records available within the state for examination or by acknowledging responsibility for additional examination costs associated with examinations conducted out of state.

(f) Repossession records <u>for licensees that repossess vehicles</u>.

(1) Repossession report. A licensee must be able to access or produce a list of all retail installment sales transactions involving repossession by the licensee. If the list of repossessions is accessed through an electronic system, the licensee must be able to generate a separate report of repossessions. If the repossession report is maintained under a manual recordkeeping system, the licensee must maintain a current list of accounts in repossession. A manual repossession report must be updated within a reasonable time from the date of repossession. The repossession report must include the retail buyer's name, account number, and date of repossession. If accounts have been subsequently assigned, the assignment must be noted in the repossession report as well as on the record of assigned accounts as prescribed in subsection (e)(4) of this section.

(2) Required information. For a retail installment sales transaction involving the repossession of the vehicle, the following records must be maintained, unless otherwise specified:

(A) a condition report indicating the condition of the collateral, if prepared by the licensee, the licensee's agent, or any independent contractor hired to perform the repossession;

(B) any invoices or receipts for any reasonable and authorized out-of-pocket expenses that are assessed to the buyer and incurred in connection with the repossession or sequestration of the vehicle including cost of storing, reconditioning, and reselling the vehicle;

(C) for a vehicle disposed of in a public or private sale as permitted by the Texas Business and Commerce Code, §9.610, the following documents:

(i) one of the three following notices:

(I) for a transaction not involving consumer goods, a copy of any Notification of Disposition of Collateral letter sent to the retail buyer and other obligors as required by Texas Business and Commerce Code, §9.613;

(II) for a transaction involving consumer goods, a copy of any Notice of Our Plan to Sell Property as sent to the retail buyer and other obligors as required by Texas Business and Commerce Code, §9.614; or

(III) a copy of the waiver of the notice of intended disposition prescribed by subclause (I) or (II) of this clause, as applicable, signed by the retail buyer and other obligors after default;

(ii) copies of evidence of the type or manner of private sale that was conducted. These records must show that the manner of the disposition was commercially reasonable, such as circumstances surrounding a dealer only auction, internet sale or other type of private disposition;

(iii) copies of evidence of the type or manner of public sale that was conducted. These records must show that the manner of the disposition was commercially reasonable, such as documentation of the date, place, manner of sale of the vehicle, and amounts received for disposition of the vehicle;

(iv) the bill of sale showing the name and address of the purchaser of the repossessed collateral and the purchase price of the vehicle;

(v) for a disposition or sale of collateral creating a surplus balance, a copy of the check representing the payment of the surplus balance paid to the retail buyer or other person entitled to the surplus;

(vi) for a disposition or sale of collateral resulting in a surplus or deficiency, a copy of the explanation of calculation of surplus or deficiency as required by Texas Business and Commerce Code, §9.616, if applicable;

(vii) a copy of the waiver of the deficiency letter if the retail seller elects to waive the deficiency balance in lieu of sending the explanation of calculation of surplus or deficiency form, if applicable;

(D) for a vehicle disposed of using the strict foreclosure method as permitted by the Texas Business and Commerce Code, §9.620 and §9.621, the following documents:

(i) one of the three following notices;

(I) for a transaction not involving consumer goods and where less than 60% of the cash price of the vehicle has been paid, a copy of the notice of proposal to accept collateral in full or partial satisfaction of the obligation;

(II) for a transaction involving consumer goods, a copy of the notice of proposal to accept collateral in full satisfaction of the obligation; or

(III) for a transaction where more than 60% of the cash price of the vehicle has been paid, a copy of the debtor or obligor's waiver of compulsory disposition of collateral signed by the retail buyers and other obligors after default;

(ii) for a transaction where the retail buyer rejects the offer under clause (i)(I) or (II) of this subparagraph, a copy of the retail buyer's signed objection to retention of the collateral;

(iii) copies of the records reflecting the partial or total satisfaction of the obligation; and

(E) for a vehicle disposed by another authorized method pursuant to the Texas Business and Commerce Code, Chapter 9, a copy of any and all records or documents relating to the disposition of the collateral

(g) Information security program. A licensee must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. 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.

(h) Data breach notifications. A licensee must maintain the text of any data breach notification provided to retail buyers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification. A licensee must maintain 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.

[~~*§84.709. Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)*~~]

[~~(a) Applicability. The recordkeeping requirements of this section apply to holders who are not retail sellers that service or collect installments on retail installment sales contracts involving ordinary vehicles. The recordkeeping requirements of this section do not apply to motor vehicle retail installment sales transactions involving commercial vehicles.~~]

[~~(b) Records required for each retail installment sales transaction. Each licensee must maintain records with respect to the licensee's compliance with Texas Finance Code, Chapter 348 for each motor vehicle retail installment sales contract made, acquired, serviced, or held under Chapter 348 and make those records available for examination.~~]

[~~(c) Recordkeeping systems. The records required by this section may be maintained by using either an electronic recordkeeping system, a legible paper or manual recordkeeping system, or a combination of the preceding types of systems, unless otherwise specified by statute or regulation. Licensees may maintain records on one or more recordkeeping systems, so long as the licensee is able to integrate records pertaining to an account into one or more reports as required by this section. 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.~~]

[~~(d) Record search requirements.~~]

[~~(1) Open retail installment sales transactions. A licensee must be able to access or produce a list of all open retail installment sales transactions. If the list of open transactions is accessed through an electronic system, the licensee must be able to generate a separate report of open transactions. Alternatively, a licensee may provide a list containing open and closed retail installment sales transactions as long as the open transactions are designated as "open."~~]

[~~(2) Alphabetical search. A licensee must be able to access records in alphabetical order by retail buyer name for open and closed transactions during the record retention period required by subsection (e)(9) of this section. A licensee may comply with the alphabetical requirement by providing the commissioner's representative files by retail buyer name upon request by the commissioner's representative.~~]

[~~(3) Sorting or filtering. Upon request, if a licensee maintains some or all transaction records electronically, a licensee must be able to sort or filter a records search by each of the following:~~]

[~~(A) the date of contract or date of sale;~~]

[~~(B) the retail buyer's name(s);~~]

[~~(C) the status of the transaction (open or closed); and~~]

[~~(D) whether the transaction has been assigned to another person and the name of any assignee.~~]

[~~(e) Records required.~~]

[~~(1) Retail installment sales transaction report. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract acquired by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (9) of this subsection. The retail installment sales transaction report can be maintained either as a paper record or may be generated from an electronic system or systems so long as the licensee can integrate the following information into a report. If the retail installment sales transaction report is maintained under a manual recordkeeping system, the retail installment sales transaction report must be updated within a reasonable time from the date the contract is acquired.~~]

[~~(A) A retail installment sales transaction report must contain the following information:~~]

[~~(i) the date of contract (day, month, and year);~~]

[~~(ii) the retail buyer's name(s);~~]

[~~(iii) a method of identifying the vehicle, such as the last six digits of the vehicle identification number or the stock number; and~~]

[~~(iv) the account number.~~]

[~~(B) Sorting or filtering. Upon request, a licensee must be able to sort or filter the retail installment transaction report by each of the following:~~]

[~~(i) the date of contract or date of sale;~~]

[~~(ii) the retail buyer's name(s);~~]

[~~(iii) the status of the transaction (open or closed); and~~]

[~~(iv) whether the transaction has been assigned to another person and the name of any assignee.~~]

[~~(2) Retail installment sales transaction file. A licensee must maintain an electronic or paper copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:~~]

[~~(A) for all retail installment sales transactions:~~]

[~~(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;~~]

[~~(ii) the credit application and any other written or recorded information used in evaluating the application;~~]

[~~(iii) the original certificate of title to the vehicle, a certified copy of the negotiable certificate of title, or a copy of the front of either the original or certified copy of the title; and~~]

[~~(iv) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (J) of this paragraph.~~]

[~~(B) for a vehicle titled in Texas, a copy of the completed Texas Department of Motor Vehicles'/Texas Comptroller of Public Accounts' Application for Texas Certificate of Title (Form 130-U) signed by the retail buyer and seller that was filed with the appropriate county tax assessor-collector.~~]

[~~(C) for a retail installment sales transaction in which insurance policies are issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.~~]

[~~(D) for a retail installment sales transaction in which the licensee issues or takes assignment of a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer and any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and any documentation that comes into the licensee's~~

~~possession regarding a refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:~~]

[~~(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;~~]

[~~(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (9) of this subsection;~~]

[~~(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.~~]

[~~(E) for a retail installment sales transaction involving insurance claims for credit life, credit accident and health, credit property, credit involuntary unemployment, collateral protection, or credit gap insurance:~~]

[~~(i) if the licensee does not negotiate or transact insurance claims on behalf of the retail buyer, records are not required to be maintained under this subparagraph.~~]

[~~(ii) if the licensee negotiates or transacts insurance claims on behalf of the retail buyer, supplemental insurance records, to the extent received by the licensee, supporting the settlement or denials of claims reported in the insurance loss records provided by paragraph (6) of this subsection including:~~]

[~~(I) Credit life insurance claims. The supplemental insurance records for credit life insurance claims must include the death certificate or other written records relating to the death of the retail buyer; proof of loss or claim form that discloses the amount of indebtedness at the time of death; check copies or electronic payment receipts that reflect the gross amount of the claim paid, including the amount of insurance benefits paid to beneficiaries other than the licensee which is in excess of the net amount necessary to pay the indebtedness; and the amount that is paid to beneficiaries other than the licensee.~~]

[~~(II) Credit accident and health insurance claims. The supplemental insurance records for credit accident and health insurance claims must include any written records relating to the disability, including statements from the physician, employer, and retail buyer; the proof of loss or claim form filed by the retail buyer; and copies of the checks or electronic payment receipts reflecting disability payments paid by the insurance carrier.~~]

[~~(III) Credit involuntary unemployment insurance claims. The supplemental insurance records for credit involuntary unemployment insurance claims must include any written document relating to the termination, layoff, or dismissal of the retail buyer; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the involuntary unemployment insurance claim.~~]

[~~(IV) Collateral protection insurance claims. The supplemental insurance records for collateral protection insurance claims must include the law enforcement report, fire department report, or other written record reflecting the loss or destruction of any covered motor vehicle; the proof of loss or claim form filed by the retail buyer; copies of the checks or electronic payment receipts reflecting the payment of the claim by the insurance carrier; and any other pertinent written record relating to the collateral protection insurance claim.~~]

[~~(V) Credit gap insurance claims. The supplemental insurance records for credit gap insurance claims must include the gap insurance claim form; proof of loss and settlement check from the retail buyer's basic comprehensive, collision, or uninsured/underinsured policy or other parties' liability insurance policy for the settlement of the insured total loss of the motor vehicle; documents that provide verification of the retail buyer's primary insurance deductible; if the accident was investigated by a law enforcement officer, a copy of the offense or police report filed in connection with the total loss of the motor vehicle; if the accident was not investigated by a law enforcement officer, a copy of any law enforcement crash report form filed in connection with the total loss of the motor vehicle; and copies of the checks reflecting the settlement amount paid by the licensee for the gap insurance claim.~~]

[~~(F) for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle, or involving the cancellation or termination of a debt cancellation agreement, the licensee must:~~]

[~~(i) maintain any documents that come into its possession relating to the creation, processing, resolution, cancellation, or termination of a debt cancellation agreement; and~~]

[~~(ii) upon request of the agency, cooperate in requesting and obtaining access to the type of documents described in clause (i) of this subparagraph that are not in its possession.~~]

[~~(G) for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:~~]

[~~(i) a transaction where disclosures required by the Truth in Lending Act are not incorporated into the text of the retail installment sales contract and the credit was extended for primarily for personal, family, or household purposes, a copy of the Truth in Lending statement required by Regulation Z, Truth in Lending, 12 C.F.R. §1026.18;~~]

[~~(ii) a transaction involving a cosigner, the notice to cosigner required by the Federal Trade Commission's Credit Practices Trade regulation, 16 C.F.R. §444.3.~~]

[~~(H) for a retail installment sales transaction that has been repaid in full, evidence of the discharge or release of lien as prescribed by 43 TAC §217.106 (relating to Discharge of Lien).~~]

[~~(I) for a retail installment sales transaction involving repossession, the records required by subsection (f) of this section.~~]

[~~(J) for a retail installment sales transaction in which the licensee agrees to defer all or part of one or more payments:~~]

[~~(i) a copy of any written deferment agreement; and~~]

[~~(ii) any written notice to the retail buyer regarding a deferment under Texas Finance Code, §348.114(c).~~]

[~~(3) Account record for each retail installment sales contract (including payment and collection contact history). A separate electronic or paper record must be maintained covering each retail installment sales contract. The electronic or paper account record must be readily available by reference to either a retail buyer's name or account number.~~]

[~~(A) Required information. The account record for each retail installment sales contract must contain at least the following information, unless stated otherwise:~~]

[~~(i) account number as recorded in the retail installment sales transaction report;~~]

[~~(ii) date of contract;~~]

[~~(iii) name and address of retail buyer;~~]

[~~(iv) payment history information:~~]

[~~(I) itemized payment entries showing date payment received; dual postings are acceptable if date of posting is other than date of receipt;~~]

[~~(II) for a transaction using the true daily earnings method, if requested during an examination or investigation, a breakdown for each payment showing the amount applied toward principal, time price differential, late charges, and any other charges;~~]

[~~(III) if requested during an examination or investigation, a payoff amount that denotes amounts applied to principal, time price differential, default, deferment, or other authorized charges;~~]

[~~(v) for a retail installment sales contract where the licensee receives or issues a refund of insurance charges, debt cancellation agreements or authorized ancillary products, a licensee is responsible for maintaining sufficient documentation of any refund including final entries and is also responsible for providing refunds to the retail buyer or correctly applying refunds to the retail buyer's account. Refund amounts must be itemized to show:~~]

[~~(I) time price differential refunded, if any;~~]

[~~(II) the amount of any insurance charges refunded;~~]

[~~(III) the amount of debt cancellation agreement fees refunded;~~]

[~~(IV) the amount of any authorized ancillary products charges refunded;~~]

[~~(vi) collection contact history, including a written record of:~~]

[~~(I) all collection contacts made by a licensee with the retail buyer or any other person in connection with the collection of amounts due under a motor vehicle retail installment sales contract~~]

[~~(II) all collection contacts made by the retail buyer with the licensee in connection with the collection of amounts due under a motor vehicle retail installment sales contract;~~]

[~~(III) for the collection contacts in subclauses (I) and (II) of this clause, the written record must include the date, method of contact, contacted party, person initiating the contact, and a summary of the contact;~~]

[~~(IV) copies of individual collection notices or letters or references to standard collection letters sent to the retail buyer.~~]

[~~(B) Recommended information. In addition to the required information under subparagraph (A) of this paragraph, it is recommended that the account record for each retail installment sales contract contain the following information:~~]

[~~(i) retail installment sales contract payment schedule and terms itemized to show:~~]

[~~(I) number of installments;~~]

[~~(II) due date of installments;~~]

[~~(III) amount of each installment; and~~]

[~~(IV) maturity date;~~]

[~~(ii) telephone number of retail buyer;~~]

[~~(iii) names and addresses of co-retail buyer or other obligors, if any;~~]

[~~(iv) amount financed;~~]

[~~(v) total time price differential charge;~~]

[~~(vi) total of payments;~~]

[~~(vii) amount of premium charges for insurance products;~~]

[~~(viii) amount of fees charged for debt cancellation agreements.~~]

[~~(C) Corrective entries. A licensee may make corrective entries to the account record for each retail installment sales contract if the corrective entry is justified. A licensee must maintain the reason and supporting documentation for each corrective entry made to the account record.~~

~~The reason for the corrective entry may be recorded in the collection contact history of the account record. The supporting documentation justifying the corrective entry can be maintained in the individual account record for each retail installment sales contract or properly stored and indexed in a licensee's optically imaged recordkeeping system. If a licensee manually maintains the account record, the licensee must properly correct an improper entry by drawing a single line through the improper entry and entering the correct information above or below the improper entry. No erasures or other obliterations may be made on the payments received or collection contact history section of the manual account record for each retail installment sales contract.~~]

[~~(4) Assignment report.~~]

[~~(A) Required information. A licensee must maintain or produce an assignment report, whether paper or electronic, including any Texas Finance Code, Chapter 348 retail installment sales contract made by or acquired by the licensee that is assigned from its licensed or registered location. The assignment report must show the name of the retail buyer, the account number or other unique number given to the retail buyer, the date of assignment, and the name and address to which the accounts are assigned.~~]

[~~(B) Securitization or financing exception. If the servicing rights are retained by the licensee, then the licensee is not required to include in the assignment report retail installment sales transactions that were assigned to a legal entity as part of a securitization agreement. A licensee is also not required to include in the assignment report retail installment sales transactions that have been pledged as collateral for a bona fide financing arrangement to the licensee.~~]

[~~(5) General business and accounting records. General business and accounting records concerning retail installment sales transactions must be maintained. The business and accounting records must include receipts, documents, or other records for each disbursement made by the licensee at the retail buyer's direction or request, on his behalf, or for his benefit, that is charged to the retail buyer, including repossession, sequestration, disposition, or legal fees relating to repossession, sequestration, or disposition. The licensee is not required to produce information protected under the attorney-client privilege or work product privilege.~~]

[~~(6) Insurance loss records. Each licensee who negotiates or transacts the filing of insurance claims must maintain a register or be able to generate a report, electronic or paper, reflecting information to the extent received by the licensee on credit life, credit accident and health, credit property, credit involuntary unemployment, and single interest insurance claims whether paid or denied by the insurance carrier. If the reason for the denial of a credit life insurance or credit accident and health insurance claim is based upon the medical records of the retail buyer, supplemental records supporting the denial of the claim must be made available upon request.~~]

[~~(7) Debt cancellation agreement for total loss or theft loss records. Each licensee who cancels entire balances or who cancels only partial balances under debt cancellation agreements must maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, an indication of whether the agreement was satisfied or denied (e.g., "paid," "denied"), and the date of satisfaction or denial.~~]

[~~(8) Adverse action records. Each licensee must maintain adverse action records regarding all applications relating to Texas Finance Code, Chapter 348 retail installment sales transactions. Adverse action records must be maintained according to the record retention requirements contained in Regulation B, Equal Credit Opportunity Act, 12 C.F.R. §1002.12(b). The current retention periods are 25 months for consumer credit and 12 months for business credit.~~]

[~~(9) Retention and availability of records. All books and records required by this subsection must be available for inspection at any time by Office of Consumer Credit Commissioner staff, and must be retained for a period of four years from the date of the contract, two years from the date of the final entry made thereon, whichever is later, or a different period of time if required by federal law. Upon notification of an examination pursuant to Texas Finance Code, §348.514(f), the licensee must be able to produce or access required books and records within a reasonable time at the licensed location or registered office specified on the license. The records required by this subsection must be available or accessible at an office in the state designated by the licensee except when the retail installment sales transactions are transferred under an agreement which gives the commissioner access to the documents. Documents may be maintained out of state if the licensee has in writing acknowledged responsibility for either making the records available within the state for examination or by acknowledging responsibility for additional examination costs associated with examinations conducted out of state.~~]

[~~(f) Repossession records.~~]

[~~(1) Repossession report. A licensee must be able to access or produce a list of all retail installment sales transactions involving repossession by the licensee. If the list of repossessions is accessed through an electronic system, the licensee must be able to generate a separate report of repossessions. If the repossession report is maintained under a manual recordkeeping system, the licensee must maintain a current list of accounts in repossession. A manual repossession report must be updated within a reasonable time from the date of repossession. The repossession report must include the retail buyer's name, account number, and date of repossession. If accounts have been subsequently assigned, the assignment must be noted in the repossession report as well as on the record of assigned accounts as prescribed in subsection (e)(4) of this section.~~]

[~~(2) Required information. For a retail installment sales transaction involving the repossession of the vehicle, the following records must be maintained, unless otherwise specified:~~]

[~~(A) a condition report indicating the condition of the collateral, if prepared by the licensee, the licensee's agent, or any independent contractor hired to perform the repossession;~~]

[~~(B) any invoices or receipts for any reasonable and authorized out-of-pocket expenses that are assessed to the buyer and incurred in connection with the repossession or sequestration of the vehicle including cost of storing, reconditioning, and reselling the vehicle;~~]

[~~(C) for a vehicle disposed of in a public or private sale as permitted by the Texas Business and Commerce Code, §9.610, the following documents:~~]

[~~(i) one of the three following notices:~~]

[~~(I) for a transaction not involving consumer goods, a copy of any Notification of Disposition of Collateral letter sent to the retail buyer and other obligors as required by Texas Business and Commerce Code, §9.613;~~]

[~~(II) for a transaction involving consumer goods, a copy of any Notice of Our Plan to Sell Property as sent to the retail buyer and other obligors as required by Texas Business and Commerce Code, §9.614; or~~]

[~~(III) a copy of the waiver of the notice of intended disposition prescribed by subclause (I) or (II) of this clause, as applicable, signed by the retail buyer and other obligors after default;~~]

[~~(ii) copies of evidence of the type or manner of private sale that was conducted. These records must show that the manner of the disposition was commercially reasonable, such as circumstances surrounding a dealer only auction, internet sale or other type of private disposition;~~]

[~~(iii) copies of evidence of the type or manner of public sale that was conducted. These records must show that the manner of the disposition was commercially reasonable, such as documentation of the date, place, manner of sale of the vehicle, and amounts received for disposition of the vehicle;~~]

[~~(iv) the bill of sale showing the name and address of the purchaser of the repossessed collateral and the purchase price of the vehicle;~~]

[~~(v) for a disposition or sale of collateral creating a surplus balance, a copy of the check representing the payment of the surplus balance paid to the retail buyer or other person entitled to the surplus;~~]

[~~(vi) for a disposition or sale of collateral resulting in a surplus or deficiency, a copy of the explanation of calculation of surplus or deficiency as required by Texas Business and Commerce Code, §9.616, if applicable;~~]

[~~(vii) a copy of the waiver of the deficiency letter if the retail seller elects to waive the deficiency balance in lieu of sending the explanation of calculation of surplus or deficiency form, if applicable;~~]

[~~(D) for a vehicle disposed of using the strict foreclosure method as permitted by the Texas Business and Commerce Code, §9.620 and §9.621, the following documents:~~]

[~~(i) one of the three following notices;~~]

[~~(I) for a transaction not involving consumer goods and where less than 60% of the cash price of the vehicle has been paid, a copy of the notice of proposal to accept collateral in full or partial satisfaction of the obligation;~~]

[~~(II) for a transaction involving consumer goods, a copy of the notice of proposal to accept collateral in full satisfaction of the obligation; or~~]

[~~(III) for a transaction where more than 60% of the cash price of the vehicle has been paid, a copy of the debtor or obligor's waiver of compulsory disposition of collateral signed by the retail buyers and other obligors after default;~~]

[~~(ii) for a transaction where the retail buyer rejects the offer under clause (i)(I) or (II) of this subparagraph, a copy of the retail buyer's signed objection to retention of the collateral;~~]

[~~(iii) copies of the records reflecting the partial or total satisfaction of the obligation; and~~]

[~~(E) for a vehicle disposed by another authorized method pursuant to the Texas Business and Commerce Code, Chapter 9, a copy of any and all records or documents relating to the disposition of the collateral.~~]

[~~(g) Information security program. A licensee must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. 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.~~]

[~~(h) Data breach notifications. A licensee must maintain the text of any data breach notification provided to retail buyers, including any notification under Texas Business & Commerce Code, §521.053, for a period of four years from the date of the notification. A licensee must maintain 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.~~]