

**QUARTERLY UPDATE TO THE
SENATE BUSINESS AND COMMERCE COMMITTEE**

October 9, 2012

BY THE OFFICE OF CONSUMER CREDIT COMMISSIONER

IMPLEMENTATION OF LEGISLATION FROM THE 82ND LEGISLATURE

HB 2592: Payday and Title Loan Disclosures

HB 2594: Payday and Title Loan Licensing

Summary of Legislation

These bills amend Chapter 393 of the Finance Code establishing new requirements for “credit access businesses,” which are credit services organizations (CSOs) that provide payday loans or title loans.

Under HB 2592, credit access businesses (CABs) are required to provide a consumer disclosure prescribed by the Finance Commission. The disclosure must include interest, fees, and APR for the loan and a comparison of those charges to “alternative forms of consumer debt,” and it must describe fees that the consumer will incur for renewing the loan.

Under HB 2594, credit access businesses are required to obtain a license with the OCCC. The OCCC has examination and investigation authority over credit access businesses. HB 2594 also requires the Finance Commission to create an endowment for financial education in Texas.

The bills became effective January 1, 2012.

Regulatory Activities

Licensing. A CAB license application must be processed within 30 days of receipt of a completed application package. Anticipating a high volume of CAB application submissions during the first months of calendar year 2012 (CY12), the Finance Commission (commission) promulgated rules regarding licensing and examination of credit access businesses and adopted a rule authorizing the issuance of a 90-day provisional license. The issuance of provisional licenses helped manage the licensing process through the transition and allowed recipients to continue operations until their applications had been fully processed.

CAB Applications	as of 03/30/12	as of 8/31/12
Applications Filed	3,451	3,674
Applications Fully Approved	2,579	3,054
Applications Withdrawn	161	191
Provisional Licenses Pending	3,002	275
Applications Denied	--	25

Consumer Protection & Examination. The commission adopted model disclosures for payday and title loan contracts in December 2011. The disclosures have been made available in both static and fillable formats to allow CABs to effectively comply with statutory and administrative requirements.

The examination process began mid-March 2012, and 253 examinations were conducted by the end of FY12, to include participation and coordination of examinations with the Federal Consumer Financial Protection Bureau (CFPB). While the examination process indicated that 90.91% of those examined were within acceptable compliance levels, common violations and areas of non-compliance were identified. These violations range from failing to maintain CSO registration with the Secretary of State to charging unauthorized or excessive late charges.

Common Violations or Non-Compliant Activities Identified Through Examination Process	
1	Failure to provide, or provision of incorrect, CAB Disclosures as required by <ul style="list-style-type: none"> • §393.233, Texas Finance Code (Consumer Transaction Disclosure) • §393.105, Texas Finance Code (Disclosure Statement) • §393.201, Texas Finance Code (CSO Contract) • §393.202, Texas Finance Code (Notice of Cancellation)
2	Failure to post fee schedule as required by § 393.222, Texas Finance Code
3	Failure to register, or to maintain registration, as a CSO with the Secretary of State as required by §393.101, Texas Finance Code.
4	Failure to obtain non-obligor signature on security agreements granting security interest in collateral as required by §9.203, Texas Business & Commerce Code.
5	Charge of excessive or unauthorized late charges on promissory notes <ul style="list-style-type: none"> • Assessment, charge and collection of late charges and failing to contract for late charge • Assessment, charge and collection of late charges in excess of allowed amount as defined in §302.001(d), Texas Finance Code

The consumer assistance section received 306 complaints between December 1, 2011, and August 31, 2012. This number represents 15.73% of all received complaints by the agency.

Consumer assistance pertaining to CAB transactions resulted in the closure of 280 of the received complaints and 7 consumers receiving refunds totaling \$3,175.24. Consumer complaints predominately pertain to contract issues and charges and fees related to both title and payday loans. Recurring complaints related to vehicle repossessions were received in relation to title loans.

Payday Loans		Title Loans	
Complaint/Concern	% of Closed Complaints	Complaint/Concern	% of Closed Complaints
Contract Issues ¹	27.1%	Excessive or Unauthorized Charges & Fees	24.3%
Excessive or Unauthorized Charges & Fees	24.3%	Contract Issues	23.3%
Collection Practices	18.1%	Repossessions	16.5%

Legal Activities. The legal section has reported minimal enforcement actions taken or required since the start of the calendar year, and those taken predominantly pertain to compliance with quarterly reporting requirements.

Type of Action	Number of Actions	Cause of Action
Administrative Hearing	1	Applicant appeal of license denial.
License Revocation	1	Licensee failed to maintain registration with Secretary of State as a CSO. Licensee operated business under a name other than that applied for/provided on the CAB application. Licensee agreed to administrative penalty and license revocation.
Issuance of Preliminary Reports	5	Licensees have not yet filed the 2nd quarter data report. Administrative penalties were assessed.

Non-Compliance with Quarterly Data Reporting	
1st Quarter Reporting Due April 30, 2012	<u>Incomplete Filings:5 Store Locations</u> 1 provisional licensee, with 5 store locations, has incomplete 1st-quarter report filings.
2nd Quarter Reporting Due July 31, 2012	<u>Incomplete Filings:5 Store Locations</u> 1 provisional licensee, with 5 store locations, has not filed 2nd-quarter report filings. <u>Delinquent Filings:6 Store Locations</u> 5 licensees, comprised of 6 store locations, have not filed 2nd-quarter reports.

¹ This category encompasses allegations or consumer concerns regarding violations of terms and conditions, fees and charges, fraud or misrepresentation, cross-collateralization between products, collection practices, choice of law/tribal entity, and failure to receive copy of contract.

Data Reporting. HB 2594 requires data reporting by the CABs that provides an industry snapshot as to the frequency of consumer use, fees assessed, and repayment characteristics. An online reporting site was launched in late March 2012 allowing the CABs to submit their quarterly data. Data reports have been received for the first two quarters of calendar year 2012 and highlights of the data received are presented below. Third-quarter reporting will be conducted during October 2012. Fourth quarter and annual data will be reported during January 2013.

Data Highlights	Q1	Q2
Number of consumers for whom the CAB obtained an extension of credit	554,696	600,971
Number of extensions of credit obtained by CAB	825,651	900,038
Number of payday (deferred presentment) loans obtained	713,209	738,473
Number of auto title loans obtained	112,442	161,565
Average amount of single installment payday loan	\$471.31	\$467.24
Average cab fee per \$100 borrowed for a single installment payday loan	\$22.70	\$22.83
Average original term (in days) of single installment payday loan	19	19
Average amount of a single installment title loan	\$966.25	\$707.42
Average cab fee per \$100 borrowed for a single installment title loan	\$22.41	\$21.30
Average original term (in days) of single installment title loan	30	30
Number of vehicles surrendered or repossessed under auto title loan	8,808	8,233
Total number of locations reporting	3,232	3,280

Changes in Reported Aggregate Data

- 7.7% increase in number of consumers
- 9.0% increase in new loans
 - 3.54% increase in payday loans
 - 43.69% increase in title loans

Repossession Rate²

- Quarter 1
1 repossession per 29 active loans
- Quarter 2
1 repossession per 37 active loans

Refinancing Activity (Aggregate Quarterly Report)

- Newly obtained single-payment payday loans refinanced in same quarter
 - Quarter 1: 1.15 times
 - Quarter 2: 1.07 times
- Newly obtained single-payment title loans refinanced in same quarter
 - Quarter 1: 1.04 times
 - Quarter 2: 0.70 times

² Based on prior outstanding & newly obtained title loans

Multi-Payment Installment Loan Characteristics

	Avg Additional Cash Advance	Equivalent Payments To Single Pay Term³
Quarter 1		
Payday	29%	5
Title	17%	4
Quarter 2		
Payday	20%	5
Title	63%	5

THE AVERAGE PERCENTAGE AMOUNT OF A CASH ADVANCE THAT IS GREATER BETWEEN MULTI-PAYMENT LOANS TO SINGLE-PAYMENT LOANS, AND THE NUMBER OF EQUIVALENT PAYMENTS THAT A CUSTOMER MUST PAY FOR A MULTI-PAYMENT LOAN IN COMPARISON WITH A SINGLE-PAYMENT LOAN.

Communication and Outreach. The agency has conversed with industry stakeholders and associations on myriad topics regarding licensing and examination processes, and met with individual groups as requested. The agency solicited industry stakeholder feedback regarding internet transaction regulation, provisional licensing, and licensing regulation during the third and fourth quarter of FY12. Webinars are scheduled during the first quarter of FY13. The first webinar was conducted in September and provided assistance with data identification, definition and reporting as it relates to the quarterly submissions. The second webinar is scheduled for October and will address general compliance topics targeted to specific industry stakeholders associated with a particular trade association. An additional webinar is anticipated for November to discuss issues with the required annual data report.

Texas Financial Education Endowment. As part of the licensing process each CAB location pays an annual assessment fee to OCCC to provide opportunities for asset building, improved consumer credit, and financial education (§393.628, Texas Finance Code). The assessments are collected by the OCCC during the licensing process and are deposited into an interest-bearing account with Texas Treasure Safekeeping Trust Company.

The endowment is administered by the Finance Commission of Texas and the purpose of the endowment is to fund programs that effectively support the financial empowerment of Texas consumers through financial education and awareness, primarily delivered and leveraged through grant awards to provider organizations. To date the endowment fund balance is \$1 million, representing assessments collected through the CAB licensing processing and recovery funds received from NMLS.

The OCCC is working with the Finance Commission to develop grant application, administration and distribution policies. Over the next 18 – 24 months, the development and implementation of these policies will occur followed by grant distribution in accordance with approved program structure.

Finance Commission of Texas – Resolution Supporting Uniformity of Laws Governing Credit Access Businesses. The commission adopted a resolution on April 20, 2012, in response to ordinances passed in certain Texas cities seeking to impose additional requirements or restrictions on CABs located within their city. Recently enacted local ordinances increase the complexity of compliance for Texas CABs. The resolution is a request to the Texas Legislature to amend the laws concerning CABs and to clearly articulate the legislature’s intent for uniform laws and rules to govern CABs.

³ Payments rounded to whole number and assumes payment intervals are single payment averages (19 days for payday loans and 30 days for title loans)

PAYDAY LOAN—SINGLE PAYMENT

After reviewing the terms of the loan, you are not required to choose this loan, and may consider other borrowing options, including those shown on Page 2 of this document.

Borrowed Amount	\$500.00
Interest	\$2.40
Contract Rate: 10%	
Fees	\$125.00
Payback Amount	\$627.40

The loan information shown here is an example and may not reflect the actual fees and interest charged to a loan provided by the lender or credit access business.

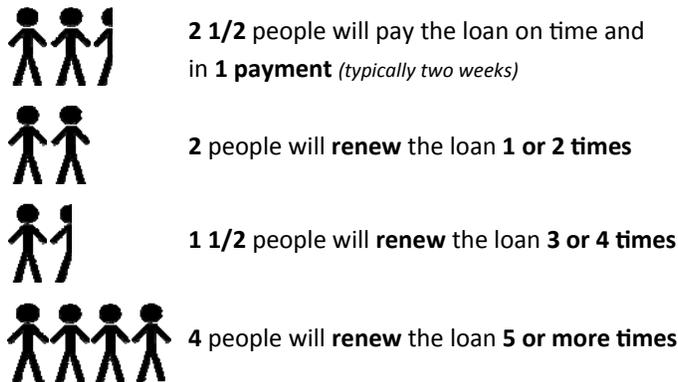
How much will a two-week, \$500 payday loan cost?

If I pay the loan in:	I will have to pay:
2 Weeks	\$ 627.40
1 Month*	\$ 754.80
2 Months*	\$ 1,009.60
3 Months*	\$ 1,264.40

**Payment amounts are approximated.*

How Long Could It Take to Repay a Loan?

Of 10 people who take out a new payday loan...



Adapted from: Bertrand & Morse, "Information Disclosure, Cognitive Biases and Payday Borrowing", Milton Friedman Institute for Research in Economics (Oct. 2009).
 Data provided above is compiled from a 2008 national survey; repayment patterns may be different.



Ask Yourself...

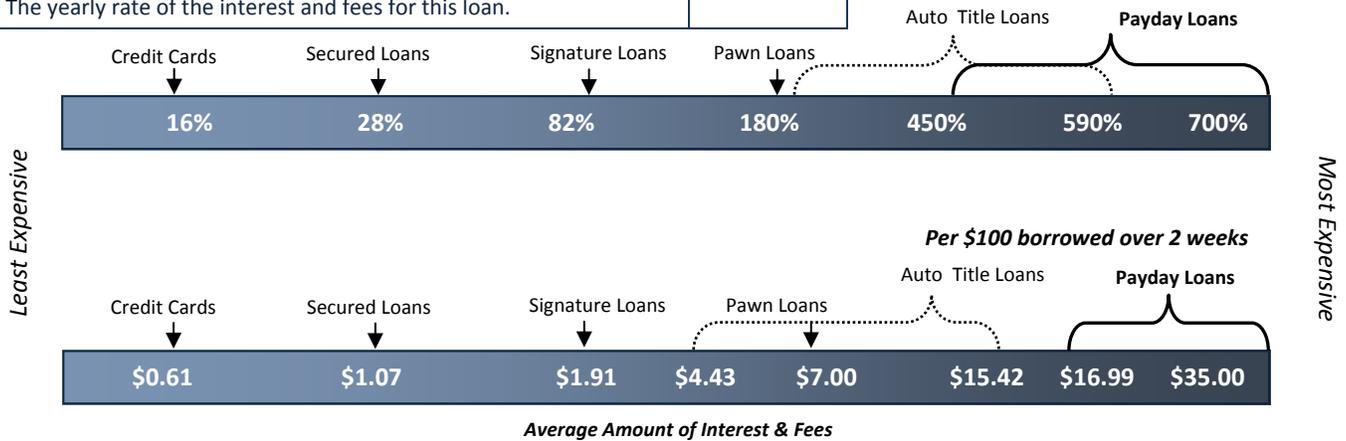
- ◆ Is it necessary for me to borrow the money?
- ◆ Can I afford to pay this loan back in full in two weeks?
- ◆ Will I be able to pay my regular bills and repay this loan?
- ◆ Can I afford the extra charges, interest, and fees that may be applied if I miss or fail to make payment?
- ◆ Are other credit options available to me at this time?



How Does a Payday Loan Compare to Other Options?

CASH ADVANCE / BORROWED AMOUNT	\$500.00
INTEREST PAYMENT The amount you will pay in interest for the loan.	\$2.40
TOTAL OF FEES The amount you will pay in fees for this loan.	\$125.00
TOTAL OF PAYMENTS The amount you will pay if you repay the loan on time.	\$627.40
ANNUAL PERCENTAGE RATE (APR) The yearly rate of the interest and fees for this loan.	664.30%

Loan Calculation & Cost Comparison



Payday loans are cash advances provided to a borrower to meet financial needs. As a borrower, you will be required to sign a loan agreement that tells you the amount you have requested to borrow, the annual percentage rate (APR) for that loan, the amount of interest and fees that may be charged for that loan, and the payment terms of the loan. Payday loans may be one of the more expensive borrowing options available to you. Payday loans may also be referred to as cash advance, delayed deposit or deferred presentment loans.

Complaint or Concern?

If you would like to file a concern or complaint regarding a payday loan, contact the
**Office of
 Consumer Credit
 Commissioner
 800-538-1579**

Looking for Information on
**Budgeting, Personal
 Savings, Credit Card
 Management, or other
 personal money
 management skills?**

**Visit the OCCC's Financial
 Literacy Resource Page**

[http://www.occc.state.tx.us/
 pages/consumer/education/
 Financial_Literacy_Resources.html](http://www.occc.state.tx.us/pages/consumer/education/Financial_Literacy_Resources.html)

Additional Information

- ◆ You may be required to write checks or authorize withdrawals from personal checking accounts to cover payments for the loans.
- ◆ You can compare all loan options available and select the option that is best for you.
- ◆ You can avoid extra fees and loan renewal costs by not missing payments and by repaying loans on time.





OCCC

Office of Consumer
Credit Commissioner

512- 936-7600

Fax: 512-936-7610

Consumer Helpline: 800-538-1579

Email: info@occc.state.tx.us

Data contained within the below summary represents aggregated statewide first-quarter data reported by CABs as of 9/7/2012. The OCCC reviews submitted data for reasonableness rather than for accuracy. The OCCC will request verification from the licensee of any data that is found to be questionable or unreasonable.

Section 393.627 of the Texas Finance Code required credit access businesses (CABs) to file quarterly reports with the Office of Consumer Credit Commissioner (OCCC) identifying loan activity associated with

- single and installment deferred presentment (payday) loans, and
- single and installment auto title loans.

Data Limitations

Data provided by reporting CABs reflects location-level activity for the identified quarter; reported data has been aggregated and presented below to reflect statewide activity within this industry.

The data presented in the following summary represents CAB submissions, to include any corrected data, of first-quarter activity as of September 7, 2012.

Credit Access Business (CAB) First Quarter Data Report, CY 2012

Item Number	Item Description ¹	Single Payment Deferred Presentment Transactions	Installment Deferred Presentment Transactions	Single Payment Auto Title Loans	Installment Title Loans
1	Number of consumers for whom the CAB obtained or assisted in obtaining an extension of consumer credit during the reporting period.	404,489	59,593	77,401	13,213
2	Number of extensions of consumer credit obtained by the CAB or that the CAB assisted consumers in obtaining during the reporting period.	644,755	68,454	99,013	13,429
3	Number of refinancing transactions of the extensions of consumer credit described in #2.	742,768	40,331	103,224	8,363
4	Number of consumers refinancing the extensions of consumer credit described in #2.	301,753	27,617	55,988	6,584

(Table continued to next page)

Item Number	Item Description	Single Payment Deferred Presentment Transaction	Installment Deferred Presentment Transaction	Single Payment Auto Title Loans	Installment Auto Title Loans
5	Number of consumers refinancing more than once the extensions of consumer credit described in #2.	200,321	5,795	37,423	679
6 ²	Average amount of the extension of consumer credit	\$471.31	\$606.50	\$966.25	\$1,129.67
7	Total amount of CAB fees charged by the CAB for the activities described in #2 and #3.	\$125,355,496	\$22,394,300	\$34,706,280	\$12,293,939
8	Number of vehicles surrendered or repossessed during the reporting period under the terms of a motor vehicle title loan obtained by the CAB or that the CAB assisted consumers in obtaining.	0	0	6,729	2,079
9 ³	Mean, Median, and Mode of the number of refinances obtained by the CAB in the reporting period				
9A ⁴	Mean	2.46	1.46	1.84	1.27
9B ⁵	Median	2	1	1	1
9C ⁶	Mode	1	1	1	1
10	Other CAB Transaction Information				
10A ⁷	Minimum CAB Fee charged per transaction (\$ per \$100 borrowed)				
	\$0 - \$9.99	9.61%	1.83%	13.19%	0.91%
	\$10 - \$19.99	23.94%	16.21%	30.84%	20.68%
	\$20 - \$29.99	65.70%	7.08%	52.85%	2.60%
	\$30 or more	0.75%	74.89%	3.13%	75.81%
10B ⁸	Average CAB Fee charged per transaction (\$ per \$100 borrowed)	\$22.70	\$130.55	\$22.41	\$102.51
10C	Maximum CAB Fee charged per transaction (\$ per \$100)				
	Less than \$30	68.80%	24.09%	70.34%	21.98%
	\$30 - \$49.99	20.68%	0.68%	29.04%	0.78%
	\$50 - \$74.99	5.48%	5.25%	0.56%	5.20%
	More than \$75	5.04%	69.98%	0.05%	70.87%

(Table continued to next page)

Item Number	Item Description	Single Payment Deferred Presentment Transaction	Installment Deferred Presentment Transaction	Single Payment Auto Title Loans	Installment Auto Title Loans
10D ⁹	Average original term (in days) of an extension	19	98	30	126
10E	Number of outstanding extensions of consumer credit and refinances (CAB contracts) at beginning of the reporting period.	337,369	69,204	111,123	31,548
10F	Number of extensions of consumer credit and refinances (CAB contracts) entered into during the reporting period.	1,627,189	135,138	313,000	31,054
10G	Number of extensions of consumer credit and refinances (CAB contracts) paid in full or otherwise closed for reduced payoff during the reporting period.	888,440	65,893	206,759	25,164
10H	Total dollar amount of extensions of consumer credit obtained by the CAB or that the CAB assisted consumers in obtaining that were paid in full or otherwise closed for reduced payoff during reporting period.	\$444,400,163	\$44,045,651	\$205,562,690	\$29,405,798
10I	Number of outstanding extensions of consumer credit and refinances (CAB contracts) at the end of the reporting period.	369,432	93,175	115,409	32,503
	Number of Locations reporting activity in each category	2,519	876	1,949	769
	Total Number of Locations Reporting				3,232

¹Item Numbers 1-9 capture activity related to only extensions originated in the reporting quarter while Item Number 10 relates to all CAB activity in the quarter.

²Weighted average based on number of extensions obtained in the quarter for each location. Total average loan amount for industry found by summing all locations' proportionally weighted average loan amount.

$$\text{Average Loan Amount} = \text{Individual Location Item \#6} \times \left(\frac{\text{Individual Location Item \#2}}{\text{Sum of Total Industry Item \#2}} \right)$$

³Based on companies reporting refinances during the quarter

⁴Mean is represented as the average number of refinances per consumer who does refinance (Item #3 / Item #4)

⁵The median of all reported medians from companies that had refinancing activity

⁶The mode of all reported modes from companies that had refinancing activity

⁷Percentage of companies reporting the CAB fee for the range shown excluding companies that reported no activity

⁸Weighted average based on number of CAB contracts entered into during the quarter. Total average cab fee for industry found by summing all locations' proportionally weighted average cab fee amount. Represented as \$ per \$100 borrowed regardless of term.

$$\text{Average CAB Fee} = \text{Individual Location Item \#10B} \times \left(\frac{\text{Individual Location Item \#10F}}{\text{Sum of Total Industry Item \#10F}} \right)$$

⁹Weighted average based on number of CAB contracts entered into during the quarter. Total average original term for industry found by summing all locations' proportionally weighted average original term.

$$\text{Average Original Term} = \text{Individual Location Item \#10D} \times \left(\frac{\text{Individual Location Item \#10F}}{\text{Sum of Total Industry Item \#10F}} \right)$$



Data contained within the below summary represents aggregated statewide second-quarter data reported by CABs as of 9/7/2012. The OCCC reviews submitted data for reasonableness rather than for accuracy. The OCCC will request verification from the licensee of any data that is found to be questionable or unreasonable.

Section 393.627 of the Texas Finance Code required credit access businesses (CABs) to file quarterly reports with the Office of Consumer Credit Commissioner (OCCC) identifying loan activity associated with

- single and installment deferred presentment (payday) loans, and
- single and installment auto title loans.

Data Limitations

Data provided by reporting CABs reflects location-level activity for the identified quarter; reported data has been aggregated and presented below to reflect statewide activity within this industry.

The data presented in the following summary represents CAB submissions, to include any corrected data, of first-quarter activity as of September 7, 2012.

Credit Access Business (CAB) Second Quarter Data Report, CY 2012

Item Number	Item Description ¹	Single Payment Deferred Presentment Transactions	Installment Deferred Presentment Transactions	Single Payment Auto Title Loans	Installment Title Loans
1	Number of consumers for whom the CAB obtained or assisted in obtaining an extension of consumer credit during the reporting period.	399,598	93,081	85,205	23,087
2	Number of extensions of consumer credit obtained by the CAB or that the CAB assisted consumers in obtaining during the reporting period.	632,645	105,828	137,964	23,601
3	Number of refinancing transactions of the extensions of consumer credit described in #2.	674,329	55,134	97,078	7,824
4	Number of consumers refinancing the extensions of consumer credit described in #2.	280,867	35,791	54,889	4,947

(Table continued to next page)

Item Number	Item Description	Single Payment Deferred Presentment Transaction	Installment Deferred Presentment Transaction	Single Payment Auto Title Loans	Installment Auto Title Loans
5	Number of consumers refinancing more than once the extensions of consumer credit described in #2.	177,834	10,066	29,194	1,341
6 ²	Average amount of the extension of consumer credit	\$467.24	\$558.99	\$707.42	\$1,150.13
7	Total amount of CAB fees charged by the CAB for the activities described in #2 and #3.	\$114,246,145	\$34,759,689	\$41,786,519	\$17,159,599
8	Number of vehicles surrendered or repossessed during the reporting period under the terms of a motor vehicle title loan obtained by the CAB or that the CAB assisted consumers in obtaining.			6,234	1,999
9 ³	Mean, Median, and Mode of the number of refinances obtained by the CAB in the reporting period				
9A ⁴	Mean	2.40	1.54	1.77	1.58
9B ⁵	Median	2	1	1	1
9C ⁶	Mode	1	1	1	1
10	Other CAB Transaction Information				
10A ⁷	Minimum CAB Fee charged per transaction (\$ per \$100 borrowed)				
	\$0 - \$9.99	12%	2%	17%	2%
	\$10 - \$19.99	27%	2%	31%	2%
	\$20 - \$29.99	61%	16%	48%	22%
	\$30 or more	1%	81%	5%	74%
10B ⁸	Average CAB Fee charged per transaction (\$ per \$100 borrowed)	\$22.83	\$202.96	\$21.30	\$131.67
10C	Maximum CAB Fee charged per transaction (\$ per \$100)				
	Less than \$30	68%	10%	65%	24%
	\$30 - \$49.99	20%	0%	34%	3%
	\$50 - \$74.99	7%	6%	1%	4%
	More than \$75	4%	84%	0%	69%

(Table continued to next page)

Item Number	Item Description	Single Payment Deferred Presentment Transaction	Installment Deferred Presentment Transaction	Single Payment Auto Title Loans	Installment Auto Title Loans
10D ⁹	Average original term (in days) of an extension	19	98	30	149
10E	Number of outstanding extensions of consumer credit and refinances (CAB contracts) at beginning of the reporting period.	566,503	89,738	114,791	31,984
10F	Number of extensions of consumer credit and refinances (CAB contracts) entered into during the reporting period.	1,487,582	170,530	310,426	36,731
10G	Number of extensions of consumer credit and refinances (CAB contracts) paid in full or otherwise closed for reduced payoff during the reporting period.	838,455	67,816	180,397	22,043
10H	Total dollar amount of extensions of consumer credit obtained by the CAB or that the CAB assisted consumers in obtaining that were paid in full or otherwise closed for reduced payoff during reporting period.	\$408,460,527	\$43,336,078	\$168,894,235	\$27,713,052
10I	Number of outstanding extensions of consumer credit and refinances (CAB contracts) at the end of the reporting period.	501,750	119,166	99,585	40,019
	Number of Locations reporting activity in each category	2,587	656	2,084	1,120
	Total Number of Locations Reporting				3,280

¹Item Numbers 1-9 capture activity related to only extensions originated in the reporting quarter while Item Number 10 relates to all CAB activity in the quarter.

²Weighted average based on number of extensions obtained in the quarter for each location. Total average loan amount for industry found by summing all locations' proportionally weighted average loan amount.

$$\text{Average Loan Amount} = \text{Individual Location Item \#6} \times \left(\frac{\text{Individual Location Item \#2}}{\text{Sum of Total Industry Item \#2}} \right)$$

³Based on companies reporting refinances during the quarter

⁴Mean is represented as the average number of refinances per consumer who does refinance (Item #3 / Item #4)

⁵The median of all reported medians from companies that had refinancing activity

⁶The mode of all reported modes from companies that had refinancing activity

⁷Percentage of companies reporting the CAB fee for the range shown excluding companies that reported no activity

⁸Weighted average based on number of CAB contracts entered into during the quarter. Total average cab fee for industry found by summing all locations' proportionally weighted average cab fee amount. Represented as \$ per \$100 borrowed regardless of term.

$$\text{Average CAB Fee} = \text{Individual Location Item \#10B} \times \left(\frac{\text{Individual Location Item \#10F}}{\text{Sum of Total Industry Item \#10F}} \right)$$

⁹Weighted average based on number of CAB contracts entered into during the quarter. Total average original term for industry found by summing all locations' proportionally weighted average original term.

$$\text{Average Original Term} = \text{Individual Location Item \#10D} \times \left(\frac{\text{Individual Location Item \#10F}}{\text{Sum of Total Industry Item \#10F}} \right)$$

FINANCE COMMISSION OF TEXAS

RESOLUTION SUPPORTING UNIFORMITY OF LAWS GOVERNING CREDIT ACCESS
BUSINESSES

WHEREAS, in 2011, the Texas Legislature enacted legislation that amended Chapter 393 of the Texas Finance Code, providing licensure and disclosure requirements for credit access businesses that assist consumers in engaging in deferred presentment transactions and motor vehicle title loans; and,

WHEREAS, the Finance Commission of Texas has carefully considered and adopted rules implementing this legislation; and,

WHEREAS, the legislation and rules governing credit access business have statewide effect; and,

WHEREAS, at least two municipal jurisdictions have enacted ordinances creating different requirements from the legislation and rules exclusively for credit access businesses; and,

WHEREAS, the ordinances not only increase complexity of compliance and training for Texas credit access businesses, which are now subject to different requirements in the various Texas cities where they operate, but also impose civil or criminal penalties on conduct that complies with state law and the rules; and,

WHEREAS, these differing requirements have the potential to create confusion and disparate impact on the part of consumers who are assisted by credit access businesses subject to dissimilar requirements, even potentially within a single ZIP code; and

WHEREAS, the adoption of distinctly different ordinances among multiple jurisdictions could create potential conflict with state law, resulting in the possibility of lengthy and costly litigation.

NOW, THEREFORE, BE IT RESOLVED, that the Texas Finance Commission does hereby request that the Texas Legislature consider amending the Texas Finance Code to more clearly articulate its intent for uniform laws and rules to govern credit access businesses in Texas.

Given under my hand at Austin, Texas

On the 20th day of April

In the year two thousand and twelve



William J. White

Chair, Finance Commission of Texas

HB 2490: Metal Dealers

Summary of Legislation

HB 2490 amends Chapter 1956 of the Occupations Code, requiring crafted precious metal dealers (including gold-buying businesses) to register with the OCCC. For each purchase, the dealer must complete a form listing the date of the transaction, a description of the metal product, and the name and address of the buyer and seller and then submit those transaction forms to local law enforcement authorities. If a peace officer notifies the dealer about an allegedly stolen item, the dealer will be required to hold the item for 60 days without altering or selling it. The OCCC has the authority to investigate complaints about metal dealers; consumer assistance reporting and data collection processes have been amended to include crafted precious metal dealers and agency representatives are prepared to address any received concerns or complaints. The registration requirement became effective January 1, 2012.

Implementation Actions

In December 2011, the agency implemented an online registration system enabling crafted precious metal dealers (CPMDs) to register permanent and temporary business locations. The registration system is hosted upon the Texas Department of Public Safety's (TxDPS) website and is based upon that agency's metals recycling program. By partnering with TxDPS' software vendors and the state business portal, the registration process provides secure and efficient payment processing and allows for immediate, on-demand registration certificates for registrants. CPMDs are making efforts to comply with the registration requirements, however it is noted that registration levels may not wholly represent the number of CPMDs engaged in regulated activity throughout the state.

Registered Precious Metal Dealers	Data as of 06/30/12	8/31/12
Permanent locations	2,213	2,336
Temporary locations	346	362
Total registered locations	2,559	2,698

Since the registration requirement became effective January 1, 2012, the agency engaged in communication and marketing activities focused on effective and informative communication relating to CPMD registration requirements. These efforts have included the development of

- a notification letter to be sent to identified entities or individuals who may be engaged in business transactions and who may require registration under the CPMD program,
- an information piece distributed to local law enforcement and county sheriffs' departments that provided general information on registration and operations requirement and the support role of the OCCC,
- informational materials distributed statewide to Better Business Bureaus, Chambers of Commerce, regional flea markets, smelters, and state convention and visitors bureaus regarding registration requirements, and
- a statewide press release distributed through Texas.gov to more than 300 media outlets, complimented by media comments and interviews as requested.

The consumer assistance section has received 24 complaints or inquiries regarding crafted precious metals from the general public and local law enforcement. Complaints and inquiries predominantly pertain to confirmation of

dealer registration, length of holding period, use of transaction forms, allegations of theft and under valuation of merchandise. Four investigations have been initiated due to the dealer failing to respond to agency requests or providing inadequate responses.

Number of Complaints or Inquiries	Type of Complaint or Inquiry
16	Confirmation of registration status by consumer or local law enforcement
2	Inquiry seeking Information regarding the use of transaction forms by local law enforcement
2	Inquiry as to the length of hold periods for purchased merchandise by consumers
3	Misleading practices: sale for less than going price, allegation of theft of merchandise by consumer
1	Inquiry for general information

SB 762: Property Tax Loan Fees

Summary of Legislation

SB 762 adds Section 351.0021 to the Finance Code, providing an exclusive list of post-closing fees that property tax lenders may charge. The bill became effective September 1, 2011. The bill also requires that the Finance Commission conduct a study of the interest, fees, and charges that are assessed by property tax lenders.

Implementation Actions

The OCCC staff collected and analyzed current and historical data to provide an understanding of the types and costs of fees charged to property tax loan borrowers in connection with obtaining the loan and after closing. Study findings provided details of allowable charges, and more specifically, the actual occurrence of charges incurred by borrowers. Through examination of actual loans made, the study classified the costs associated with property tax loans characterized by the paying habits of actual borrowers (non-problem, problem, and foreclosure loans). Data was obtained and analyzed from three sources:

- (1) annual report filings collected for CY 2008 – CY 2011;
- (2) a survey questionnaire filed as an addendum to the CY 2011 annual report which included historical data for CY 2008 – CY 2011; and
- (3) a data survey collected onsite by OCCC examiners using a random sampling of loans sufficient in size to yield a 95% confidence level within three separate sampling frames.

The Finance Commission approved the final study during its August 2012 meeting. A summary of the report findings follows. The full report may be found at: <http://www.fc.texas.gov/Studies/propertytaxlending.pdf>.

Trends CY2008 to CY2011	Identified	Data Provided by Industry Participants via Questionnaire														
<ul style="list-style-type: none"> • 5.75% growth in number of loans made • 87.77% increase in total dollar value of loans made • 77.57% increase in average loan amount • Foreclosures by property tax lenders increased from 99 in CY2008 to 204 during CY2011 • Foreclosure rates by property tax lenders increased from 1 out of 166 properties for CY2008 to 1 out of 150 in CY2011, as based on number of year-end receivables 	<ul style="list-style-type: none"> • 85.59% of 2011 transfers involved residential properties • 14.41% of 2011 transfers involved commercial properties 	<table border="0"> <tr> <td rowspan="3" style="font-size: 2em; vertical-align: middle;">}</td> <td>Avg. Transfer Amount</td> <td>\$8,809.77</td> </tr> <tr> <td>Avg. Closing Costs</td> <td>\$865.52</td> </tr> <tr> <td>Avg. Interest Rate</td> <td>14.37%</td> </tr> <tr> <td rowspan="3" style="font-size: 2em; vertical-align: middle;">}</td> <td>Avg. Transfer Amount</td> <td>\$35,006.25</td> </tr> <tr> <td>Avg. Closing Costs</td> <td>\$1,545.77</td> </tr> <tr> <td>Avg. Interest Rate</td> <td>14.20%</td> </tr> </table>	}	Avg. Transfer Amount	\$8,809.77	Avg. Closing Costs	\$865.52	Avg. Interest Rate	14.37%	}	Avg. Transfer Amount	\$35,006.25	Avg. Closing Costs	\$1,545.77	Avg. Interest Rate	14.20%
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	Avg. Interest Rate	14.20%														

Loan Characteristics	Data Collected through OCCC Examination & Supervision Activities
<p>Questionnaire-Based Results</p> <ul style="list-style-type: none"> • Interest rates for both commercial and residential properties are at a 4-year low • Residential closing costs are at a 4-year low for both dollar amounts and percentages of tax lien transfer amounts • Commercial closing costs are at a 4-year low as a percentage of tax lien transfer amounts <p>Survey-Based Results</p> <ul style="list-style-type: none"> • 62.28% of borrowers had a pre-existing mortgage • 43.05% of paid property tax loans were paid by a mortgage company⁴ 	<ul style="list-style-type: none"> • 99.36% of loans heading towards foreclosure had additional servicing fees averaging \$2,384.91 • 92.21% of loans with extreme delinquency⁵ had additional servicing fees averaging \$923.92 • 61.64% of loans <i>without</i> extreme delinquency had additional servicing fees averaging \$274.16 • Largest expense was foreclosure costs • Most common fees assessed were internal collection fees

Historical figures presented in these bullet items include charges that are no longer authorized as of September 1, 2011. Current limitations on servicing fees will impact costs going forward.

Average: \$1,544.22

Median: \$1,200⁶

Affected 50.64% of accounts without extreme delinquency

⁴ 130 of 302 sampled property tax loans that were paid in full were paid by a mortgage company

⁵ For this study, extreme delinquency is classified as contractual delinquency of 90+ days

⁶ Figure includes active loans where additional fees may be assessed

HB 2931: Motor Vehicle Debt Cancellation Agreements

Summary of Legislation

HB 2931 provides a new statutory framework for debt cancellation agreements on financed motor vehicles where the motor vehicle is required to be insured for property damage. A debt cancellation agreement (DCA) is an agreement in which the holder of a retail installment contract will cancel all or part of the remaining amount owed on the finance contract if the vehicle is stolen or totaled. If a DCA requires the buyer to maintain insurance on the vehicle, the holder will generally cancel only the difference between the insurance coverage on the vehicle and the remaining amount owed. HB 2931 adds a new subchapter to Chapter 348 of the Finance Code, detailing the provisions that may be included in a DCA that requires insurance. The bill also requires the OCCC to approve or disapprove DCA forms within 45 days after they are submitted to the agency. The bill does not affect DCAs where the buyer is not required to obtain insurance. These agreements would still have to comply with the rules that the Finance Commission adopted in 2010. HB 2931 became effective September 1, 2011.

Implementation Activities

As a result of HB 2931, existing rules relating to DCAs that required insurance were repealed, as the new provisions of HB 2931 will control these agreements. The OCCC issued a bulletin detailing the process for submission of a DCA form for review.

As of August 31, 2012, DCA review status is as follows:

Debt Cancellation Agreement Review Status	Data as of 08/31/12
Approved DCAs	345
Denied DCAs	52
DCAs Pending Review	9