

April 27, 2017

On April 24, 2017, the City Council of the City of Haltom City, Texas, approved Ordinance No. O-2017-001-01, amending Chapter 62, "Occupational Licenses and Regulations," of the Code of Ordinances, adding Article XI, "Credit Access Businesses" to set forth registration requirements, credit extension guidelines, and record keeping requirements for Credit Access Businesses (CABs), also commonly referred to as "payday lenders" and/or "auto title lenders" who operate within the city limits of the City of Haltom City. Texas Finance Code Chapter 393 requires that CABs obtain a state issued license before conducting business in the state. The City ordinance requires that CABs licensed under Chapter 393, and operating within the city limits, register annually and obtain a Certificate of Registration from the City. The ordinance authorizes the monitoring and enforcement of compliance with the ordinance by the City of Haltom City.

In addition to registration requirements, CABs must follow lending guidelines that place restrictions on extensions of consumer credit, or "payday loans" and "auto title loans." The ordinance requires annual registration with the City. Records required to be maintained by a CAB, as set forth in Sec. 62-410 of the City ordinance, must be made immediately available for inspection by the director or peace officer upon request during the usual and customary business hours of the CAB. Failure to comply with the terms of the ordinance may result in a misdemeanor and a fine of up to \$500 per day for each violation.

The effective date of this ordinance was April 24, 2017. The City has extended the registration deadline to July 3, 2017 to allow CABs to obtain a FINAL license from the Texas Office of Consumer Credit Commissioner and complete the registration application. **All CABs registered with the state and operating and/or conducting business within the City of Haltom City, must submit a complete application for a certification of registration to the City Secretary's office no later than July 3, 2017.**

To apply for an initial certificate of registration, applicants must:

- Complete an application for Credit Access Business Registration. Please complete the application in its entirety. Incomplete applications cannot be processed.
- Submit a non-refundable application fee of \$50 with your application. Payments can be made by cash, check or money order payable to the City of Haltom City, credit or debit card. If paying with a debit or credit card, please include the \$2.50 convenience fee for a total of \$52.50.
- Submit a copy of a current, valid state license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393, Subchapter G of the Texas Finance Code.
- Submit a copy of a current, valid certificate of occupancy showing that the CAB is in compliance with the Code of Ordinances, City of Haltom City.

To renew an existing Certificate of Registration, annually thereafter:

- Complete a CAB registration form and submit to the City Secretary along with a \$50 non-refundable registration fee, a copy of a current, valid state license issued by the Texas Consumer Credit Commissioner, and a copy of a current, valid certificate of occupancy showing the CAB is in compliance with the City of Haltom City Code of Ordinances.
- Submit the completed application and specified documents at least 30 days before the expiration of the registration.

Enclosed is a copy of the ordinance and an application for registration. All documents and information requested in the application, and a nonrefundable \$50 registration fee, must be received before the application review and approval process can commence. Staff will contact the designated contact person for the business listed on the application to address any deficiency in the submitted registration application. The corrected application must be received by the City of Haltom City within ten (10) calendar days from the date that the CAB was notified by the City of the need for clarification or additional information. Requested information that is not resubmitted within the ten (10) day timeframe will require a new application process and registration fee.

Additionally, all Credit Access Businesses are required to provide the form: *Referral to Consumer Credit Counseling*; to each consumer seeking assistance in obtaining an extension of consumer credit.

The application, including the state and city issued documents, and nonrefundable registration fee should be returned to the City Secretary's office, located at 5024 Broadway Avenue, Haltom City, Texas, 76117, or via postal service to the same address.

Please contact the City Secretary's office at 817-222-7749 or 817-222-7754 for further assistance. We look forward to working with you and welcome any questions you may have.

Regards,

Art Camacho, TRMC
City Secretary

Credit Access Business Regulations

The Code of Ordinances, City of Haltom City, Texas has been amended for the purpose of protecting the welfare of citizens of Haltom City by monitoring credit service organizations in an effort to reduce abusive and predatory lending practices. This bulletin outlines the registration program for credit service organizations.

Definitions

- **Certificate of Registration:** Means a certificate or registration issued by the director under this article to the owner or operator of a credit access business.
- **Consumer:** Means individual who is solicited to purchase or whose purchases the services of a credit access business.
- **Credit Access Business:** Has the meaning given that term in section 393.601 of the Texas Finance Code.
- **Director:** Means the City Secretary's Office.

Registration Application

The Director shall issue a certificate of registration for a credit access business only when an applicant has submitted the following:

- A completed Annual Registration Application form.
- A copy of a current, valid state credit access license held by the credit service organization.
- A copy of the structure's Certificate of Occupancy.
- A non-refundable application fee of \$50.00.

The Director must be notified within 45 days after any changes are made to the information submitted in the Application of Annual Registration. This includes, but is not limited to, any change of address or any change in the status of the state license held by the applicant.

Issuance and Display of Certificate of Registration

A certificate of registration for a credit access business must be clearly displayed to the public in the business.

Expiration and Renewal of Certificate of Registration

A certificate of registration expires on the earliest of:

- 1) One year after the date of issuance; or
- 2) The date of revocation, suspension, surrender, expiration without renewal, or other termination of the registrant's state license.

A certificate of registration may be renewed by making application in accordance with Section 62-406. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

The Credit Access Business shall maintain records in accordance with Section 62-410 of the currently adopted ordinance. A copy of ordinance, Article XI Credit Access Businesses, has been included for reference.

Credit Access Business Consumer Information

Please read the information on this form. This information will enable you to become familiar with selected sections of the City of Haltom City Code of Ordinances Chapter 62 concerning Credit Access Businesses. Additionally, this form provides a listing of local nonprofit agencies that provide FREE financial education and training programs and agencies with cash assistance programs.

Credit Access Businesses are required by Section 62-413 of the Haltom City Code of Ordinance to provide this information to you because you are seeking assistance in obtaining an extension of consumer credit.

Sec. 62-410 Maintenance of Records

- a. A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, whether an original transaction or refinancing or renewal of an extension of consumer credit, which must include the following information:
 - 1) The name and address of the consumer.
 - 2) The principal amount of cash actually advanced.
 - 3) The length of the extension of consumer credit, including the number of installments and renewals.
 - 4) The fees charged by the credit access business to arrange or obtain an extension of consumer credit.
 - 5) The documentation used to establish a consumer's income under Section 62-412.

Sec. 62-411 Restrictions on Extension of Consumer Credit

- a. The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed twenty percent (20%) of the consumer's gross monthly income.
- b. The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of :
 - 1) Three percent (3%) of the consumer's gross annual income: or
 - 2) Seventy percent (70%) of the current, retail value of the motor vehicle.
- c. A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income. *Examples of documentation include:*
 - 1) *A paycheck issued to the consumer and dated within the same month as the consumer applies for extension of consumer credit.*
 - 2) *An IRS form: W-2 issued to the consumer for the preceding tax year.*
 - 3) *The consumer's personal income tax return for the preceding tax year.*
 - 4) *A signed letter from the consumer's employer signed and dated within the month in which an extension of consumer credit is sought, which states the length of the employer's payroll period and the total wages that the employer pays or expects to pay to the consumer per payroll period.*
- d. An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for the repayment in installments may

not be payable in more than four installments. Proceeds from each installment must be used to repay at least 25 percent (25%) of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.

- e. An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must be used to repay at least 25 percent (25%) of the principal amount of the original extension of consumer credit.
- f. For purposes of this section, an extension of consumer credit that is made to a consumer within seven days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

CONSUMER CREDIT INFORMATION

(THIS FORM IS FOR INFORMATION PURPOSES ONLY AND IS NOT INTENDED TO BE AN ENDORSEMENT OF ANY PROGRAM OR ENTITY, EDUCATION AND TRAINING.)

Consumer Credit Counseling <http://www.consumercredit.com/>

2100 N Main St. Ste. 224 Fort Worth, Texas 817-625-4238

Office of Consumer Credit Commissioner <http://occc.texas.gov/>

2601 N. Lamar Blvd., Austin, Texas 78705

Phone: (800) 538-1579 - Consumer Helpline

(512) 936-7639 - Credit Education

(512) 936-7627 – Consumer Protection

Texas Attorney General – Consumer Protection Division

Austin Regional Office, 300 W. 15th Street, 9th Floor, Austin, Texas 78711-2548

(512) 463-2185 – Main Number

Dallas Regional Office, 1412 Main Street, Suite 810, Dallas, Texas 75202

(214) 969-7615 – Main Number

(800) 621-0508 – Texas Attorney General’s Consumer Protection Hotline

<https://www.texasattorneygeneral.gov/consumer/complain.shtml>

211 TEXAS (Provides free information and referral assistance 24 hours a day, seven days a week)

<https://www.211texas.org/cms/>

ARTICLE XI. CREDIT ACCESS BUSINESSES

Sec. 62-401 Short title and purpose

(a) This article may be known and cited as “Credit Access Businesses Regulation.”

(b) The purpose of this article is to protect the welfare of the citizens of the City of Haltom City by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit access businesses, imposes restrictions on extensions of consumer credit made by credit access businesses, and imposes recordkeeping requirements on credit access businesses.

Sec. 62-402 Definitions

As used in this article:

- (1) *Certificate of registration* means a certificate of registration issued by the director under this article to the owner or operator of a credit access business.
- (2) *Consumer* means an individual who is solicited to purchase or who purchases the services of a credit access business.
- (3) *Consumer’s language of preference* is the language the consumer understands best.
- (4) *Credit access business* has the meaning given that term in Section 393.601 of the Texas Finance Code, or successor section.
- (5) *Deferred presentment transaction* has the meaning given that term in Section 393.601 of the Texas Finance Code, or successor section.
- (6) *Director* means the City Manager or the person directed by the City Manager to enforce and administer this article.
- (7) *Extension of consumer credit* has the meaning given that term in Section 393.001 of the Texas Finance Code, or successor section.
- (8) *Motor vehicle title loan* has the meaning given that term in Section 393.601 of the Texas Finance Code, or successor section.
- (9) *Person* means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.
- (10) *Registrant* means a person issued a certificate of registration for a credit access business under this article and includes all owners and operators of the credit access business identified in the registration application filed under this article.

- (11) *State license* means a license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393, Subchapter G of the Texas Finance Code, or successor section.

Sec. 62-403 Violations; penalty

- (a) A person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a separate offense for each and every violation relating to an extension of consumer credit, and for each day during which a violation is committed, permitted, or continued.
- (b) An offense under this article is punishable by a fine of not more than \$500.
- (c) A culpable mental state is not required for the commission of an offense under this article and need not be proved.
- (d) The penalties provided for in Subsection (b) are in addition to any other remedies that the city may have under city ordinances and state law.

Sec. 62-404 Defenses

It is an affirmative defense to prosecution under this article that at the time of the alleged offense the person was not required to be licensed by the state as a credit access business under Chapter 393, Subchapter G, of the Texas Finance Code.

Sec. 62-405 Registration required

- (a) A person commits an offense if the person acts, operates, or conducts business as a credit access business without a valid certificate of registration.
- (b) A certificate of registration is required for each physically separate credit access business.

Sec. 62-406 Registration application

- (a) To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the director. The application must contain the following:
- (1) The name, street address, mailing address, facsimile number, email address and telephone number of the applicant.
 - (2) The business or trade name, street address, mailing address, facsimile number, email and website address and telephone number of the credit access business.

- (3) The names, street addresses, mailing addresses, email addresses and telephone numbers of all owners of the credit access business, and the nature and extent of each person's interest in the credit access business.
- (4) A copy of a current, valid state license held by the credit access business pursuant to Chapter 393, Subchapter G of the Texas Finance Code.
- (5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the Code of Ordinances, City of Haltom City.
- (6) A non-refundable application fee of \$50.00.

(b) An applicant or registrant shall notify the director within 45 calendar days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address, including email and website addresses and telephone number(s) and any change in the status of the state license held by the applicant or registrant.

Sec. 62-407 Issuance and display of certificate of registration; presentment upon request

- (a) The director shall issue to the applicant a certificate of registration upon receiving a completed application under Section 62-406.
- (b) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

Sec. 62-408 Expiration and renewal of certificate of registration

- (a) A certificate of registration expires on the earliest of:
 - (1) One year after the date of issuance; or
 - (2) The date of revocation, suspension, surrender, expiration without renewal, or other termination of the registrant's state license.
- (b) A certificate of registration may be renewed by making application in accordance with Section 62-406. A registrant shall apply for renewal at least thirty (30) days before the expiration of the registration.

Sec. 62-409 Non-transferability

A certificate of registration for a credit access business is not transferable.

Sec. 62-410 Maintenance of records

(a) A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, which must include the following information:

- (1) The name and address of the consumer.
- (2) The principal amount of cash actually advanced.
- (3) The length of the extension of consumer credit, including the number of installments and renewals.
- (4) The fees charged by the credit access business to arrange or obtain an extension of consumer credit.
- (5) The documentation used to establish a consumer's income under Section 62-411.
- (6) If applicable, the documentation described in Section 62-412 for persons unable to read an agreement or extension.

(b) A credit access business shall maintain a copy of each written agreement between the credit access business and a consumer evidencing an extension of a consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).

(c) A credit access business shall maintain copies of all quarterly reports filed with the Texas Consumer Credit Commissioner under Section 393.627 of the Texas Finance Code.

(d) The records required to be maintained by a credit access business under this section must be retained for at least three years.

(e) The records required to be maintained by a credit access business under this section must be made immediately available for inspection by the director or a peace officer upon request during the usual and customary business hours of the credit access business.

Sec. 62-411 Restriction on extension of consumer credit

(a) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed twenty percent (20%) of the consumer's gross monthly income.

(b) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of:

- (1) Three percent (3%) of the consumer's gross annual income; or
- (2) Seventy percent (70%) of the current retail value of the motor vehicle.

(c) A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income.

(d) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least twenty-five percent (25%) of the principal amount of the extension of consumer credit. An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.

(e) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three (3) times. Proceeds from each refinancing or renewal must be used to repay at least twenty-five percent (25%) of the principal amount of the original extension of consumer credit.

(f) For purposes of this section, an extension of consumer credit that is made to a consumer within seven (7) days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

Sec. 62-412 Requirement of consumer understanding of agreement

(a) Every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer), must be written in the consumer's language of preference. Every credit access business location must maintain on its premises, to be available for use by consumers, agreements in the English and Spanish languages.

(b) For every consumer who cannot read, every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer) must be read to the consumer in its entirety in the consumer's language of preference, prior to the consumer's signature.

(c) For every consumer who cannot read, every disclosure and notice required by law must be read to the consumers in its entirety in the consumer's language of preference, prior to the consumer's signature.

Sec. 62-413 Referral to consumer credit counseling

A credit access business shall provide a form, to be prescribed by the director, to each consumer seeking assistance in obtaining an extension of consumer credit which references non-profit agencies that provide financial education and training programs and agencies with cash assistance programs. The form will also contain information regarding extensions of consumer credit, and must include the information required by 62-410(a)(1)-(5) of this ordinance specific to the loan agreement with the consumer. If the director has prescribed a form in the consumer's language of preference, the form must be provided in the consumer's language of preference.