

Chapter 41

CREDIT ACCESS BUSINESSES

ARTICLE I. CREDIT ACCESS BUSINESSES

State law reference—Credit Organizations, V.T.C.A., Finance Code § 393.001 et seq.; credit access businesses, V.T.C.A., Finance Code § 393.601 et seq.

41-1. 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 Temple 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.

(Prior Code, § 41-1)

41-2. 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) CITY means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.
- (3) CONSUMER means an individual who is solicited to purchase or who purchases the services of a credit access business.
- (4) CONSUMER’S LANGUAGE OF PREFERENCE is the language the consumer understands best.
- (5) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.
- (6) DEFERRED PRESENTMENT TRANSACTION has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

- (7) DIRECTOR means the director of the department designated by the City of Temple's City Council, City Manager, or their designee, to enforce and administer this Chapter.
- (8) EXTENSION OF CONSUMER CREDIT has the meaning given that term in Section 393.001 of the Texas Finance Code, as amended.
- (9) MOTOR VEHICLE TITLE LOAN has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.
- (10) OWNER means any person who directly or indirectly owns a credit access business. For publicly traded companies, the term means any person who directly or indirectly owns or controls 10% or more of the outstanding shares of stock in the credit access business.
- (11) PERSON means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.
- (12) 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.
- (13) 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, as amended.

(Prior Code, § 41-2)

41-3. 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 violation of this Article and for each day or portion of a day during which a violation is committed, permitted, or continued.
- (b) An offense under this Article is a Class C misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00).
- (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.

(Prior Code, § 41-3)

41-4. Defense.

It is a 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, as amended.

(Prior Code, § 41-4)

41-5. Registration required.

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

(Prior Code, § 41-5)

41-6. 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, and telephone number of the applicant;
 - (2) the business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business;
 - (3) the names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business and the nature and extent of each owner'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, as amended;
 - (5) a copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the City of Temple Code of Ordinances; and
 - (6) a fifty dollar (\$50.00) non-refundable application fee.
- (b) An applicant or registrant must notify the director within forty-five (45) 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 and any change in the status of the state license held by the applicant or registrant.

(Prior Code, § 41-6)

41-7. Issuance and display of certificate of registration; presentment upon request.

- (a) The director will issue to the applicant a certificate of registration upon receiving a completed application under Sec. 41-6.

- (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.

(Prior Code, § 41-7)

41-8. Expiration and renewal of certificate of registration.

- (a) A certificate of registration expires on the earlier 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 Sec. 41-6. A registrant must apply for renewal at least thirty (30) days before the expiration of the registration.

(Prior Code, § 41-8)

41-9. Non-transferability.

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

(Prior Code, § 41-9)

41-10. Maintenance of records.

- (a) A credit access business must 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; and
- (5) the documentation used to establish a consumer's income under Sec. 41-12 of this ordinance.

- (b) A credit access business must 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 must maintain copies of all quarterly reports filed with the Texas Consumer Credit Commissioner under Section 393.627 of the Texas Finance Code, as amended.
- (d) The records required to be maintained by a credit access business under this Section must be retained for at least three years and made available for inspection by the City upon request during the usual and customary business hours of the credit access business.

(Prior Code, § 41-10)

41-11. Reserved.

41-12. Restrictions on extensions 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 retail value of the motor vehicle.
- (c) A credit access business must 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 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.

(Prior Code, § 41-12)

41-13. Requirements 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) Every disclosure and notice required by law must be written and provided to the consumer in the consumer's language of preference. Every credit access business location must maintain on its premises, to be available for use by consumer, required disclosures and notices in the English and Spanish languages.
 - (1) A credit access business with a current City certificate of registration as of February 21, 2019 must comply with Subsection (b) upon renewal of their certificate of registration.
- (c) 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.
- (d) For every consumer who cannot read, every disclosure and notice required by law must be read to the consumer in its entirety in the consumer's language of preference, prior to the consumer's signature.

(Prior Code, § 41-13)

41-14. Referral to consumer credit counseling.

A credit access business must 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 must also contain information regarding extensions of consumer credit and must include the information required by 41-10(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.

(Prior Code, § 41-14)