

ORDINANCE NO. 31747

An ordinance amending Chapter 50, "Consumer Affairs," of the Dallas City Code by amending Article XI; providing regulations for credit services organizations and additional requirements for credit access businesses; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date. Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Article XI, "Credit Access Businesses," of Chapter 50, "Consumer Affairs," of the Dallas City Code is amended to read as follows:

"ARTICLE XI.

CREDIT SERVICES ORGANIZATIONS AND CREDIT ACCESS BUSINESSES.

Division 1. General Provisions.

SEC. 50-144. PURPOSE OF ARTICLE.

The purpose of this article is to protect the welfare of the residents and consumers in ~~[citizens of]~~ the city of Dallas by monitoring credit services organizations and credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit services organizations and credit access businesses, imposes restrictions on extensions of consumer credit made by credit services organizations and credit access businesses, and imposes recordkeeping requirements on credit services organizations and credit access businesses.

SEC. 50-145. DEFINITIONS.

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 services organization or credit access business.

(2) CONSUMER means an individual who is solicited to purchase or who purchases or seeks the services of a credit services organization or credit access business.

(3) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

(4) CREDIT ACCESS BUSINESS FEES mean the fees charged by a credit access business pursuant to Section 393.602 of the Texas Finance Code, as amended.

(5) CREDIT SERVICES ORGANIZATION has the meaning given that term in Section 393.001 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[5]) DIRECTOR means the director of the department designated by the city manager to enforce and administer this article and includes any representatives, agents, or department employees designated by the director.

(8[6]) EXTENSION OF CONSUMER CREDIT has the meaning given that term in Section 393.001 of the Texas Finance Code, as amended.

(9) EXTENSION OF CONSUMER CREDIT TRANSACTION means the entirety of the agreements made by a consumer to obtain an extension of consumer credit, and includes any loan agreement between the lender and the consumer, and any fee agreement between the credit services organization or credit access business.

(10[7]) MOTOR VEHICLE TITLE LOAN has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

(11) OWNER means any person who directly or indirectly owns a credit services organization or a credit access business. For publicly traded companies, the term means any person who directly or indirectly owns or controls 10 percent or more of the outstanding shares of stock in the credit services organization or credit access business.

(12[8]) PERSON means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.

(13[9]) REGISTRANT means a person issued a certificate of registration for a credit services organization or 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.

(14[0]) 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.

31747

(15) VALUABLE CONSIDERATION means the consideration described in Section 393.001(3) of the Texas Finance Code, as amended. Valuable consideration includes an immediate payment and any future payments in exchange for an extension of consumer credit as described in Section 393.001(3)(B) of the Texas Finance Code, as amended, or advice or assistance with regard to an extension of consumer credit as described in Section 393.001(3)(B) of the Texas Finance Code, as amended.

SEC. 50-146. 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 each day or portion of a 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) The culpable mental state required for the commission of an offense under this article is governed by Section 1-5.1 of this code.

(d) Except as provided in Subsection (e), each day that a violation occurs is a separate offense.

(e) Each extension of consumer credit transaction is a separate offense if the extension of consumer credit transaction violates Section 50-151.4 or Section 50-151.6.

(f) The penalties provided for in Subsection (b) are in addition to any other enforcement remedies that the city may have under city ordinances and state law.

SEC. 50-147. 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 services organizations or credit access business under Chapter 393[, Subchapter G] of the Texas Finance Code, as amended.

Division 2. Registration of Credit Services Organizations and Credit Access Businesses.

SEC. 50-148. REGISTRATION REQUIRED.

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

(b) A person operating a business as both a credit services organization and a credit access business at the same location may obtain one certificate of registration for both per location.

SEC. 50-149. REGISTRATION APPLICATION.

(a) To obtain a certificate of registration for a credit services organization or credit access business, a person must submit an application on a form provided by the city 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 services organization or credit access business.

(2[3]) The names, street addresses, mailing addresses, and telephone numbers of all owners of the credit services organization or credit access business and other persons with a financial interest in the credit services organization or credit access business, and the nature and extent of each person's interest in the credit services organization or credit access business.

(3) A copy of a current, valid state registration statement held by the credit services organization pursuant to Section 393.101 of the Texas Finance Code, as amended.

(4) A copy of a current, valid state license held by the credit access business pursuant to Section 393.603 of the Texas Finance Code, as amended.

(5) A copy of a current, valid city certificate of occupancy showing that the credit services organization or credit access business is in compliance with the Dallas Development Code.

(6) A non-refundable application fee of \$67.

(b) An applicant or registrant shall notify the director within 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 or state registration statement held by the applicant or registrant.

SEC. 50-150. 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 50-149.

(b) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit services organization or credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

SEC. 50-151. 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) if the certificate of registration is held by a credit access business, on the date of expiration, revocation, or other termination of the credit access business's ~~registrant's~~ state license.

(b) A certificate of registration may be renewed by making application in accordance with Section 50-149. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

SEC. 50-151.1. NONTRANSFERABILITY.

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

Division 3. Miscellaneous Requirements for Credit Services Organizations and Credit Access Businesses.

SEC. 50-151.2. MAINTENANCE OF RECORDS.

(a) A credit services organization and a credit access business shall maintain a complete set of records of all extensions of consumer credit transactions ~~[made by the credit access business, which must include the following information]:~~

- (1) that the credit services organization or credit access business arranged or obtained for a consumer; and
- (2) on which the credit services organization or credit access business provide advice or assistance to a customer.

(b) A complete set of records must include the following information:

- (1) The name and address of the consumer.
- (2) The principal amount of cash actually advanced.
- (3) The fees charged to arrange or obtain an extension of consumer credit.
- (4) The fees charged to advise or assist a consumer in obtaining an extension of credit.

(5) The documentation used to establish a consumer's income under Section 50-151.3.

(6) A copy of each written agreement, between the credit services organization or credit access business and a customer, evidencing an extension of consumer credit including, but not limited to, any refinancing or renewal agreement with the consumer.

(7) Whether any part of the extension of consumer credit transaction has been refinanced or renewed and, if so, the number of refinances or renewals made.

(8) A copy of each written agreement between the lender and consumer.

~~[(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 consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).]~~

(c) A credit access business shall maintain, and file with the director, copies, in a format prescribed by the director, of all annual reports, quarterly reports, and all revisions and updates to those reports, filed with the Texas Consumer Credit Commissioner under Chapter [Section] 393[.627] of the Texas Finance Code, as amended. The reports, revisions, and updates must be submitted to the director within five business days of being submitted to the Texas Consumer Credit Commission.

(d) The records required to be maintained by a credit services organization or credit access business under this section must be retained for at least three years and, to the extent not filed with the director, made available for inspection by the city upon request during the usual and customary business hours of the credit services organization or credit access business.

SEC. 50-151.3. CONSUMER RIGHT TO COPY OF AGREEMENT.

(a) A credit services organization and a credit access business shall give to the consumer, upon request, a printed copy of a signed contract, and any other document the credit services organization or credit access business requires a consumer to sign or acknowledge reading.

(b) All contracts and other documents that a credit services organization or credit access business requires the consumer to sign or acknowledge reading shall be in the language in which the contract was negotiated and explained to the consumer.

SEC. 50-151.4. RESTRICTIONS ON EXTENSIONS OF CONSUMER CREDIT.

(a) A credit services organization or [The cash advanced under an extension of consumer credit that a] credit access business shall not obtain[s] for a consumer, or assist[s] a consumer in obtaining, a cash advance under an extension of consumer credit transaction that [in the form of a deferred presentment transaction may not] exceeds 20 percent of the consumer's gross monthly income.

(b) A credit services organization or credit access business shall not obtain[s] for a consumer, or assist[s] a consumer in obtaining, a cash advance in the form of a motor vehicle title loan that [may not] exceeds the lesser of:

- (1) three percent of the consumer's gross annual income; or
- (2) 70 percent of the retail value of the motor vehicle.

(c) A credit services organization or credit access business shall use a paycheck, bank statement, IRS Form W-2 from the previous tax year, the previous year's tax return, a signed letter from an employer, or other similar documentation establishing income to determine a consumer's income.

(d) A credit services organization or credit access business that obtains for a consumer or advises or assists a consumer in obtaining an extension of consumer credit shall, by the terms of the extension of consumer credit transaction:

(1) require payment of the total amount of the extension of consumer credit transaction, including any principal, interest, and fees, valuable consideration, credit access business fees, and any other charges or costs, in [and that provides for repayment in installments may not be payable in more than] four or fewer payments; and [installments. Proceeds from each installment must be used to repay]

(2) reduce by at least 25 percent per payment the total [of the principal] amount of the extension of consumer credit transaction, including any principal, interest, fees, valuable consideration, credit access business fees, and any other charges. [An extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.]

(e) A credit services organization or credit access business shall not refinance or renew any part of an extension of consumer credit transaction, unless the total amount of the extension of the consumer credit transaction, including any principal, interest, fees, valuable consideration, credit access business fees, and any other charges or costs, is due in a single payment.

(f) A credit services organization or credit access business that refinances or renews an extension of consumer credit transaction under Subsection (e):

(1) [obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment] may not [be] refinance[d] or renew[ed] the extension of credit transaction more than three times; and

(2) the minimum payment amount due to refinance or renew such extension of consumer credit transaction must reduce by at least 25 percent the total amount of the extension of consumer credit transaction, including any principal, interest, fees, valuable consideration, credit

access business fees, and any other charges or costs, such that the total amount owed by the consumer is paid in full after a maximum of three refinances or renewals. [Proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the original extension of consumer credit.]

(g[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 transaction has been paid by the consumer ~~[will]~~ constitutes a refinancing or renewal.

SEC. 50-151.5. REFERRAL TO CONSUMER CREDIT COUNSELING.

(a) A credit services organization and a credit access business shall provide a list of non-profit agencies that provide financial education, training programs, or cash assistance programs to each consumer who seeks to obtain or seeks advice or assistance on obtaining an extension of consumer credit. The list must be on a form approved by the director and contain information regarding extensions of consumer credit.

(b) A credit services organization and a credit access business must conspicuously display a poster, or other similar document, that contains information regarding extensions of consumer credit, as prescribed by the director. The organization or business must display the poster or similar document so that it is clearly visible to each consumer who enters the facility.

SEC. 50-151.6. RESTRICTIONS ON NON-DEFERRED PRESENTMENT OR MOTOR VEHICLE TITLE LOAN EXTENSIONS OF CONSUMER CREDIT.

(a) This section applies to an extension of consumer credit transaction that a credit services organization obtains or arranges for a consumer or provides advice or assistance to obtain and that is not a deferred presentment transaction or a motor vehicle title loan.

(b) The sum of all valuable consideration, fees, or other charges owed by the consumer to the credit services organization may not exceed 0.1 percent per day of the outstanding balance of the extension of consumer credit.

SEC. 50-151.7. COMPLIANCE REQUIRED.

A person may not knowingly use a device, subterfuge, or pretense to evade the application of this article."

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 3. That Chapter 50 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By 
Assistant City Attorney

JAN 27 2021

Passed _____



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JAN 27 2021

ORDINANCE NUMBER 31747

DATE PUBLISHED JAN 30 2021

ATTESTED BY: