

July 23, 2020

Leslie Pettijohn, Commissioner  
Texas Office of Consumer Credit Commissioner  
2601 N. Lamar Blvd.  
Austin, TX 78705

**Re: Motor Vehicle Sales Finance Rule Review**

Dear Commissioner Pettijohn:

On behalf of the American Financial Services Association (AFSA)<sup>1</sup>, thank you for the opportunity to provide **informal** precomments on the rules regarding motor vehicle sales finance in Title 7, Chapter 84 of the Texas Administrative Code. We applaud your office’s goal of modernizing and clarifying current rules so that licensees can serve Texas customers more effectively. We would like to take this time to specifically bring to your attention the need to clarify existing rules regarding lien release requirements and resolve discrepancies in the definition of “time price differential.” We also want clarity in allowing employees of licensees to work from home wherever possible during the pandemic, and beyond.

**1) Texas Finance Code Sec. 348.408 and 353.405**

Texas Finance Code Sections 348.408, regarding consumer vehicle sales, and 353.405, regarding commercial vehicle sales, require licensees to release a lien against a motor vehicle within ten days of receiving payment in full. As it currently stands, lienholder holders face serious and demonstrable risk of fraud, whereby liens are released only to have payments returned unpaid after the liens have already been released. We request regulations clarifying that payment in full shall not be deemed tendered unless in the form of certified funds. And, in the case of non-certified funds, the payment in full shall not be deemed tendered until a reasonable time period has passed to permit the holder to determine if the purported payment in full is good funds. Allowing licensees to certify the legitimacy of funds will greatly reduce the ability of fraud to occur.

**2) Texas Administrative Code Sec. 84.201 and 84.803(c)**

We also seek clarification with how the administrative code employs the terms “time price differential” and “finance charge.” This definition comes into conflict with the section governing time price differential, Section 84.201, which states that “time price differential” is calculated based off the “finance charge,” among other components. However, section 84.803(c) states that “The term “time price differential” may be substituted for the term ‘finance charge’ as used in the model disclosures provided by this subchapter ...” This provision is confusing, since the previously mentioned section uses “time price differential” and “finance

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<sup>1</sup> Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice.

charge” as two separate concepts. We request that your department review its use of these terms and, if necessary, modify the rules to establish a clear and consistent usage of these terms.

### 3) **Work from Home**

As a result of the COVID-19 pandemic, many licensees have conducted remote operations in order to serve their customers safely. Many of our members have allowed their employees to conduct loan operations from their personal homes, following the standards your office outlined in recent guidance. We believe that current licensing rules in Subchapter F of Chapter 84 should be updated to permanently authorize employees of licensees to work from their homes without the need to register their home as a new office and set separate standards regarding data security and recordkeeping, as long as no customer information is kept at home, there are appropriate data security and privacy measures in place, and employees are not meeting consumers at their homes or otherwise holding out their homes as places of business.

Thank you for your attention to these informal comments. If you have any questions about how AFSA can be of any further assistance to you as you move forward, please do not hesitate to contact me at 952-922-6500 or [dfagre@afsamail.org](mailto:dfagre@afsamail.org).

Sincerely,



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