

March 18, 2024

Matthew Nance, General Counsel  
Texas Office of Consumer Credit Commissioner  
2601 N. Lamar Blvd.  
Austin, TX 78705

**Re: Regulated Lender Fee Proposed Rules**

Dear Mr. Nance:

On behalf of the American Financial Services Association (AFSA),<sup>1</sup> thank you for the opportunity to comment on the OCCC's proposed rules regarding regulated lender fees in Title 7, Chapter 83 of the Texas Administrative Code.

We applaud your office's goal of modernizing and clarifying current rules so that lenders can serve Texas consumers more effectively. We would like to take this time to specifically address our support for the review of costs and increases in the administrative fees.

**1) §83.503 and §83.605**

Texas Finance Code Sections 83.503 and 83.605 outline the highest maximum administrative fees and limitations on acquisition charges, respectively. As it currently stands, an adjustment to the administrative fee is crucial for Chapter 342, Subchapter E lenders to mitigate a substantial portion of the actual costs incurred in providing regulated credit within local communities across Texas. In 2013, the Texas Finance Code underwent changes with the enactment of Senate Bill 1251. This legislation granted the Finance Commission explicit jurisdiction to examine the administrative expenses associated with loan origination within the domain of Chapter 342, Subchapter E, and to establish a definitive ceiling for administrative fees. Within Chapter 342, Subchapter E, lenders were faced with a variety of origination costs, spanning over labor, software, hardware, and workspaces. In the same year, the Finance Commission introduced regulations fixing the upper limit of the administrative fee at \$100, a benchmark that has remained unaltered ever since.

Modifying the administrative fee will assist lenders under Chapter 342, Subchapter E in mitigating a substantial portion of the real expenses involved in providing regulated credit within Texas communities. Prioritizing responsible loan underwriting is in the consumers' best interest, ensuring a higher likelihood of success for borrowers. Endorsing this adjustment to the current administrative fee will enhance consumer credit availability for a diverse range of qualified borrowers, thereby reinforcing the Commission's commitment to facilitating access to credit.

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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.

## 2) Consumer Price Index

Every one of the above-mentioned expenses has experienced substantial growth over the past ten years following the Finance Commission's initial modification of the administrative fee. Since that initial adjustment, the Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI") has surged by 31% from September 2013 to November 2023. Should the proposed amendment to 7 TAC §83.503 align with the CPI, the permissible administrative fee would reach \$133.00, far exceeding the contemplated \$25.00 increment currently under discussion.

Additionally, it is essential to highlight CPI as a practical tool for assessing the cost of doing business in the state. CPI covers important factors such as labor, rent, and utilities, offering a straightforward overview of economic variables. Recognizing the practical value of CPI in evaluating the changing expenses associated with lending operations is crucial for maintaining a fair and clear administrative fee structure. Using CPI as a reference to adjust fees ensures that adjustments align with the genuine cost of doing business in Texas, promoting transparency and reliability in regulatory measures.

Thank you for your attention to these 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 805-501-8873 or [erayhan@afsamail.org](mailto:erayhan@afsamail.org).

Sincerely,



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