

FINANCE CODE

TITLE 2. FINANCIAL REGULATORY AGENCIES

CHAPTER 14. CONSUMER CREDIT COMMISSIONER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 14.001. DEFINITIONS. (a) In this chapter:

(1) "Document" includes books, accounts, correspondence, records, and papers.

(2) "Office" means the Office of Consumer Credit Commissioner.

(b) The definitions provided by Section 341.001 apply to this chapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. OPERATION OF OFFICE

Sec. 14.051. CONSUMER CREDIT COMMISSIONER. (a) The finance commission shall appoint the commissioner.

(b) The commissioner:

(1) serves at the will of the commission; and

(2) is subject to orders and directions of the commission.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 17, eff. Sept. 1, 2001.

Sec. 14.052. DIVISION OF CONSUMER PROTECTION. The division of consumer protection is a division in the office and is under the direction of the commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.054. OATH OF OFFICE. Before assuming the duties of office, the commissioner and each assistant commissioner, examiner, and other employee of the office must take an oath of office.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 7, eff. Sept. 1, 2003.

Sec. 14.055. LIABILITY. (a) The commissioner or an assistant commissioner, examiner, or other employee of the office is not personally liable for damages arising from the person's official act or omission unless the act or omission is corrupt or malicious.

(b) The attorney general shall defend an action brought against a person because of an official act or omission under Subsection (a) regardless of whether the person has terminated service with the office when the action is instituted.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.056. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be an employee of the office employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in an industry regulated by the office; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in an industry regulated by the office.

(c) A person may not act as the general counsel to the office if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the office.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 1, eff. Sept. 1, 2001.

Sec. 14.057. PERFORMANCE EVALUATIONS; MERIT PAY. (a) The commissioner or a person designated by the commissioner shall develop a system of annual employee performance evaluations based on measurable job tasks.

(b) Merit pay for employees of the office must be based on the system established under this section.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.058. EQUAL EMPLOYMENT OPPORTUNITY. (a) The commissioner or the commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the office to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the office's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 2, eff. Sept. 1, 2001.

Sec. 14.059. INTRA-AGENCY CAREER LADDER. (a) The commissioner or a person designated by the commissioner shall develop an intra-agency career ladder program.

(b) The program must require intra-agency posting of all nonentry level positions concurrently with any public posting.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 2, eff. September 1, 2019.

Sec. 14.061. COST OF AUDIT. The cost of an audit of the office under Chapter 321, Government Code, shall be paid to the state auditor from the funds of the office.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.062. CONSUMER INFORMATION AND COMPLAINTS. (a) The office shall maintain a system to promptly and efficiently act on complaints filed with the office. The office shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The office shall make information available describing its procedures for complaint investigation and resolution.

(c) The office shall periodically notify the complaint parties of the status of the complaint until final disposition.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 3, eff. September 1, 2019.

Sec. 14.063. APPLICATION OF OPEN MEETINGS LAW. The office is a governmental body subject to Chapter 551, Government Code.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.064. CONSUMER INFORMATION. The commissioner shall:

(1) prepare information of consumer interest describing:

(A) the regulatory functions of the office; and

(B) the office's procedures by which consumer complaints are filed with and resolved by the office; and

(2) make the information available to the public and

appropriate state agencies.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.065. OFFICE EMPLOYEES. The commissioner may appoint, remove, and prescribe the duties of assistant commissioners, examiners, and other employees as necessary to maintain and operate the office, including the division of consumer protection.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.066. SUNSET PROVISION. The office is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished September 1, 2031.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.05, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 3.05, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 4, eff. September 1, 2019.

#### SUBCHAPTER C. POWERS AND DUTIES OF COMMISSIONER

Sec. 14.101. GENERAL DUTIES OF COMMISSIONER. The commissioner shall enforce this chapter, Subtitles B and C of Title 4, Chapter 393 with respect to a credit access business, and Chapter 394 in person or through an assistant commissioner, examiner, or other employee of the office.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 3, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 63 (H.B. 2548), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. 560), Sec. 3, eff. September 1, 2017.

Sec. 14.102. EDUCATIONAL AND DEBT COUNSELING PROGRAMS. The commissioner shall coordinate, encourage, and assist public and private agencies, organizations, groups, and consumer credit institutions in developing and operating voluntary educational and debt counseling programs designed to promote prudent and beneficial use of consumer credit by residents of this state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.1025. FINANCIAL LITERACY PROGRAM INFORMATION.

(a) In this section:

(1) "Financial literacy" means proficiency at managing personal finances.

Text of subdivision effective until April 01, 2025

(2) "Health and human services agencies" has the meaning assigned by Section 531.001, Government Code.

Text of subdivision effective on April 01, 2025

(2) "Health and human services agencies" has the meaning assigned by Section 521.0001, Government Code.

(b) The commissioner shall collect information on programs, including classes, and other resources available to the public that focus on teaching financial literacy, compile the information into a one-page document, and post the document on the office's Internet website.

(c) A health and human services agency shall ensure that the document under Subsection (b) is offered to persons who receive services from the agency at locations at which those persons frequently access services provided by the agency.

(d) The commissioner shall periodically update the information contained in the document described by Subsection (b).

Added by Acts 2011, 82nd Leg., R.S., Ch. 538 (H.B. 2615), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 2.12,

eff. April 1, 2025.

Sec. 14.103. CONSUMER PROTECTION PROGRAMS. The commissioner, through the division of consumer protection, shall coordinate, encourage, and assist public and private agencies, organizations, groups, and consumer protection institutions in developing and operating voluntary educational consumer protection programs designed to promote prudent and informed consumer action by residents of this state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.104. LENDER CONTRACTS. A written contract of an authorized lender subject to regulation by the office must contain the name, mailing address, and telephone number of the office.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.105. GIFTS AND GRANTS. (a) The commissioner may accept money, gifts, or grants on behalf of the state for a purpose related to a consumer credit educational opportunity or to assist a local government in the exercise of its police power unless the acceptance is prohibited by Subsection (b) or other law. Acceptance and use of money under this subsection must be approved by the finance commission.

(b) The commissioner may not accept or use money offered by:

(1) a person for investigating or prosecuting a matter; or

(2) a person who is affiliated with an industry that is regulated by the finance commission.

(c) Money received under Subsection (a) may be appropriated only for the purpose for which the money was given.

(d) The commissioner is not prohibited by Subsection (b) from receiving and using money from a person under the jurisdiction of the commissioner if the receipt and use is expressly authorized by other law.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.106. INFORMATION REGARDING EMPLOYMENT

REQUIREMENTS. The commissioner or the commissioner's designee shall provide to agency employees, as often as necessary, information regarding the requirements for employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state employees.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 6, eff. Sept. 1, 2001.

Sec. 14.107. FEES. (a) The finance commission shall establish reasonable and necessary fees for carrying out the commissioner's powers and duties under this chapter, Title 4, Chapter 393 with respect to a credit access business, and Chapters 371, 392, and 394 and under Chapters 51, 302, 601, and 621, Business & Commerce Code.

(b) The finance commission by rule shall set the fees for licensing and examination, as applicable, under Chapter 393 with respect to a credit access business or Chapter 342, 347, 348, 351, 353, or 371 at amounts or rates necessary to recover the costs of administering those chapters. The rules may provide that the amount of a fee charged to a license holder is based on the volume of the license holder's regulated business and other key factors. The commissioner may provide for collection of a single fee for the term of the license from a person licensed under Subchapter G of Chapter 393 or Chapter 342, 347, 348, 351, or 371. The fee must include amounts due for both licensing and examination.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 18, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1235, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.15, eff. April 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 117 (H.B. 2559), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 4, eff.



January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 5, eff. September 1, 2019.

Sec. 14.108. INTERPRETATIONS OF LAW. (a) The commissioner may issue an interpretation of this chapter or Subtitle A or B, Title 4, after approval of the interpretation by the finance commission.

(b) The provisions of Chapter 2001, Government Code, that relate to the adoption of an administrative rule do not apply to the issuance of an interpretation under this section.

(c) The commissioner shall publish in the Texas Register, in a form prescribed by the finance commission, a request for an interpretation not later than the 10th day after the date on which the commissioner receives the request.

(d) An interpretation approved by the finance commission shall be published in the Texas Register, in a form prescribed by the finance commission, not later than the 10th day after the date on which the finance commission has approved the interpretation.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.109. USE OF THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY. (a) In this section, "Nationwide Mortgage Licensing System and Registry" or "nationwide registry" means a licensing system developed and maintained by the Conference of State Bank Supervisors and an affiliated organization to manage mortgage licenses and other financial services licenses or a successor registry.

(b) This section applies only to:

- (1) this chapter; and
- (2) Chapter 342, 348, 351, 393, or 394.

(c) The commissioner may require that a person submit through the Nationwide Mortgage Licensing System and Registry in the form and manner prescribed by the commissioner and acceptable to the registry any information or document or payment of a fee required to be submitted to the commissioner under:

- (1) a chapter to which this section applies; or

(2) rules adopted under the chapter.

(d) The commissioner may use the nationwide registry as a channeling agent for obtaining information required for licensing or registration purposes under a chapter listed in Subsection (b)(2) or rules adopted under the chapter, including:

(1) criminal history record information from the Federal Bureau of Investigation, the United States Department of Justice, or any other agency or entity at the commissioner's discretion;

(2) information related to any administrative, civil, or criminal findings by a governmental jurisdiction; and

(3) information requested by the commissioner under Section [342.101\(a\)\(4\)](#), [348.502\(a\)\(3\)](#), [351.101\(a\)\(4\)](#), [393.604\(a\)\(5\)](#), or [394.204\(c\)\(8\)](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 737 (S.B. [232](#)), Sec. 1, eff. September 1, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 943 (H.B. [1721](#)), Sec. 1, eff. September 1, 2013.

Sec. 14.110. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION.

(a) The finance commission by rule shall develop a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter [2008](#), Government Code, for the adoption of rules by the finance commission applicable to the office; and

(2) appropriate alternative dispute resolution procedures under Chapter [2009](#), Government Code, to assist in the resolution of internal and external disputes under the office's jurisdiction.

(b) The procedures applicable to the office relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The office shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 6, eff. September 1, 2019.

Sec. 14.111. ADVISORY COMMITTEES. (a) The commissioner may appoint advisory committees to assist the office and commissioner in performing their duties.

(b) The commissioner shall specify each committee's purpose, powers, and duties and shall require each committee to report to the commissioner or office in the manner specified by the commissioner concerning the committee's activities and the results of its work.

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 6, eff. September 1, 2019.

Sec. 14.112. LICENSING AND REGISTRATION TERMS. (a) The finance commission by rule shall prescribe the licensing or registration period for licenses and registrations issued under Chapters 342, 345, 347, 348, 351, 352, 353, 371, 393, and 394 of this code and Chapter 1956, Occupations Code, not to exceed two years.

(b) In adopting rules under Subsection (a), the finance commission shall set terms for licenses that comply with Chapter 180 and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(c) If the finance commission prescribes the term of a license or registration under Subsection (a) for a period other than one year, the commissioner shall prorate the applicable fee required under a chapter specified in Subsection (a) as necessary to reflect the term of the license or registration.

Added by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 6, eff. September 1, 2019.

Sec. 14.113. TEXAS FINANCIAL EDUCATION ENDOWMENT. (a) As part of the licensing fee and procedures described under Subchapter G, Chapter 393, each credit access business or holder of a credit access business license shall pay to the commissioner an annual assessment to improve consumer credit, financial education, and asset-building opportunities in this state. The annual assessment may not exceed \$200 for each license as specified by the finance commission.

(b) The commissioner shall remit to the comptroller amounts received under Subsection (a) for deposit in an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company. Money in the account may be spent by the finance commission only for the purposes provided by this section. Amounts in the account may be invested and reinvested under the prudent person standard described by Section 11b, Article VII, Texas Constitution, and the interest from those investments shall be deposited to the credit of the account.

(b-1) The expenses of managing the investments may be paid from the deposit account described by Subsection (b).

(c) The Texas Financial Education Endowment shall be administered by the finance commission to support statewide financial education and consumer credit building activities and programs, including:

(1) production and dissemination of approved financial education materials at licensed locations;

(2) advertising, marketing, and public awareness campaigns to improve the credit profiles and credit scores of consumers in this state;

(3) school and youth-based financial literacy and capability;

(4) credit building and credit repair;

(5) financial coaching and consumer counseling;

(6) bank account enrollment and incentives for personal savings; and

(7) other consumer financial education and asset-building initiatives as considered appropriate by the finance commission.

(d) In implementing this section, the finance commission may make grants and may solicit gifts, grants, and donations for this purpose.

(e) The finance commission may partner with other state agencies and entities to implement this section.

(f) The finance commission shall adopt rules to administer this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 2, eff. January 1, 2012.

Transferred, redesignated and amended from Finance Code, Section 393.628 by Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 1, eff. September 1, 2023.

#### SUBCHAPTER D. CRIMINAL HISTORY RECORD INFORMATION

Sec. 14.151. OBTAINING INFORMATION. (a) The commissioner or an assistant commissioner, examiner, or other employee of the office shall obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency relating to a person described by Section 411.095(a), Government Code.

(b) For an applicant for a license or registration, license holder, or registrant that is a business entity, the criminal history record information requirement of this section applies to an officer, director, owner, or employee of the entity or another person having a substantial relationship with the entity.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 256 (S.B. 1075), Sec. 2, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 871 (H.B. 4123), Sec. 7, eff. June 13, 2023.

Sec. 14.152. FINGERPRINT REQUIREMENT; PENALTY. The commissioner may refuse to grant a license or registration to, or may suspend or revoke the license or registration of, an applicant,

license holder, or registrant described by Section 411.095(a)(1), Government Code, who fails to provide, on request, a complete set of legible fingerprints on a fingerprint card format approved by the Department of Public Safety and the Federal Bureau of Investigation.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 256 (S.B. 1075), Sec. 3, eff. September 1, 2015.

Sec. 14.153. ACTION BY LAW ENFORCEMENT AGENCIES. (a) The commissioner shall send fingerprints and other identification information to the Department of Public Safety to be retained by that department.

(b) The Department of Public Safety shall use the information to perform a search of the state criminal history files and shall report the findings to the office.

(c) The Department of Public Safety shall send fingerprints and other identification information to the Federal Bureau of Investigation so that the bureau can perform a search of its criminal history files.

(d) The Department of Public Safety shall notify the office of activity reported to the crime records division that identifies a person with a record maintained under this subchapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.154. CONFIDENTIALITY. (a) Criminal history record information received by the office is confidential and is for the exclusive use of the office.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 256, Sec. 7, eff. September 1, 2015.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 256 (S.B. 1075), Sec. 7, eff. September 1, 2015.

Sec. 14.155. DISCLOSURE.

(a) The office may not release or disclose criminal history record information obtained from the Department of Public Safety, Federal Bureau of Investigation Identification Division, or other law enforcement agency, except as provided by Section 411.095(b), Government Code.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 256, Sec. 7, eff. September 1, 2015.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 256 (S.B. 1075), Sec. 4, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 256 (S.B. 1075), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 256 (S.B. 1075), Sec. 7, eff. September 1, 2015.

Sec. 14.156. RECOVERY OF COSTS. In addition to an investigation fee paid to the commissioner by an applicant for a license or registration, the commissioner is entitled to recover from an applicant, license holder, or registrant the cost of processing an inquiry to determine whether the person has a criminal history record.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 256 (S.B. 1075), Sec. 6, eff. September 1, 2015.

Sec. 14.157. RULES. The finance commission shall adopt rules governing the custody and use of information obtained under this subchapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 19, eff. Sept. 1, 2001.

#### SUBCHAPTER E. INVESTIGATION AND ENFORCEMENT

Sec. 14.201. INVESTIGATION AND ENFORCEMENT AUTHORITY. Investigative and enforcement authority under this

subchapter applies only to:

- (1) this chapter;
- (2) Subtitles B and C, Title 4;
- (3) Chapter 393 with respect to a credit access business;
- (4) Chapter 394; and
- (5) Subchapter B, Chapter 1956, Occupations Code.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 5, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 63 (H.B. 2548), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. 560), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 7, eff. September 1, 2019.

Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION.

(a) Except as provided by Subsection (b), information or material obtained or compiled by the commissioner in relation to an examination or investigation by the commissioner or the commissioner's representative of a license holder, registrant, applicant, or other person under Subtitle B or C, Title 4, Subchapter G of Chapter 393, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code, is confidential and may not be disclosed by the commissioner or an officer or employee of the office, including:

- (1) information obtained from a license holder, registrant, applicant, or other person examined or investigated under Subtitle B or C, Title 4, Subchapter G of Chapter 393, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code;

- (2) work performed by the commissioner or the commissioner's representative on information obtained from a license holder, registrant, applicant, or other person for the purposes of an examination or investigation conducted under



Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code;

(3) a report on an examination or investigation of a license holder, registrant, applicant, or other person conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code; and

(4) any written communications between the license holder, registrant, applicant, or other person, as applicable, and the commissioner or the commissioner's representative relating to or referencing an examination or investigation conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394 of this code or Subchapter B, Chapter 1956, Occupations Code.

(b) The commissioner or the commissioner's representative may disclose the confidential information or material described by Subsection (a):

(1) to a department, agency, or instrumentality of this state or the United States if the commissioner considers disclosure to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public;

(2) if the information was previously provided to or provided by the license holder, registrant, applicant, or other person, and the person consents to the release of the information or has published the information contained in the release;

(3) if the commissioner determines that release of the information is required for an administrative hearing; or

(4) to provide a summary of investigation information to the person who filed the complaint with the office.

Added by Acts 2009, 81st Leg., R.S., Ch. 1382 (S.B. 1620), Sec. 3, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1182 (H.B. 3453), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 6, eff.

January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 63 (H.B. 2548), Sec. 4, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 8.001, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. 560), Sec. 5, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 8, eff. September 1, 2019.

Sec. 14.2016. INFORMATION SHARING WITH DEPARTMENTS AND AGENCIES. To ensure consistent enforcement of law and minimization of regulatory burdens, the commissioner may share information, including criminal history or confidential information, relating to a license holder, registrant, applicant, or other person investigated or examined under the commissioner's authority with a department, agency, or instrumentality of this state, another state, or the United States if the commissioner considers the disclosure of the information to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public. Information otherwise confidential remains confidential after the information is shared under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1182 (H.B. 3453), Sec. 2, eff. September 1, 2011.

Sec. 14.202. REQUEST FOR INFORMATION; INVESTIGATION AUTHORITY. On receipt of a written complaint or other reasonable cause to believe that a person is violating a statute listed by Section 14.201, the commissioner may:

(1) require the person to furnish information regarding a specific loan, retail transaction, or business practice to which the violation relates; and

(2) conduct an investigation to determine whether a violation exists.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 9, eff. September 1, 2019.

Sec. 14.203. ISSUANCE OF SUBPOENA OR SUMMONS. (a) During an investigation, the commissioner may issue a subpoena or summons that is addressed to a peace officer of this state and requires the attendance and testimony of a witness or the production of a document.

(b) A document that is necessary to continue the business of a person under investigation may not be removed from the office or place of business of that person, but the commissioner may:

(1) examine, or cause to be examined, the document at the office or place of business; and

(2) require a copy to be made of a part of the document related to a matter under investigation.

(c) A copy of a document made under Subsection (b)(2) must be verified by the affidavit of the person under investigation or by an officer of that person.

(d) On the commissioner's certification, a copy of a document made under Subsection (b)(2) is admissible in evidence in an:

(1) investigation or hearing under this subchapter or under a statute to which this subchapter applies; or

(2) appeal to the district court.

(e) To implement this section, the commissioner may sign a subpoena, administer an oath or affirmation, examine a witness, or receive evidence.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.204. ENFORCEMENT OF SUBPOENA; CONTEMPT. (a) If a person disobeys a subpoena or if a witness appearing before the commissioner refuses to testify, the commissioner may petition the district court of a jurisdiction in which the person or witness may be found, and the court on this petition may issue an order requiring the person or witness to obey the subpoena, testify, or produce a document relating to the matter in issue, as applicable. The court shall treat the application in the same manner as a motion

in a civil suit.

(b) The court shall promptly set an application to enforce a subpoena under Subsection (a) for hearing and shall cause notice of the application and the hearing to be served on the person to whom the subpoena is directed. Notice may be served by a peace officer of this state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.205. INVESTIGATION BY HEARING OFFICER. (a) During an investigation described by this subchapter, the commissioner may appoint a hearing officer to conduct the investigation.

(b) On appointment, a hearing officer has the same authority as the commissioner to conduct the investigation, except that the hearing officer may not issue an order on the subject of the investigation.

(c) The commissioner may consider the record of an investigation conducted before a hearing officer in the same manner and to the same extent as in a hearing before the commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.206. FEES AND EXPENSES. (a) The fee for serving a subpoena under this subchapter is the same as that paid a sheriff or constable for performing a similar service.

(b) A witness required to attend a hearing before the commissioner shall receive for each day's attendance a fee and a travel and transportation allowance as authorized by law or a rule adopted by the finance commission.

(c) A fee under Subsection (b) is not payable until the witness appears at the hearing.

(d) A disbursement made in payment of a fee under this section shall be included in, and paid in the same manner that is provided for, other expenses incurred in the administration and enforcement of the statutes to which this subchapter applies.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 20, eff. Sept. 1, 2001.

Sec. 14.207. IMPOSITION OF COSTS ON PARTIES. The

commissioner may impose on a party in interest of record fees, expenses, or costs incurred in connection with a hearing or may divide the fee or expense among any or all interested parties as determined by the commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.208. INJUNCTION; APPEAL. (a) If the commissioner has reasonable cause to believe that a person is violating a statute to which this chapter applies, the commissioner, in addition to any other authorized action, may issue an order to cease and desist from the violation or an order to take affirmative action, or both, to enforce compliance.

(b) If a person against whom an order under this section is made requests a hearing not later than the 30th day after the date the order is served, the commissioner shall set and give notice of a hearing before a hearings officer. Chapter 2001, Government Code, governs the hearing and the right to judicial review in district court. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the commissioner by order may find whether a violation has occurred.

(c) If a hearing is not timely requested under Subsection (b), the order is considered final and becomes enforceable. The commissioner, after giving notice, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of violation. In addition to any other remedy provided by law, the commissioner on relation of the attorney general may institute in district court a suit for injunctive relief and to collect an administrative penalty. A bond is not required of the commissioner with respect to injunctive relief granted under this section. In the action, the court may enter as proper an order awarding a preliminary or final injunction.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 95(1), eff. September 1, 2019.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 4.01, eff.

September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 10, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 95(1), eff. September 1, 2019.

Sec. 14.209. APPOINTMENT OF RECEIVER. (a) In addition to other remedies for the enforcement of a restraining order or injunction, the court in which an action is brought under Section 14.208(c) may impound and appoint a receiver for the defendant's property and business, including a document relating to the property or business, as the court considers reasonably necessary to prevent a violation through use of the property and business.

(b) On appointment and qualification, a receiver has the powers and duties of a receiver under Chapter 64, Civil Practice and Remedies Code.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 2, eff. September 1, 2023.

SUBCHAPTER F. ADMINISTRATIVE PENALTY; RESTITUTION ORDER;  
ASSURANCE OF VOLUNTARY COMPLIANCE

Sec. 14.251. ASSESSMENT OF PENALTY; RESTITUTION ORDER.

(a) The commissioner may assess an administrative penalty against a person who knowingly and wilfully violates or causes a violation of this chapter, Chapter 394, or Subtitle B, Title 4, or a rule adopted under this chapter, Chapter 394, or Subtitle B, Title 4.

(a-1) The commissioner shall assess an administrative penalty against a credit access business who knowingly and wilfully violates or causes a violation of Chapter 393, or a rule adopted under Chapter 393.

(b) The commissioner may order the following businesses or other persons to pay restitution to an identifiable person:

(1) a person who violates or causes a violation of this chapter, Chapter 394, or Subtitle B, Title 4, or a rule adopted

under this chapter, Chapter 394, or Subtitle B, Title 4;

(2) a credit access business who violates or causes a violation of Chapter 393 or a rule adopted under Chapter 393; or

(3) a person who violates or causes a violation of Subchapter B, Chapter 1956, Occupations Code, or a rule adopted under that subchapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.29, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 7, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 63 (H.B. 2548), Sec. 5, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. 560), Sec. 6, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 11, eff. September 1, 2019.

Sec. 14.252. AMOUNT OF PENALTY. (a) The commissioner may assess an administrative penalty for a violation in an amount not to exceed \$1,000 for each day of the violation.

(b) The aggregate amount of penalties under this subchapter that the commissioner may assess against a person during one calendar year may not exceed the lesser of:

(1) \$100,000; or

(2) an amount that is equal to the greater of five percent of the net worth of the creditor or \$5,000.

(c) In determining the amount of an administrative penalty, the commissioner shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act;

(2) the extent of actual or potential harm to a third party;

(3) the history of violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 4.03, eff. September 1, 2005.

Sec. 14.253. REPORT ON VIOLATION. If the commissioner determines that a violation occurred, the commissioner may issue a report that states:

- (1) the facts on which the determination is based; and
  - (2) the commissioner's recommendation on imposition of a penalty, including a recommendation on the amount of the penalty.
- Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.254. NOTICE OF REPORT ON VIOLATION AND PENALTY RECOMMENDATION. (a) Not later than the 14th day after the date on which a report is issued, the commissioner shall give written notice of the report by certified mail to the person charged with committing or causing the violation.

- (b) The notice must:
- (1) include a brief summary of the alleged violation;
  - (2) include a statement of the amount of the recommended penalty; and
  - (3) inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.255. RESPONSE OF PERSON RECEIVING NOTICE. Not later than the 20th day after the date on which a person receives notice under Section 14.254, the person may:

- (1) accept in writing the determination and recommended penalty of the commissioner; or
- (2) make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.256. ACCEPTANCE OF PENALTY; DEFAULT. If a person



accepts the determination and recommended penalty of the commissioner or fails to make a timely written request for a hearing, the commissioner by order shall approve the determination and impose the recommended penalty.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 12, eff. September 1, 2019.

Sec. 14.257. HEARING ON PENALTY; ORDER. (a) If a person makes a timely written request for a hearing, the commissioner shall set a hearing and give notice of the hearing to the person by certified mail.

(b) The hearing shall be held by a hearings officer who shall make findings of fact and conclusions of law and promptly issue a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(c) According to the findings of fact, conclusions of law, and proposal for a decision, the commissioner by order may find:

(1) that a violation has occurred and impose a penalty; or

(2) a violation has not occurred.

(d) Notice of the commissioner's order, given to the person under Chapter 2001, Government Code, must include a statement of the person's right to judicial review of the order.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 767 (H.B. 1442), Sec. 13, eff. September 1, 2019.

Sec. 14.258. STAY OF PENALTY; SUIT BY ATTORNEY GENERAL. (a) The enforcement of the penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil

Procedure for a party who cannot afford to file security for costs, subject to the right of the commissioner to contest the affidavit as provided by those rules.

(b) The attorney general may sue to collect the penalty.

(c) A court that sustains the occurrence of a violation may uphold or reduce the amount of the administrative penalty and order the person to pay that amount.

(d) A court that does not sustain the occurrence of a violation shall order that no penalty is owed.

(e) If a person has paid a penalty and a court in a final judgment reduces or does not uphold the amount, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The interest rate is the rate authorized by Chapter 304, and interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 4.04, eff. September 1, 2005.

Sec. 14.259. RECOVERY OF COSTS. In addition to the administrative penalty or restitution amount, the court may authorize the commissioner to recover from a person who pays an administrative penalty or restitution amount, or both, reasonable expenses incurred in obtaining the ordered amount, including the cost of investigation, witness fees, and deposition expenses. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.260. ADMINISTRATIVE PROCEDURE ACT. A proceeding under this subchapter is subject to Chapter 2001, Government Code. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.261. ACCEPTANCE OF ASSURANCE.

(a) In administering this chapter, the commissioner may accept assurance of voluntary compliance from a person who is engaging in or has engaged in an act or practice in violation of:

(1) this chapter or a rule adopted under this chapter;

(2) Chapter 393, if the person is a credit access business, or Chapter 394; or

(3) Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.

(b) The assurance must be in writing and be filed with the commissioner.

(c) The commissioner may condition acceptance of an assurance of voluntary compliance on the stipulation that the person offering the assurance restore to a person in interest money that may have been acquired by the act or practice described by Subsection (a).

(d) The finance commission may adopt rules to establish the form of the assurance or require certain information be contained in an assurance.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 4.05, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 8, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 63 (H.B. 2548), Sec. 6, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. 560), Sec. 7, eff. September 1, 2017.

Sec. 14.262. EFFECT OF ASSURANCE. (a) An assurance of voluntary compliance is not an admission of a violation of:

(1) this chapter or a rule adopted under this chapter;

(2) Chapter 393 with respect to a credit access business or Chapter 394; or

(3) Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.

(b) Unless an assurance of voluntary compliance is rescinded by agreement or voided by a court for good cause, a subsequent failure to comply with the assurance is prima facie evidence of a violation of:

(1) this chapter or a rule adopted under this chapter;

(2) Chapter 393 with respect to a credit access

business or Chapter 394; or

(3) Subtitle B, Title 4, or a rule adopted under Subtitle B, Title 4.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 4.05, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1302 (H.B. 2594), Sec. 9, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 63 (H.B. 2548), Sec. 7, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 196 (S.B. 560), Sec. 8, eff. September 1, 2017.

Sec. 14.263. REOPENING. A matter closed by the filing of an assurance of voluntary compliance may be reopened at any time.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 4.05, eff. September 1, 2005.

Sec. 14.264. RIGHT TO BRING ACTION NOT AFFECTED. (a) An assurance of voluntary compliance does not affect the right of an individual to bring an action, except as provided in Chapter 349 and except that the right of an individual in relation to money received according to a stipulation under Section 14.261(c) is governed by the terms of the assurance.

(b) A person entering into an assurance of voluntary compliance may, not later than the 60th day after the date of filing of the assurance, correct the violation under Section 349.201. Amounts paid as restitution and other acts taken in accordance with an assurance of voluntary compliance shall be considered for purposes of determining whether the obligor has made a correction under Subchapter C, Chapter 349. With respect to corrections of violations or possible violations relating to matters addressed in the assurance of voluntary compliance, the date of filing of the assurance is considered to be the date of:

(1) actual discovery of the violation or possible violation;

(2) written notice; and

(3) filing of the action alleging the violation.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 4.05, eff. September 1, 2005.

#### SUBCHAPTER G. JUDICIAL REVIEW

Sec. 14.301. APPEAL OF FINAL DECISION OF COMMISSIONER. A party in interest aggrieved by a final decision of the commissioner is entitled to judicial review.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 14.302. APPEAL OF LICENSE WITHHOLDING OR REVOCATION. An appeal of a decision of the commissioner refusing to grant a license to an applicant or revoking the license of a license holder shall be under the substantial evidence rule as provided by Chapter 2001, Government Code.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1235, Sec. 8, eff. Sept. 1, 2001.

Sec. 14.303. STAY OF ORDER PENDING APPEAL. On a showing of good cause, the commissioner or the reviewing court may enter an order staying the effect of a final decision of the commissioner pending appeal by a party in interest.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.