



Credit Access Business Advisory Bulletin: CSOs and Non-CAB Loans

This bulletin addresses credit services organizations (CSOs) that assist consumers in obtaining loans other than payday and title loans.

CSOs are subject to Chapter 393 of the Texas Finance Code. CSOs include companies that assist consumers in obtaining loans. If a CSO assists consumers in obtaining payday or title loans, then the CSO is acting as a credit access business (CAB), and is subject to the OCCC's enforcement authority under Chapter 393. This bulletin will refer to loans other than payday or title loans as "non-CAB loans."

In November 2019, the Texas attorney general issued opinion number KP-0277. In this opinion, the attorney general concluded that Chapter 393 does not prohibit a CSO from obtaining non-CAB loans for consumers. However, the attorney general explained that Chapter 393 prohibits a device or subterfuge to evade the chapter's requirements for CABs. The attorney general declined to conclude whether Chapter 393 allows a CSO to assist a consumer to obtain a "signature loan" without providing any security in the form of a personal check, authorization to debit a deposit account, or a motor vehicle title.

CSOs are subject to the general provisions of Chapter 393, including the enforcement authority of the Texas attorney general. The attorney general may bring actions against CSOs that violate Chapter 393, including CSOs that provide non-CAB loans.

Chapter 393 prohibits false and misleading representations. The OCCC urges businesses to exercise caution in providing non-CAB loans, to ensure that their representations are accurate. In examinations, the OCCC has identified CSOs asserting that they provide non-CAB loans, and that their loans are not subject to the regulatory requirements for CABs. In some cases, these assertions were incorrect, and the loans were actually payday loans under the Finance Code. In other cases, the loans were not payday or title loans, but the CSO notified consumers that it was a CAB licensed and examined by the OCCC, and that consumers could file complaints with the OCCC. These false and misleading representations lead to possible confusion about the nature of the transaction and the appropriate agency to take consumer complaints.

The OCCC intends to work with the Texas attorney general to address complaints that the OCCC receives about non-CAB loans. If a CSO makes false or misleading representations, or otherwise violates Chapter 393, this could result in civil liability and enforcement actions by the Texas attorney general. In addition, if the OCCC has reasonable cause to believe that a business is using a device or subterfuge, then the OCCC may investigate and initiate an enforcement action.