

Title 7, Texas Administrative Code
Part 5. Office of Consumer Credit Commissioner
Chapter 82. Administration

The Finance Commission of Texas (commission) adopts amendments to §82.1 (relating to Custody of Criminal History Record Information) and §82.2 (relating to Public Information Requests; Charges) in 7 TAC, Chapter 82, concerning Administration.

The commission adopts amendments to §82.1 without changes to the proposed text as published in the September 4, 2020, issue of the *Texas Register* (45 TexReg 6199).

The commission adopts amendments to §82.2 with changes to the proposed text as published in the September 4, 2020, issue of the *Texas Register* (45 TexReg 6199).

The commission received no written comments on the proposal.

In general, the purpose of the amendments in 7 TAC Chapter 82 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 82 was published in the May 29, 2020, issue of the *Texas Register* (45 TexReg 3643). The commission received no comments in response to that notice.

The OCCC distributed an early precomment draft of the proposed amendments to interested stakeholders for review, and then held a stakeholder webinar regarding the amendments. The OCCC received no informal precomments on the rule text draft.

The adopted amendments are intended to specify employees with access to criminal history information, to specify methods of sending public information request, and to use consistent terminology to refer to charges collected for public information requests.

In §82.1, the amendments would remove the director of strategic communications, administration and planning from the list of employees authorized to access criminal history record information.

In §82.2, the amendments would clarify language on submitting public information requests and make terminology more consistent. Throughout §82.2, the amendments would replace current terminology such as "fee" and "cost" with "charge." These changes would make the rule more internally consistent, and more consistent with the term "charge" as used in the Texas Public Information Act, Texas Government Code, Chapter 552, as well as rules adopted by the Office of the Attorney General, such as 1 TAC §70.3 (relating to Charges for Providing Copies of Public Information). An amendment would remove current §82.2(b)(3)(B), which describes requests submitted by fax and includes the OCCC's general fax number. By specifying that requests may be sent to a specified mailing address or to an email address designated by the OCCC, the rule will help ensure that any requests are promptly forwarded to the OCCC's public information officer. The amendments to §82.2(e), regarding inspections of records, would clarify situations where the OCCC charges for labor or personnel time and does not charge for overhead.

In adopted §82.2, changes were made to correct an error to the text of the proposal as it was published in the *Texas Register*. Specifically, in §82.2(b)(3), the published version of the proposal mistakenly struck through the text "Public Information Officer, Office of Consumer Credit Commissioner, 2601 N. Lamar Blvd., Austin, TX 78705". The rules will not be republished for comment on this change.

The amendments are adopted under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to enforce Chapter 14 and Title 4 of the Texas Finance Code. Additionally, Texas Finance Code, §14.157 authorizes the commission to adopt rules governing the custody of criminal history record information obtained under Texas Finance Code, Chapter 14, Subchapter D. Texas Government Code, §552.230 authorizes governmental bodies to adopt reasonable rules of procedure under which public information may be inspected and copied.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 14.

§82.1. Custody of Criminal History Record Information

(a) Definitions. The following terms, when used in this section, have the following meanings:

(1) Commissioner--The Consumer Credit Commissioner of the State of Texas.

(2) Criminal history record information--Has the meaning provided by Texas Government Code, §411.082(2).

(3) OCCC--The Office of Consumer Credit Commissioner of the State of Texas.

(b) Use of criminal history record information. The OCCC may obtain criminal history record information under Texas Government Code, §411.095 and Texas Finance Code, Chapter 14, Subchapter D. The OCCC's use of criminal history information is limited to evaluating a person described by Texas Government Code, §411.095(a). All criminal history record information received by the OCCC is confidential and is for the exclusive use of the OCCC. The OCCC may not disclose criminal history record information except as provided by Texas Government Code, §411.095(b).

(c) Employee access. Access to criminal history record information maintained by the OCCC will be limited to the following persons:

(1) the commissioner;

(2) any assistant commissioner;

(3) any attorney employed by the OCCC or an assistant attorney general representing the interest of the OCCC;

(4) employees of the licensing section;

(5) the director of consumer protection;

(6) the public information officer;

~~[(7) the director of strategic communications, administration and planning;]~~

(7) ~~[(8)]~~ the human resources specialist;

(8) [~~(9)~~] any person appointed to act on behalf of or in the stead of any of the above; and

(9) [~~(10)~~] any employee of the OCCC who:

(A) requires access to criminal history record information in order to fulfill the employee's duties; and

(B) is approved by the commissioner or the director of consumer protection to view criminal history record information.

§82.2. Public Information Requests; Charges

(a) Definitions. The following words and terms, when used in this section, will have the following meanings, unless the context clearly indicates otherwise.

(1) Agency or OCCC--The Office of Consumer Credit Commissioner of the State of Texas.

(2) Commissioner--The Consumer Credit Commissioner of the State of Texas.

(3) Public information request--A written request made for public information pursuant to Texas Government Code, Chapter 552 (the Texas Public Information Act). Another name for a "public information request" is an "open records request," and these terms may be used synonymously.

(4) Readily available information--Public information that already exists in printed form, or information that is stored electronically, and is ready to be printed or copied without requiring any programming, but not information that is located in two or

more separate buildings that are not physically connected with each other or information that is located in a remote storage facility as per Texas Government Code, §552.261.

(5) Standard paper copy--A printed impression on one side of a piece of paper that measures up to 8 1/2 inches by 14 inches. A piece of paper that is printed on both sides will be counted as two copies.

(b) Receipt of public information request.

(1) Generally. Upon receipt of a written public information request that [~~from a requesting party which~~] clearly identifies the public information [~~records~~] requested to be copied or examined pursuant to Texas Government Code, Chapter 552 (the Texas Public Information Act), the agency will make every reasonable effort to provide the information in the manner requested as quickly as possible without disruption of normal business activities. All requests will be processed in accordance with the Texas Public Information Act, and all requests will be treated equally.

(2) Requests by email directed to OCCC public information officer or designee. Public information requests submitted via email must be sent to the OCCC's [~~designated~~] public information officer at an email address designated by the OCCC.

(3) Requests sent by mail or hand delivery [~~other methods~~]. Public information requests, other than email requests, may be submitted to the OCCC by mail or hand delivery [~~as follows:~~]

~~[(A) By mail or hand delivery. Submit the request]~~ to Public Information

Officer, Office of Consumer Credit Commissioner, 2601 N. Lamar Blvd., Austin, TX 78705 [~~;-o#~~].

~~[(B) By fax. Submit the request to (512) 936-7610].~~

(4) Confidential information. Information that is confidential by law will not be provided except under court order, attorney general directive, or other legal process.

(5) Charge [~~Fee~~] waiver or reduction. Charges [~~Fees~~] imposed by this section may be waived or reduced at the discretion of the commissioner as per Texas Government Code, §552.267.

(c) Copy and service charges. The cost to any person requesting copies of public information from the OCCC will be the applicable charges established by the Office of the Attorney General under 1 TAC [~~Title 1, Part 3,~~] Chapter 70 (relating to Cost of Copies of Public Information). This subsection outlines the OCCC's most common charges to produce copies of public information. These charges may be supplemented or modified as authorized by 1 TAC Chapter 70.

(1) Charges [~~Fees~~] not collected. No charge [~~fee~~] will be collected for requests resulting in charges of \$5 or less.

(2) Application of charges. The following charges may apply to requests for public information:

(A) \$0.10 copy charge per page if paper copies are requested;

(B) \$15 per hour of labor or personnel time spent to locate (including

pulling documentation from archives), compile, manipulate (including redacting mandated confidential information), reproduce, and prepare the information for delivery or inspection;

(C) 20% overhead charge, calculated by multiplying the total personnel cost under subparagraph (B) by 0.20.

(3) Certification. If certification of copies as true and accurate from the OCCC's records, or a certified statement verifying information on record with the OCCC is requested, an additional charge of \$5 per certification will be added to the charges described by this subsection [~~computed fee~~]. The certification will include the signature of the commissioner, or a designated custodian of records for the information being certified, and the OCCC seal.

(4) Nonstandard copies. The charge [~~cost~~] for nonstandard copies will be determined by reference to any recommended standards promulgated by the Office of the Attorney General, 1 TAC [~~Title 1, Part 3,~~] Chapter 70 (relating to Cost of Copies of Public Information).

(5) Cost estimates.

(A) Over \$40. If the anticipated charges under this subsection plus anticipated charges under subsection (d) of this section exceed \$40, the agency will send an estimate outlining the estimated cost to fulfill the request as per Texas Government Code, §552.2615.

(B) Over \$100. If the anticipated charges under this subsection plus anticipated charges under subsection (d) of this section exceed \$100, the agency will send a cost estimate as provided in subparagraph (A) of

this paragraph. In addition, the agency may require cash prepayment or bond equal to the total anticipated charges prior to providing copies of the requested information, as per Texas Government Code, §552.263.

(d) Delivery charges.

(1) U.S. mail. When public information is required to be mailed, the cost of postage will be added to the charges described by subsection (c) of this section [~~computed fee~~].

(2) Expedited delivery. When a requestor asks and the agency agrees to provide public information by overnight delivery service or other expedited delivery, the cost of the service will be added to the charges described by subsection (c) of this section, [~~computed fee~~] unless the requestor arranges to pay the delivery charges directly. The agency is not required to provide expedited delivery without payment for the service.

(e) Inspection of records.

(1) Generally. Records access for purposes of inspection will be by appointment only and will only be available during regular business hours of the agency. If the safety of any public record or the protection of confidential information is at issue, or when a request for inspection would be unduly disruptive to the ongoing business of the office, physical access may be denied and the option of receiving copies at the usual charges [~~fees~~] will be provided.

(2) Redaction of confidential information from paper records. If confidential information must be redacted prior to a requestor's inspection of paper records, \$0.10 per page may be charged to

prepare the inspection copies containing the remaining public information.

(3) Labor charges. The agency may assess charges for labor or personnel time, as described by subsection (c)(2) of this section. [~~Inspection of electronic information. Labor charges may be assessed~~] if production of the information requires programming or manipulation of data (including redaction). The agency will not charge overhead for an inspection where the requestor does not receive copies of documents. [~~Overhead is not charged.~~]

(4) Over \$40. If a request for inspection would result in charges under Texas Government Code, §552.271 that exceed \$40, the agency will send an estimate outlining the estimated cost to fulfill the request as per Texas Government Code, §552.2615.

(5) Over \$100. If a request for inspection would result in charges of over \$100, the agency may require a 50% cash prepayment or a bond equal to the total anticipated charges prior to providing access to the requested information, as per Texas Government Code, §552.263 and 1 TAC §70.7 (relating to Estimates and Waivers of Public Information Charges).

(f) Agency officer for public information. The commissioner or the commissioner's designee is the agency's officer for public information.

Certification

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on October 16,
2020.

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Office of Consumer Credit Commissioner