

AN ORDINANCE AMENDING CHAPTER 5 "BUSINESS AND COMMERCE" OF THE CODE OF ORDINANCES, CITY OF SAN ANGELO TEXAS, BY ADDING ARTICLE 5.11 "CREDIT ACCESS BUSINESSES" AS SET OUT BELOW, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, certain credit access businesses engage in abusive and predatory lending practices, offering easy money to those members of our community who are in a tight spot with onerous terms and fees; and

WHEREAS, a credit access business is defined in the Texas Finance Code §393.601 as a "credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of credit in the form of a deferred presentment transaction or a motor vehicle title loan"; and

WHEREAS, the practices of certain credit access businesses cause members of our community to become trapped in a cycle of short term, high interest loans resulting in large debt and huge payments; and

WHEREAS, there are approximately 18 credit access businesses that have been identified in the City of San Angelo; and

WHEREAS, in order to assist cities in addressing the concerns of credit access businesses the Texas Municipal League has drafted a model ordinance that has been adopted by 38 Texas Cities; and

WHEREAS, the City of San Angelo City Council finds it in the public interest to protect the welfare of the citizens of the City of San Angelo by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices through the adoption of a Credit Access Business Ordinance.

BE IT ORDAINED BY THE CITY OF SAN ANGELO:

- 1) **THAT**, Chapter 5 "Business and Commerce" of the Code of Ordinances, City of San Angelo, Texas is hereby amended by adding Article 5.11 as follows:

ARTICLE 5.11 CREDIT ACCESS BUSINESSES

Sec. 5.11.001. Short Title and Purpose.

- (a) This article may be known and cited as "Credit Access Businesses Regulation."
- (b) The purpose of this article is to protect the welfare of the citizens of the City of San Angelo by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. To this end, this article establishes a registration program for credit access businesses, imposes restrictions on extensions of consumer credit made by credit access businesses, and imposes recordkeeping requirements on credit access businesses.

Sec. 5.11.002. Definitions.

As used in this chapter:

- (1) CERTIFICATE OF REGISTRATION means a certificate of registration issued by the director under this article to the owner or operator of a credit access business.
- (2) CONSUMER means an individual who is solicited to purchase or who purchases the services of a credit access business.
- (3) CONSUMER'S LANGUAGE OF PREFERENCE is the language the consumer understands best.
- (4) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code as amended.
- (5) DEFERRED PRESENTMENT TRANSACTION has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (6) DIRECTOR means the director of the department designated by the City Council, City Manager, or City Councilor City Manager's Designee, to enforce and administer this chapter.
- (7) EXTENSION OF CONSUMER CREDIT has the meaning given that term in Section 393.001 of the Texas Finance Code.
- (8) MOTOR VEHICLE TITLE LOAN has the meaning given that term in Section 393.601 of the Texas Finance Code.
- (9) PERSON means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.
- (10) REGISTRANT means a person issued a certificate of registration for a credit access business under this chapter and includes all owners and operators of the credit access business identified in the registration application filed under this chapter.
- (11) STATE LICENSE means a license to operate a credit access business issued by the Texas Consumer Credit Commissioner under Chapter 393, Subchapter G of the Texas Finance Code.

Sec. 5.11.003. Violations; Penalty.

- (a) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense for each and every violation relating to an extension of consumer credit, and for each day during which a violation is committed, permitted, or continued.
- (b) An offense under this chapter is punishable by a fine of not more than \$500.
- (c) A culpable mental state is not required for the commission of an offense under this article and need not be proved.
- (d) The penalties provided for in Subsection (b) are in addition to any other remedies that the city may have under city ordinances and state law.

Sec. 5.11.004. Defenses.

It is a defense to prosecution under this article that at the time of the alleged offense the person was not required to be licensed by the state as a credit access business under Chapter 393, Subchapter G, of the Texas Finance Code.

Sec. 5.11.005. Registration Required.

A person commits an offense if the person acts, operates, or conducts businesses as a credit access business without a valid certificate of registration. A certificate of registration is required for each physically separate credit access business.

Sec. 5.11.006. Registration Application.

- (a) To obtain a certificate of registration for a credit access business, a person must submit an application on a form provided for that purpose to the director. The application must contain the following:
 - (1) The name, street address, mailing address, facsimile number, and telephone number of the applicant.
 - (2) The business or trade name, street address, mailing address, facsimile number, and telephone number of the credit access business.
 - (3) The names, street addresses, mailing addresses, and telephone numbers of all owners of the credit access business, and the nature and extent of each person's interest in the credit access business.
 - (4) A copy of a current, valid state license held by the credit access business pursuant to Chapter 393, Subchapter G of the Texas Finance Code.

- (5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the City of San Angelo Code.
 - (6) A non-refundable application fee for the amount established.
- (b) An applicant or registrant shall notify the director within 45 days after any material change in the information contained in the application for a certificate of registration, including, but not limited to, any change of address and any change in the status of the state license held by the applicant or registrant.

Sec. 5.11.007. Issuance and Display of Certificate of Registration; Presentment upon Request.

- (a) The director shall issue to the applicant a certificate of registration upon receiving a completed application under Section 5.11.006.
- (b) A certificate of registration issued under this section must be conspicuously displayed to the public in the credit access business. The certificate of registration must be presented upon request to the director or any peace officer for examination.

Sec. 5.11.008. Expiration and Renewal of Certificate of Registration.

- (a) A certificate of registration expires on the earliest of:
 - (1) One year after the date of issuance; or
 - (2) The date of revocation, suspension, surrender, expiration without renewal, or other termination of the registrant's state license.
- (b) A certificate of registration may be renewed by making application in accordance with Section 5.11.006. A registrant shall apply for renewal at least 30 days before the expiration of the registration.

Sec. 5.11.009. Non-transferability.

A certificate of registration for a credit access business is not transferable.

Sec. 5.11.010. Maintenance of Records.

- (a) A credit access business shall maintain a complete set of records of all extensions of consumer credit arranged or obtained by the credit access business, which must include the following information:
 - (1) The name and address of the consumer.

- (2) The principal amount of cash actually advanced.
- (3) The length of the extension of consumer credit, including the number of installments and renewals.
- (4) The fees charged by the credit access business to arrange or obtain an extension of consumer credit; and
- (5) The documentation used to establish a consumer's income under Section 5.11.011 of this ordinance.

(b) A credit access business shall maintain a copy of each written agreement between the credit access business and a consumer evidencing an extension of a consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer).

(c) A credit access business shall maintain copies of all quarterly reports filed with the Texas Consumer Credit Commissioner under Section 393.627 of the Texas Finance Code.

(d) The records required to be maintained by a credit access business under this section must be retained for at least three years and made available for inspection by the city upon request during the usual and customary business hours of the credit access business.

Sec. 5.11.011. Restriction on Extension of Consumer Credit.

(a) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a deferred presentment transaction may not exceed 20 percent of the consumer's gross monthly income.

(b) The cash advanced under an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining in the form of a motor vehicle title loan may not exceed the lesser of:

(1) Three percent of the consumer's gross annual income; or

(2) 70 percent of the retail value of the motor vehicle.

(c) A credit access business shall use a paycheck or other documentation establishing income to determine a consumer's income.

(d) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for repayment in installments may not be payable in more than four installments. Proceeds from each installment must be used to repay at least 25 percent of the principal amount of the extension of consumer credit. An

extension of consumer credit that provides for repayment in installments may not be refinanced or renewed.

- (e) An extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining and that provides for a single lump sum repayment may not be refinanced or renewed more than three times. Proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the original extension of consumer credit.
- (f) For purposes of this section, an extension of consumer credit that is made to a consumer within seven days after a previous extension of consumer credit has been paid by the consumer will constitute a refinancing or renewal.

Sec. 5.11.012. Requirement of Consumer Understanding of Agreement.

- (a) Every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer), must be made available to consumers in all languages that are used on ballots in local elections. Every credit access business location must maintain on its premises, to be available for use by consumers, agreements in the English and Spanish languages.
- (b) For every consumer who cannot read, every agreement between the credit access business and a consumer evidencing an extension of consumer credit (including, but not limited to, any refinancing or renewal granted to the consumer) must be read to the consumer in its entirety in the consumer's language of preference, prior to the consumer's signature.
- (c) For every consumer who cannot read, every disclosure and notice required by law must be read to the consumers in its entirety in the consumer's language of preference, prior to the consumer's signature.

Sec. 5.11.013. Referral to Consumer Credit Counseling.

A credit access business shall provide a form, to be prescribed by the Director, to each consumer seeking assistance in obtaining an extension of consumer credit which references non-profit agencies that provide financial education and training programs and agencies with cash assistance programs. The form will also contain information regarding extensions of consumer credit, and must include the information required by 5.11.010(a)(1-5) of this ordinance specific to the loan agreement with the consumer. If the Director has prescribed a form in the consumer's language of preference, the form must be provided in the consumer's language of preference.

2) **THAT** all remaining subsections of Chapter 5 not amended by this ordinance remain in full force and effect.

3) **THAT**, the following severability clause is hereby adopted with this amendment:

SEVERABILITY:

That the terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

4) **THAT**, this Ordinance shall be effective on, from and after publication as required by law. Enforcement of the Ordinance shall not occur until January 1, 2017 to allow time for businesses to come into compliance.

5) **THAT**, this ordinance will be reviewed and revised periodically to accommodate any changes in State or Federal requirements that may be necessary.

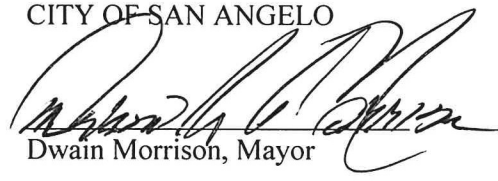
INTRODUCED with public hearing on the 1st day of **November**, 2016, and finally **PASSED**, **APPROVED** and **ADOPTED** on this the 15th day of **November**, 2016.

ATTEST:



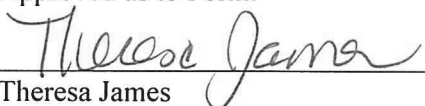
Bryan Kendrick, City Clerk

CITY OF SAN ANGELO



Dwain Morrison, Mayor

Approved as to Form:



Theresa James
City Attorney