

Leslie Pettijohn - FW: Dallas Payday Ordinance

From: "Bill White" <>
To: Leslie.Pettijohn@occc.state.tx.us
Date: 6/23/2011 10:20 AM
Subject: FW: Dallas Payday Ordinance
Attachments: Payday Ordinance 1.jpg; Payday Ordinance 2.jpg; Payday Ordinance 3.jpg; Payday Ordinance 4.jpg; Payday Ordinance 5.jpg; Payday Ordinance 6.jpg; Payday Ordinance 7.jpg; Payday Ordinance 8.jpg

Leslie,

Attached are the pages to the ordinance, which by reports was passed. Needless to say, they have overreached into OCCC territory. Bill

ADDENDUM ITEM # 28

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: June 22, 2011
COUNCIL DISTRICT(S): N/A
DEPARTMENT: City Manager's Office
CMO: Mary K. Suhm, 670-5306
MAPSCO: N/A

SUBJECT

An ordinance amending Chapter 50 of the Dallas City Code to: (1) define terms; (2) require registration of credit access businesses; (3) establish a registration fee; (4) impose restrictions on extensions of consumer credit by credit access businesses; (5) provide recordkeeping requirements; and (6) provide defenses - Financing: No cost consideration to the City

BACKGROUND

The proposed ordinance would add Article XI, "Credit Access Businesses," to Chapter 50 of the Dallas City Code. Credit access businesses are commonly referred to as "pay day lenders" and "auto title lenders." The proposed ordinance would: (1) establish an annual registration program (including a \$50 registration fee) for credit access businesses; (2) impose recordkeeping requirements on those businesses; and (3) impose restrictions on extensions of consumer credit made by those businesses.

To obtain a certificate of registration, a credit access business would provide: (1) the name, address, and telephone number of the applicant; (2) the business or trade name of the credit access business and its address and telephone number; (3) the names, addresses, and telephone numbers of the owners of the credit access business; (4) a copy of a current, valid state license to operate as a credit access business; and (5) a current, valid certificate of occupancy showing compliance with the Dallas Development Code.

The proposed ordinance would require a credit access business to maintain for three years all records relating to extensions of consumer credit made by the business and make such records available for examination by the city upon request.

BACKGROUND (Continued)

The proposed ordinance would provide certain restrictions on the extension of consumer credit by a credit access business, including: (1) restricting the amount of cash advanced to designated percentages of a consumer's income; (2) limiting to four the number of installments in which an extension of consumer credit may be paid; (3) limiting to three the number of times an extension of consumer credit may be refinanced or renewed; and (4) requiring proceeds from each installment payment on a refinanced or renewed extension of credit to be used to repay at least 25 percent of the principal, with fees charged by the credit access business excluded from the calculation of principal.

The proposed ordinance would take effect on January 1, 2012, and violations of the ordinance would be subject to a fine of up to \$500.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

This item was briefed to the Budget, Finance, and Audit Committee on June 13, 2011.

FISCAL INFORMATION

No cost consideration to the City.

ORDINANCE NO. _____

An ordinance adding Article XI, composed of Sections 50-144 through 50-151.3, to CHAPTER 50, "CONSUMER AFFAIRS," of the Dallas City Code, as amended; defining terms; requiring registration of credit access businesses; establishing a registration fee; imposing restrictions on extensions of consumer credit made by credit access businesses; providing recordkeeping requirements; providing defenses; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That CHAPTER 50, "CONSUMER AFFAIRS," of the Dallas City Code, as amended, is amended by adding new Article XI, "Credit Access Businesses," composed of Sections 50-144 through 50-151.3, to read as follows:

"ARTICLE XI.

CREDIT ACCESS BUSINESSES.

Division 1. General Provisions.

SEC. 50-144. PURPOSE OF ARTICLE.

The purpose of this article is to protect the welfare of the citizens of the city of Dallas 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. 50-145. DEFINITIONS.

In this article:

(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) CREDIT ACCESS BUSINESS has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

(4) DEFERRED PRESENTMENT TRANSACTION has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

(5) DIRECTOR means the director of the department designated by the city manager to enforce and administer this article and includes any representatives, agents, or department employees designated by the director.

(6) EXTENSION OF CONSUMER CREDIT has the meaning given that term in Section 393.001 of the Texas Finance Code, as amended.

(7) MOTOR VEHICLE TITLE LOAN has the meaning given that term in Section 393.601 of the Texas Finance Code, as amended.

(8) PERSON means any individual, corporation, organization, partnership, association, financial institution, or any other legal entity.

(9) REGISTRANT means a person issued a certificate of registration for a credit access business under this article and includes all owners and operators of the credit access business identified in the registration application filed under this article.

(10) 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, as amended.

SEC. 50-146. VIOLATIONS; PENALTY.

(a) A person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.

(b) An offense under this article is punishable by a fine of not more than \$500.

(c) The culpable mental state required for the commission of an offense under this article is governed by Section 1-5.1 of this code.

(d) The penalties provided for in Subsection (b) are in addition to any other enforcement remedies that the city may have under city ordinances and state law.

SEC. 50-147. DEFENSE.

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, as amended.

Division 2. Registration of Credit Access Businesses.

SEC. 50-148. REGISTRATION REQUIRED.

A person commits an offense if the person acts, operates, or conducts business 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. 50-149. 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 other persons with a financial interest in 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.

(5) A copy of a current, valid certificate of occupancy showing that the credit access business is in compliance with the Dallas Development Code.

(6) A non-refundable application fee of \$50.

Leslie Pettijohn - CSAT Legislative Update seminar

From: Rob Norcross <>
To: "leslie.pettijohn@occc.state.tx.us" <leslie.pettijohn@occc.state.tx.us>
Date: 7/5/2011 5:06 PM
Subject: CSAT Legislative Update seminar
Attachments: Leg Update 2011.doc

Leslie,

Attached please find the one page flyer containing the details about our legislative update meeting on the 21st. I know you have a conflict on that day, but wanted you to have the information regardless. If you can manage to change your schedule, you can speak at anytime during the meeting. We will work around your schedule.

Thanks,

Rob

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Robert W. Norcross, Jr.

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C 214.802.6466

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*Did not attend
meeting due to
conflict*



"NEW DATE AND TIME"

2011 LEGISLATIVE UPDATE

[Panel Discussion featuring Michael Grimes, Scott Sheehan and Rob Norcross]

Topics Include:

Review of HB 2592 and HB 2594

Bill Analyses

Floor and Committee Amendments

Floor Discussion Notes

Regulatory Process and Timeline

** City of Dallas Ordinance (June 22, 2011)*

** There is no fee for CSAT's update conference. Recommended attendees: outside counsel; in-house counsel; compliance officers, public affairs staff and consultants, planning and operations staff,*

Please RSVP with Tim Von Kennel at _____ if you plan to attend. Please feel free to invite others from your firm or company, but please insure they RSVP. This is a private meeting for CSAT members and invited guests only.

July 21, 2011

10:00 am to Noon

San Antonio Conference Rooms 4-6

Gaylord Texan Resort & Convention Center

1501 Gaylord Trail

Grapevine, TX 76051

www.gaylordhotels.com

Accommodations: Rooms are available at the CSAT group rate of \$139. Please call the Gaylord reservations line at 817.778.1000 for accommodations.

Parking: The fee for the CSAT event is \$10.00. The preferred parking location is the Convention Center Parking Garage --- the first building on your left as you are driving up Gaylord Trail.

Lunch: Lunch will be "on your own" at the conclusion of the Update. The resort has several restaurants on-site. Please visit the resort website, www.gaylordhotels.com, for more information about restaurants.

GOLF: Tee times are available BEGINNING AT 2:00, WEDNESDAY, JULY 20, at the Cowboys Golf Club for \$125 per person. A shuttle from the resort is available. The fee includes cart, range balls and refreshments. Please RSVP to Rob Norcross at _____ if you would like to play golf.

From: Leslie Pettijohn <leslie.pettijohn@occc.state.tx.us>
To: "rudy.aguilar@occc.state.tx.us" <rudy.aguilar@occc.state.tx.us>, Sealy Hutchings <Sealy.Hutchings@occc.state.tx.us>
Date: 7/18/2011 11:16 AM
Subject: CSAT sues Dallas

Here's the link to the lawsuit.
<http://media.nbcbayarea.com/documents/CSAT-Petition.pdf>

News article is below:

Lawsuit Filed Over Dallas Payday, Title Loan Rules By Ken Kalthoff |
Friday, Jul 15, 2011 | Updated 7:31 PM CDT

A trade group representing payday and car title loan stores
<<http://media.nbcbayarea.com/documents/CSAT-Petition.pdf>> filed a lawsuit
Friday to block regulations approved by the city of Dallas in June.

The Consumer Service Alliance of Texas claims the city rules violate state
law and improperly restrict loan choices that should remain available to
customers.

"We have no other option but to sue the city of Dallas to protect the
interests of North Texas consumers who are best served when they are given a
variety of realistic credit options and trusted to make financial decisions
based on what's best for them and their families," CSAT President Alex
Vaughn said in a press release.

The Dallas City Council approved the rules June 22 after the Texas
Legislature decided against statewide restrictions on the high interest and
fees the stores charge.

"They chose to take a very limited action, and we chose to do the most we
can at our city level," Councilman Jerry Allen said when the city rules were
approved.

Allen, a former banker, testified in favor of stronger payday loan
regulations at hearings on the proposed state law in Austin this year.

When drafting the Dallas ordinance, city lawyers decided restrictions on the
amount of interest rates and fees could only be determined by the state.

But Dallas did require lenders to set up payment plans that actually reduce
the principal amount of the loan and not just roll over fees.

And the city rules also require registration and record-keeping on borrowers
and lenders, which is similar to rules state lawmakers chose to impose
statewide.

"This new, egregious Dallas ordinance conflicts with current law because it
duplicates financial data collection requirements, limits access to credit
for Dallas customers and restricts the terms under which loans may be
repaid," Vaughn said.

City officials could not be reached for comment late Friday, but Allen said
in June that he expected a legal challenge and that the city's measure would
survive.

"This is as strong a teeth that we can put into this, and it sends a message
that we will not tolerate our citizens

Sent from my iPhone

Leslie Pettijohn - Re: Austin City Council

From: Leslie Pettijohn
To: Bill White
Date: 8/16/2011 2:29 PM
Subject: Re: Austin City Council

Bill,
We have reached out to the City Attorney's office trying to educate and inform. I trust you saw today's editorial.
We'll see what happens on Thursday.
Leslie

>>> "Bill White" < > 8/15/2011 7:21 AM >>>

Leslie
Per Sunday's Un-American Statesman, the Austin City Council is following Dallas lead in proposing their own regulation of payday loans. Please have your troops inform them that even Austin doesn't supersede State law. Thanks.

Bill White

Predicting rain doesn't count; building arks does. - Warren Buffett (1930-)

Leslie Pettijohn - Municipal ordinance activity brief update

From: Rob Norcross <>
To: Leslie Pettijohn <Leslie.Pettijohn@occc.state.tx.us>
Date: 10/12/2011 5:06 PM
Subject: Municipal ordinance activity brief update

Leslie,

I know you are absolutely swamped, but do you have ten minutes either Thursday or Friday when I could call to give you a brief update on the municipal ordinance situation. We filed suit in Austin today, reluctantly, and I'd like to fill you in...

If that works, please pick a time and email me. I'll call at the selected time.

Thanks,

Rob

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Robert W. Norcross, Jr.

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Leslie Pettijohn - Re: Municipal ordinance activity brief update

From: Leslie Pettijohn
To: Rob Norcross
Date: 10/12/2011 5:28 PM
Subject: Re: Municipal ordinance activity brief update

Rob,
Tomorrow at 3:00 could work for me. Work for you?
Leslie

P.S. We must have been on the same wavelength. Before I had seen your email, I called this afternoon and left you a message that we needed to touch base on several issues (litigation was one of them).

Leslie Pettijohn
Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, TX 78705

512.936.7640

>>> Rob Norcross < > 10/12/2011 11:39 AM >>>
Leslie,

I know you are absolutely swamped, but do you have ten minutes either Thursday or Friday when I could call to give you a brief update on the municipal ordinance situation. We filed suit in Austin today, reluctantly, and I'd like to fill you in...

If that works, please pick a time and email me. I'll call at the selected time.

Thanks,

Rob

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Leslie Pettijohn - meeting

From: "Canally, Greg" <Greg.Canally@austintexas.gov>
To: <sealy.hutchings@occc.state.tx.us>
Date: 11/9/2011 5:25 PM
Subject: meeting

sealy

thanks for chatting last week. as i mentioned - would be very helpful if i could meet with the OCCC staff who are overseeing implementation of Credit Access Business licensing, especially to understand your expected timelines, etc. was hoping to see if you would have time on Wednesday 16th. i can make anytime work. thanks.

greg

Greg Canally
Deputy Chief Financial Officer
City of Austin
512.974.2609 (p)
512.974.2617 (f)

Leslie Pettijohn - Fwd: meeting

From: Sealy Hutchings
To: Pettijohn, Leslie
Date: 11/10/2011 7:01 AM
Subject: Fwd: meeting
Attachments: meeting

Leslie,

I have forwarded the email from Greg Canally, Deputy Chief Financial Officer for the City of Austin.

He would like to meet on November 16. The only thing on my calendar is the Manager's Meeting at 9:00.

Please let me know if you have time on the 16th to meet with us.

Sealy

Sealy Hutchings
General Counsel
Office of Consumer Credit Commissioner
2601 North Lamar
Austin, Texas 78705
Telephone 512.936.7623
Fax 512.936.7610

Leslie Pettijohn - Meeting with City of Austin

From: Sealy Hutchings
To: Pettijohn, Leslie
Date: 11/21/2011 9:52 AM
Subject: Meeting with City of Austin

Leslie,

We have a meeting scheduled for November 29th at 9:00 a.m. with Greg Canally, Deputy Chief Financial Officer for the City of Austin.

He wants to learn more about our licensing process and when our agency may license the majority of the industry.

Sealy

Sealy Hutchings
General Counsel
Office of Consumer Credit Commissioner
2601 North Lamar
Austin, Texas 78705
Telephone 512.936.7623
Fax 512.936.7610

Leslie Pettijohn - RE: Meeting next week about CAB reporting

From: Leslie Pettijohn
To: Rob Norcross
Date: 1/17/2012 2:46 PM
Subject: RE: Meeting next week about CAB reporting

Works for me. I'll mark it down. See you then.

>>> Rob Norcross < > 1/17/2012 8:38 AM >>>
Leslie,

How about 3:00? I can swing by your office.

Thanks,

Rob

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From: Leslie Pettijohn [mailto:Leslie.Pettijohn@occc.state.tx.us]
Sent: Friday, January 13, 2012 1:12 PM
To: Rob Norcross
Subject: Re: Meeting next week about CAB reporting

Rob,
Wednesday afternoon would be perfect. Any time. Looking forward to moving the CAB reporting issue ahead.
Thanks,
Leslie

Leslie Pettijohn
Consumer Credit Commissioner
2601 N. Lamar Blvd.
Austin, TX 78705

512.936.7640

>>> Rob Norcross <
Leslie,

> 1/12/2012 3:11 PM >>>

I have a meeting in Austin early Thursday morning next week (Jan. 19th). I should be finished about 11:00.

Do you have time to meet Wednesday afternoon, Thursday after 11:00, or Friday morning to discuss the data reporting issues? I've made some progress with the majority of our folks, and I'd like to try to put something together so our folks can begin preparing their first report.

I'll follow up with a call to confirm tomorrow.

Thanks,

Rob

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