



MEMORANDUM

TO: Mayor and Council

CC: Spencer Cronk, City Manager
Rodney Gonzales, Assistant City Manager

FROM: Rondella Hawkins, Telecommunications and Regulatory Affairs Officer *Rondella Hawkins*

DATE: May 15, 2020

SUBJECT: Item #28 on 5/21/20 Council Agenda - Ordinance Amending City Code to Regulate Credit Services Organizations

On Council's May 21, 2020 agenda (Item 28) is an ordinance that amends Chapter 4-12 of the City Code to ensure that City regulations on consumer lending apply to credit services organizations as well as credit access businesses. The ordinance also makes clarifying changes to Chapter 4-12 and removes the registration application fee from the City Code and adds it to the 2019-2020 Fee Schedule (Ordinance No. 20190910-002). The ordinance also responds to Council Resolution No. 20200409-033, which asked the City Manager to assess and update the City Code's consumer protections to ensure continued efficacy in light of Texas Attorney General Opinion KP-0277, issued on November 1, 2019.

In Opinion KP-0277, the Attorney General found that state law allows extensions of consumer credit through forms of debt other than payday and motor vehicle title loans. The Attorney General determined that credit access businesses are merely a subset of a broader group of lenders known as credit services organizations that can provide credit through other forms of debt.

Chapter 4-12 of the City Code regulates consumer lending. The purpose of this chapter is to protect citizens' welfare by regulating and monitoring lenders, in order to reduce the harm caused by abusive and predatory lending. Chapter 4-12 of the City Code, however, only regulates credit access businesses, leaving credit services organizations that do not qualify as credit access businesses unregulated in the wake of Opinion KP-0277. The draft ordinance is intended to fix this issue.

The proposed ordinance also supports actions that Council asked financial institutions to take in the April 9 resolution:

Council asked financial institutions to avoid “selling new financial products that may incentivize additional risky financial behavior, which will exacerbate economic distress and slow recovery because of missed payments or penalties in the future.” Ensuring that all credit services organizations are regulated by Chapter 4-12 helps prevent and reduce the harm inflicted by risky and predatory lending.

Council also asked financial institutions to expand “outreach warning of predatory lending practices and fraud” and provide “information about resources available for victims of predatory lenders.” Ensuring that all credit services organizations must provide the City-prescribed forms described in Section 4-12-23 (*Referral to Consumer Credit Counseling*) ensures that consumers will be made aware of cash assistance programs that are available from governmental and non-profit agencies and other information regarding extensions of consumer credit.

If you have any questions, please do not hesitate to contact me at Rondella.Hawkins@austintexas.gov or 512-974-2422.