



April 29, 2022

The Honorable Rohit Chopra
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552
E-mail: CFPB_FederalRegisterComments@cfpb.gov

Re: Docket No.: CFPB–2022–0003--Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services

Dear Director Chopra,

Texas Appleseed is a public interest justice center working to change unjust laws and policies that prevent Texans from realizing their full potential. Working with pro bono partners and collaborators, Texas Appleseed develops and advocates for innovative and practical solutions to complex issues. As part of its work, Texas Appleseed also conducts data-driven research to better understand inequities and identify solutions for concrete, lasting change. Texas Appleseed is part of a non-profit network of 17 justice centers in the United States and Mexico.

Through its Fair Financial Services Project, Texas Appleseed is a state leader in advocating for fair market practices across many financial services areas, including payday and auto title lending, protections for victims of financial abuse, and in support of fair debt collection practices.

We appreciate the opportunity to highlight a major consumer protection issue in Texas that aligns with this request for information regarding fees imposed by providers of consumer financial products and services: the issue of payday and auto title lending in our state. Payday and auto title lending in Texas is, sadly, a junk fee bonanza.

Payday and Auto Title Loan Junk Fees

Unlike common lending models, where storefront or online locations operate as direct lenders, in Texas, payday and auto title loan businesses operate as credit services organizations (CSOs).¹ They broker the loans and work in partnership with unlicensed third-party lenders to execute connected credit services and loan contracts that together trap borrowers in unaffordable debt. The three-party model, often with balloon payments, enables multiple high fee charges that align with the descriptions of junk fees laid out in the RFI.

¹ Tex. Fin. Code §393.

We would like to highlight three key areas of concern:

1. Brokerage fees far exceed the interest paid to the lender;
2. Contract terms provide for a default when a loan payment is not late; and
3. Transactions include excessive late fees and repossession fees.

We appreciate this opportunity to share our concerns.

1. Brokerage fees far exceed the interest paid to the lender.

Credit services organizations in Texas charge fees to arrange extensions of consumer credit. These extensions of credit generally take the form of payday loans, auto title loans, and a new category often called “unsecured personal loans.” These loan products may be offered as single payment or installment loans, and many of them include a balloon payment of the loan principal. Consistently, across all products, the CSO fees far exceed the lender charges.

In the example below, for a 180-day \$1,100 installment payday loan, lender interest is \$26.93, while the CSO fees collected by Ace Cash Express are \$2,310.00—86 times the lender charges. This structure is not unique to any particular CSO, but rather consistent across all of the entities arranging such loans in Texas.

Sample Loan Cost: Ace Cash Express Payday Loan²

Loan Amount	Payments 1 - 11	Payment 12	Lender Interest	CSO Fee
\$400.00	\$104.85	\$96.41	\$9.76	\$840.00
\$600.00	\$157.28	\$144.57	\$14.65	\$1,260.00
\$1,100.00	\$288.35	\$265.08	\$26.93	\$2,310.00

In addition to the shockingly high brokerage fees charged by CSOs in Texas, there appear to be exclusive lending arrangements between CSOs and third-party lenders. Instead of shopping around among a large list of lenders to find the best deal, each CSO appears to have a cozy relationship with one or two lenders. A Texas Appleseed study found that 86% of credit access businesses (a subset of credit services organizations that arrange payday and auto title loans, also called CABs) worked with just one third-party lender.³

² Available at:

https://www.acecashexpress.com/uploads/files/products/installment/internet/rates/TX_FeeSchedule.pdf?_cchid=23115a303907627b9a9ae53c5827dbeb. Accessed April 26, 2022.

³ Ann Baddour, Maret Hanes, and Deborah Fowler, *Pulling Back the Curtain: Shining a Light on Payday and Auto Title Businesses in Texas*, Texas Appleseed (Oct. 2015) at 9.

The auto title loan disclosure below, provided by one of the larger payday and auto title loan operations in Texas, Cottonwood Financial, dba The Cash Store, lists one lending partner on the disclosure and shows a CAB fee equal to 26 to 28 times the interest collected by the lender.

Sample Loan Cost: The Cash Store Auto Title Loan⁴

Fee Schedule Example 30-Day Title Loan					
Vehicles 12 years old or newer: CAB Fee Rate: 30% Fee Charged at Loan Origination					
Amount Financed	Payment Amount	Lender Interest	CAB Fee	Finance Charge	APR
\$233.00	\$295.35	\$2.35	\$60.00	\$62.35	325.58%
533.00	688.47	5.47	150.00	155.47	354.89%
1,033.00	1,343.68	10.68	300.00	310.68	365.92%

If a customer is able to repay one of these onerous CSO arranged loan transactions, proving substantial creditworthiness, the customer cannot go to the lender directly for future borrowing needs. The customer must again pay the CSO fees to borrow from the same lender. In fact, the customer cannot go directly to the lender for any issues related to the loan. All interactions must pass through the CSO.

2. Contract terms provide for a default when a loan payment is not late.

In the case of products that are called “multiple payment” or “installment” and include a balloon payment at the end, a borrower can be current on the loan and still default and, in the case of an auto title loan, lose a car.

For example, one large payday and auto title loan business that operates using the CSO/CAB model lays out this practice on their website:⁵

⁴ Available at: <https://www.cashstore.com/static/386a338338d2bc9a55da7590cb8d4026/Texas%20Signature%20Title%20Loan%20APR%20and%20Rate%20Card.jpg>. Accessed April 26, 2022.

⁵ Available at: <https://www.speedycash.com/loans/texas/payday-loans/>. Accessed April 29, 2022.

1-888-333-1360 1-855-734-0111 (Español) Sign In

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Find a Speedy Cash location near you.

How Do Texas Payday Loans Work?

- 1. Apply**
In just minutes, you can apply for a payday loan online or at a Speedy Cash location.
- 2. Receive Your Lending Decision**
Once your application is submitted, receive a fast lending decision from the lender.
- 3. Get Cash**
If approved, select how much you would like to borrow up to your approved credit limit.
- 4. Make Periodic CAB Fee Payments**
Keep your loan in good standing by making CAB fee payments periodically.
- 5. Pay Off Loan & Interest**
Your loan interest and loan repayment are due at the end of your loan term.

In order to keep the loan in good standing, periodic CAB fees must be paid, though these fees make no progress to paying down the loan principal and the principal is not due at all until the final payment. Based on a sample loan transaction shown below from a state-mandated fee disclosure, a borrower taking out a \$300 loan could pay the full amount due to the lender (\$313.81), and still default on the loan, because of a missed CAB fee payment.

Sample Loan Transaction with Balloon Structure: Speedy Cash Payday Loan⁶

FINANCE CHARGES: For the Credit Access Business ("CAB") fee you will pay a standard rate of \$28 every calculation period per \$100 (bi-weekly) on loans up to \$1,500. You will make a single payment of principal, final CAB fee, and interest of 10% on the maturity date. The following examples demonstrate how finance charges are imposed on loans.

LOAN AMOUNT	THIRD-PARTY LENDER INTEREST	TOTAL CAB FEES	CAB FEE AMOUNTS DUE FOR BI-WEEKLY PAYMENTS 1-11	AMOUNT DUE ON PAYMENT 12	TOTAL OF PAYMENTS	TERM* MATURITY DATE	APR**
\$150.00	\$6.90	\$504.00	\$42.00	\$198.90	\$660.90	168 Days	729.82%
\$200.00	\$9.21	\$672.00	\$56.00	\$265.21	\$881.21	168 Days	729.82%
\$300.00	\$13.81	\$1,008	\$84.00	\$397.81	\$1,321.81	168 Days	729.82%

** Annual Percentage Rate: The APR is the cost of your loan expressed as a yearly rate. The APR will increase if the actual loan term is shorter than this example, and will decrease if your loan term is longer.

IN THE EXAMPLES, CAB FEES ARE DUE ON PAYMENTS 1-11, AND THE THIRD-PARTY LENDER INTEREST, PRINCIPAL AND THE FINAL CAB FEE ARE DUE ON THE MATURITY DATE. CUSTOMERS ARE ENCOURAGED TO PAY MORE THAN THE MINIMUM PAYMENT TO REDUCE FINANCE CHARGES.

⁶ Loan fee table available at:

[https://db4nnybic3xty.cloudfront.net/pdf/SRC/2018/texas/Texas Multiple Payment Payday Loan Rates Terms Speedy Cash.pdf](https://db4nnybic3xty.cloudfront.net/pdf/SRC/2018/texas/Texas%20Multiple%20Payment%20Payday%20Loan%20Rates%20Terms%20Speedy%20Cash.pdf). Accessed 4/29/2022.

This kind of loan structure is even more concerning when applied to an auto title loan. Generally, both the CSO/CAB and the lender will take a lien on the vehicle (see Appendix A, for an example).⁷ The result is that any missed CSO/CAB payment, even if the loan payment is not yet due, triggers a repossession. The payment schedule below is for a 150-day five payment auto title loan. Missing any of the CSO fee payments prior to the loan payment coming due would spur repossession of the vehicle securing the loan.

Sample Payment Schedule for Auto Title Loan with Balloon Structure: TitleMax Auto Title Loan⁸

Loan Amount	\$	1,783.00
Daily CSO Fee %		1583.30%
Finance Charge		
CSO Fee	\$	1,583.30
Lender Interest	\$	72.91
Total of Payments	\$	3,439.21
APR		219.93%
Payment #1		
CSO Fee Payment 1	\$	316.66
Payment #2		
CSO Fee Payment 2	\$	316.66
Payment #3		
CSO Fee Payment 3	\$	316.66
Payment #4		
CSO Fee Payment 4	\$	316.66
Payment #5		
CSO Fee Payment 5	\$	316.66
Payment to Lender	\$	1,855.91
	\$	2,172.57

3. Transactions include excessive late fees and repossession fees.

The balloon payment structure shown in the above section also leads to excessive late fees. Under Texas law, an unlicensed lender is permitted to charge a fee of the greater of \$7.50 or 5% of the payment amount.⁹ The rates were set based on an expectation of an amortizing loan. With

⁷ Of note in the sample auto title with liens recorded is that both the CAB and the third-party lender list the same address.

⁸ Available at: <https://www.titlemax.com/disclosures/schedule-of-fees/texas/>. Accessed 4.29.2022.

⁹ Tex. Fin. Code 302.001(d).

the balloon structure, a late payment fee for a \$2,000 loan is \$100. As the principal amount of the loan increases, the fee becomes even more oppressive. Though auto title loans average in the \$1,000 to \$2,000 range, they are often much larger. Recently, a survivor of domestic violence contacted Texas Appleseed for assistance with an auto title loan. She had borrowed over \$6,000 in a desperate moment and had not understood that the scheduled monthly payment of \$700 did nothing to reduce the loan principal. Faced with a possible late payment, she contacted the store asking for help and was told if her payment was late, she would be charged a \$600 late fee. Based on the fee amount, it appears that the CSO/CAB may also be charging a late fee on top of any lender fee.

In addition to excessive late fees, borrowers are also charged high fees for vehicle repossession and to retrieve vehicles from repossession. No public data is available on these charges, but anecdotally, borrowers have reported paying hundreds of dollars just to get their car back and continue on the debt treadmill caused by the loans.

CSO payday and auto title loan businesses in Texas collect billions in fees and many of those fees appear to be junk fees. Many of the fees are hidden from public view and the unlicensed third-party lenders are never examined for compliance with the law. I urge the CFPB to look more closely at this market.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Baddour".

Ann Baddour
Director, Fair Financial Services Project

Appendix A: Sample Texas auto title with lien from both the CAB (TitleMax) and the third-party lender (NCP Finance)

