Date: July 27, 2015

To: The Honorable Nelda Martinez, Corpus Christi Mayor
Councilman Chad Magill
Councilwoman Lillian Ross
Councilman Mark Scott
Councilwoman Carolyn Vaughn
Councilman Brian Rosas
Councilwoman Lucy Rubio
Councilwoman Colleen McIntyre
Councilman Rudy Garza, Jr.

Tom Tagliabue, Intergovernmental Relations
Miles Risley, City Attorney
Dan Grimsbo, Development Services

From: Consumer Service Alliance of Texas

Re: Item 15-0778; Proposed Credit Access Business Ordinance
Corpus Christi City Council Meeting Agenda – Final; July 28, 2015

The Consumer Service Alliance of Texas (CSAT) appreciates the opportunity to provide written comments in response to the proposed ordinance regulating credit access businesses in the city of Corpus Christi.

Information About CSAT

CSAT is a non-profit trade association that advocates for the protection of financial choice based on informed decision-making and personal responsibility for Texas consumers. CSAT represents the interests of consumers and credit access businesses ("CABs") in Texas

A CAB provides retail financial products and services to Texas consumers. From stores in neighborhoods across the state, hardworking Texans have access to small, short-term loans; auto-title loans; money orders; pre-paid telephone and debit cards; and other services to help them manage their finances.

One of the services CABs provide is securing an independent third-party lender for customers who need credit services to meet their immediate financial needs. CABs do not directly provide loans to consumers.

CSAT's mission is to work cooperatively with industry, consumers, and government officials to help ensure Texans have access to short-term loans and other financial service products in compliance with the law.

CSAT Comments

On March 26, 2015, the Consumer Financial Protection Bureau (CFPB) released to the public an outline of the federal regulations it has developed for payday loans, auto title loans and other short-term consumer credit transactions (summary and copy attached). The CFPB is a relatively new federal agency tasked with regulating consumer credit transactions and services.

The final proposed rules will be published this fall. The new federal regulations will apply nationwide.

City budget and staff time savings

The CFPB and the Texas Office of the Consumer Credit Commissioner (OCCC) will have joint authority to conduct on-site examinations to enforce compliance with the new federal regulations. The two agencies have broad supervision and enforcement authority, including the power to order restitution to consumers, levy fines and penalties and revoke licenses. **Corpus Christi could save budget funds and valuable staff time by deferring to the more comprehensive federal regulations.**

Irreconcilable approaches taken by the CFPB and the Texas Model Ordinance

The new federal rules take an extraordinarily detailed approach to addressing cycle of debt concerns and the regulation of payday and auto title loans. As illustrated below, the CFPB approach is distinctly and profoundly different than the one employed by the Texas model municipal ordinance.

- The Texas model municipal ordinance was developed in June of 2011. The OCCC began collecting data on every payday and auto title loan transaction on January 1, 2012.

- The CFPB has analyzed data on millions of loans from Texas and other states to develop its new rules.

- The CFPB regulations employ an individual "ability to repay" standard instead of the arbitrary percentage of income loan limit in the model municipal ordinance.

- The new CFPB rules require lenders to offer no cost repayment plans for borrowers having difficulty repaying their loans as contrasted with the mandatory per payment, or per refinance, principal reduction requirement in the model municipal ordinance. Mandatory principal reduction requirements often lead to unnecessary defaults because borrowers on tight budgets typically have more money available in the middle of the month than at month's end.

- The new federal regulations will likely virtually eliminate single payment auto title loans. The ordinance provides for such loans.

- The new federal regulations limit loan terms, the number of permissible refinances of existing loans and loan amounts --- **all in ways distinctly different from, and irreconcilable with, the model municipal ordinance.**

<u>Model municipal ordinance pushes many consumers on-line</u>

In other Texas cities that have enacted the Texas model payday and auto title municipal ordinance, store front loan volume has dropped, and on-line loan volume has skyrocketed (see the attached analysis of the Austin and Dallas markets after the passage of the model ordinance, *Payday Loan Ordinances – Limiting Supply Doesn't Decrease Demand,* by economist Tim Ranney).

On-line loans are typically more expensive for consumers than loans obtained in retail stores.

Some proponents of the model municipal ordinance have testified before other city councils they hoped the arbitrary limitations in the ordinance would cause consumers to borrow less. The state has collected data on every payday and auto title loan made in Texas since January of 2012. The ordinances have not reduced consumer demand. They have pushed some consumers into more expensive options on-line, compelled others to get two loans at one time from different lenders or forced still others to drive outside of the city for the type of loan they need --- effectively imposing a "gas tax" on small loans.

The model municipal ordinance, while undoubtedly well intended when it was drafted in 2011 without the benefit of actual data, has not accomplished its goals. It is time to defer to the more comprehensive federal regulations developed after extensive review and analysis of actual loan data.

<u>Conclusion</u>

The hard working citizens of Corpus Christi deserve access to credit in a financial emergency.

While the Texas model municipal ordinance was a well-intended, but perhaps misguided, approach to regulating pay day and auto title loans, the new federal rules represent a much more comprehensive method developed after the review and analysis of millions of actual loan transactions by the CFPB.

The approach taken by the new federal rules is profoundly different from, and irreconcilable with, the model municipal ordinance. Attempting to use both at the same time is nonsensical and would effectively eliminate access to credit through small loans pushing consumers to more expensive

choices like bank NSF charges, unpaid bill late charges, utility reconnection fees and off-shore internet transactions.

Committing the funding and staff resources to initiate a citywide program that will be obsolete in a few months deserves further consideration.

For More Information

For more information about these comments and the attached materials, please contact the following: Robert W. Norcross, Jr., Vianovo, LP, 2225 W. Southlake Blvd., Suite 423, Southlake, Texas 76092, telephone 817-491-7110, fax 817-719-9200, email rnorcross@vianovo.com.

RESPONSE TO PAYDAY LENDER LETTERS & COMMENTS
July 28, 2015

1. *Ordinance will be in direct conflict with many of the provisions proposed by Consumer Financial Protection Bureau.*

RESPONSE: The CFPB only proposed an outlines of regulations in March 2015. Proposed rules may be published sometime this fall, but there is no guarantee of when they will be adopted. Sen. Ted Cruz recently filed legislation to do away with the CFPB. If the City waited, consumers will have no protection.

2. *Corpus Christi would be the first city in Texas to adopt a flawed and capricious ordinance.*

RESPONSE: Incorrect. Corpus Christi would be the 26th City in Texas to adopt the ordinance, which has withstood legal challenges.

3. *Corpus Christi could save budget funds and valuable staff time by deferring to the more comprehensive federal regulations.*

RESPONSE: Payday industry admits its needs federal regulations and protections for consumers. The City does not know when or if federal regulation will be adopted and enforced. The City can adjust resources utilized regulating credit access businesses when and if federal regulations take effect. The payday industry could have proposed similar changes during the Texas Legislative session, but did not.

4. *The regulatory approach of the Texas model ordinance is irreconcilable with the proposed federal standard, specifically the "ability to repay" versus income loan limit, the repayment provisions, single payment auto title loans and the number of permissible refinancing of existing loans.*

RESPONSE: Again, the payday industry is admitting their practices are harmful to consumers and are proposing to wait for an unspecified amount of time for federal action leaving consumers unprotected. The City's ordinance can be amended to address any conflicts with federal regulations when and if they are enacted. The TML model ordinance requires maintenance and retention of lending records for three years. This provision would benefit federal regulators with documentation if and when federal regulations are passed.

5. *Model ordinances push consumers out of the storefront and into unregulated on-line loans.*

RESPONSE: Nothing in the ordinances keeps a payday lender from offering more affordable loans to consumers. Lenders are still able to operate and make a profit. It is the industry pushing consumers out of the storefront to the unregulated on-line loans because they want to avoid scrutiny.

6. *The Texas model ordinance was drafted without benefit of actual data.*

RESPONSE: TML had substantial research data, especially from the Pew Charitable Trust, showing the harmful effects of predatory lending. Corpus Christi has three years of data from the Office of Consumer Credit Commissioner showing the growth in fees paid by consumers and repossessions of vehicles, which exacerbates the cycle of debt.