



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 19, 2012

Ms. Laurie B. Hobbs
Assistant General Counsel
Office of Consumer Credit Commissioner
2601 North Lamar Boulevard
Austin, Texas 78705

OR2012-05626

Dear Ms. Hobbs:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 451155 (OCCC File No. OR-12-123).

The Office of Consumer Credit Commissioner (the "commissioner's office") received a request for information concerning a complaint against a named company and certain policies, procedures, and guidelines. You state the commissioner's office has released some of the information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 14.2015 of the Finance Code, which provides:

- (a) Except as provided by Subsection (b), information or material obtained or compiled by the commissioner in relation to an examination or investigation by the commissioner or the commissioner's representative of a license holder, registrant, applicant, or other person under Subtitle B or C, Title 4, Subchapter G of Chapter 393, or Chapter 394 is confidential and may not be disclosed by the commissioner or an officer or employee of the [commissioner's office], including:

(1) information obtained from a license holder, registrant, applicant, or other person examined or investigated under Subtitle B or C, Title 4, Subchapter G of Chapter 393, or Chapter 394;

(2) work performed by the commissioner or the commissioner's representative on information obtained from a license holder, registrant, applicant, or other person for the purposes of an examination or investigation conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394;

(3) a report on an examination or investigation of a license holder, registrant, applicant, or other person conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394; and

(4) any written communications between the license holder, registrant, applicant, or other person, as applicable, and the commissioner or the commissioner's representative relating to or referencing an examination or investigation conducted under Subtitle B or C, Title 4, Chapter 393 with respect to a credit access business, or Chapter 394.

(b) The commissioner or the commissioner's representative may disclose the confidential information or material described by Subsection (a):

(1) to a department, agency, or instrumentality of this state or the United States if the commissioner considers disclosure to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public;

(2) if the license holder, registrant, applicant, or other person consents to the release of the information or has published the information contained in the release; or

(3) if the commissioner determines that release of the information is required for an administrative hearing.

Fin. Code § 14.2015. Section 14.201 of the Finance Code authorizes the commissioner's office to conduct investigations of certain consumer credit providers under subtitle B of title 4 of the Finance Code, which encompasses chapter 345 of the Finance Code pertaining to retail installment sales. *See id.* § 14.201. You explain the commissioner's office is conducting an investigation of the requestor's client's business for possible registration violations and for the unauthorized charging of fees under chapter 345 of the Finance Code. *See id.* §§ 345.351 (registration of holder), 14.202(b). Pursuant to section 14.2015(a), all

information or material obtained or compiled by the commissioner's office in connection with an examination or investigation conducted under this authority is confidential. *Id.* § 14.2015(a). The commissioner's office may disclose information made confidential by section 14.2015(a) only in certain limited circumstances, including when a "license holder, registrant, applicant, or other person consents to the release of the information." *Id.* § 14.2015(b)(2). You explain the submitted information was obtained during the investigation conducted by the commissioner's office under chapter 345. Thus, based on your representations and our review, we conclude the submitted information is made confidential by section 14.2015(a). However, we note the requestor's client is the subject of the investigation, and the client has provided consent for the release of the information to the requestor. Thus, we find the requestor has a right of access to the submitted information under section 14.2015(b) of the Finance Code. Accordingly, the commissioner's office may not withhold the submitted information from this requestor under section 552.101 of the Government Code in conjunction with section 14.2015(a) of the Finance Code.

You also seek to withhold the submitted information under sections 552.103 and 552.111 of the Government Code. However, sections 552.103 and 552.111 are general exceptions to disclosure under the Act. This office has found that a statutory right of access prevails over the Act's general exceptions to disclosure. *See* Open Records Decision No. 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Because the requestor, in this instance, has a statutory right of access to the submitted information under section 14.2015(b) of the Finance Code, the commissioner's office may not withhold the information at issue under either section 552.103 or section 552.111 of the Government Code.

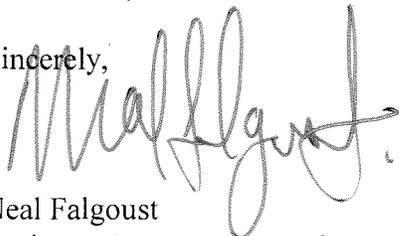
We note, however, portions of the submitted information consist of motor vehicle record information subject to section 552.130 of the Government Code. Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle title or registration issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(2). Accordingly, the motor vehicle record information we have marked is generally confidential under section 552.130 of the Government Code. As noted above, a statutory right of access generally prevails over the Act's general exceptions to disclosure. However, because section 552.130 has its own access provisions, we conclude section 552.130 is not a general exception under the Act. Thus, we must address the conflict between the access provided under section 14.2015(b) of the Finance Code and the confidentiality provided under section 552.130. Where information falls within both a general and a specific provision of law, the specific provision prevails over the general. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) ("more specific statute controls over the more general"); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones). Although section 14.2015(b) generally allows the license holder, registrant, applicant, or other person who consents to the release of the information access to the material obtained or compiled by the commissioner's office during the investigation, section 552.130 specifically protects motor vehicle record information. Section 552.130 specifically permits release in certain circumstances that does not include

the requestor in this instance. *See* Gov't Code § 552.130(b). Thus, we find the confidentiality provided by section 552.130 of the Government Code is more specific than the general right of access provided by section 14.2015(b) of the Finance Code. Accordingly, the commissioner's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.¹

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 451155

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the requestor has a statutory right of access to the information being released. Accordingly, if the commissioner's office receives another request for this same information from an individual other than this requestor or his client, it must again seek a ruling from this office.