

CAUSE NO. 8548312

THE STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF AUSTIN
THE MONEY STORE, LP	§	TRAVIS COUNTY, TEXAS

ORDER OF THE COURT

The Defendant, THE MONEY STORE doing business as SPEEDY CASH, is a credit access business (CAB) that arranges a loan between a borrower and a lender. The borrower receives money from the lender. The CAB provides a letter of credit to the lender guaranteeing payment to the lender. The lender will receive payment of the loan plus interest. The CAB, THE MONEY STORE, receives a fee from the borrower. The fee is assessed each month the loan is not completely repaid.

The Austin City Code limits the payback period to Four (4) installments. The agreement in this case exceeds Four (4) installments. There is a question whether the installments constitute a fee. In my opinion that determination is a question of fact for the fact finder be it the judge or jury. The applicable state statute provisions are found in the Texas Finance Code, Title 5, Chapter 393 (Credit Services Organization) and more specifically, Section 393.602(b) and Section 393.622(c).

Section 393.602(b) states that a CAB may assess fees for its services as agreed to between the parties. A CAB fee may be calculated daily, biweekly, monthly, or on another periodic basis.

For purposes of this motion only the court finds that the installments made to the MONEY STORE in this case constitute a fee within the meaning of the statute and the Austin City Code is not vague in that regard.

The question of preemption has been properly raised and considered by the court. In my opinion the Texas Finance Code Section 393.601 and following specifically sets forth various provisions regulating the credit access business, and more specifically Section 393.602(b) which allows the credit access business fee to be assessed on a monthly basis. In my opinion the state has covered this area regarding CAB and the City of Austin is preempted from limiting the number of installment payments and by implication the total amount of fee that may be charged.

The motion to Quash is GRANTED.



A handwritten signature in black ink, reading 'Ferdinand D. Clervi', is written over a yellow rectangular background.

Ferdinand D. Clervi
Judge Presiding
Austin Municipal Court

March 1, 2017

