

MINUTES OF THE
FINANCE COMMISSION MEETING

Friday, June 21, 2013

The Finance Commission of Texas met Friday, June 21, 2013, in the Finance Commission Building, William F. Aldridge Hearing Room, 2601 North Lamar Boulevard, Austin, Texas.

Members in attendance:

Bill White, Finance Commission Chair
Paul Plunket, Finance Commission Vice Chair
Susan Burton, Finance Commission Member
Victor Leal, Finance Commission Member
Stacy London, Finance Commission Member
Will Lucas, Finance Commission Member
Cindy Lyons, Finance Commission Member
Lori McCool, Finance Commission Member
Jonathan Newton, Finance Commission Member
Larry Patton, Finance Commission Member
Jay Shands, Finance Commission Member

Others in attendance:

Doug Foster, Executive Director to the Finance Commission and Commissioner, Texas Department of Savings and Mortgage Lending (SML)
Charles Cooper, Commissioner, Texas Department of Banking (DOB)
Leslie Pettijohn, Commissioner, Office of Consumer Credit Commissioner (OCCC)
Sealy Hutchings, General Counsel, (OCCC)
Laurie Hobbs, Assistant General Counsel, (OCCC)
Rudy Aguilar, Director of Consumer Protection, Office of Consumer Credit Commissioner (OCCC)
Caroline Jones, Deputy Commissioner and General Counsel, Texas Department of Savings and Mortgage Lending (SML)
Kaylene Ray, General Counsel, Texas Department of Banking (DOB)
Jim Crowson, Assistant Attorney General, Office of the Attorney General (OAG)

Finance Commission Chair Bill White announced a quorum with eleven members present and called the meeting to order at 8:36 a.m. He continued by introducing Mr. Will Lucas, the new member to the Finance Commission, and provided an overview of the new committee structure due to the change in membership. The Chairman also noted the Governor's request for all agencies to add a veteran's portal to their website.

Finance Commission Matters:

General Public Comment.

No public comments were received.

Consent Agenda.

Jonathan Newton made a motion that the Finance Commission approve consent agenda items A1 and C2. Susan Burton seconded and the motion was adopted. (A copy of the consent agenda is attached).

Finance Commission Operations – Legislative Issues; Testimonies and Correspondence; and Agency Complaints.

Doug Foster, Executive Director to the Finance Commission, commented there had been no further legislative correspondence or agency complaints filed at this time.

Audit Committee Report

Committee Chair Lyons reported on the Audit Committee meeting held on June 21, 2013.

Extend the Internal Auditor Contract for Garza/Gonzalez & Associates through Fiscal Year 2014

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve and extend the Internal Auditor Contract for Garza/Gonzalez & Associates through Fiscal Year 2014. A second was not needed and the motion carried.

Department of Banking’s Audit of the Prepaid Funeral Contract Area as Prepared and Presented by Garza/Gonzalez and Associates.

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the Department of Banking’s Audit of the Prepaid Funeral Contract Area as Prepared and Presented by Garza/Gonzalez and Associates. A second was not needed and the motion carried.

Texas Financial Education Endowment Fund Grant Program Administration and Advisory Policy and Grant Advisory Committee members.

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the Texas Financial Education Endowment Fund Grant Program Administration and Advisory Policy and Grant Advisory Committee members. A second was not needed and the motion carried.

Discussion of and Possible Vote to Take Action on the Adoption of the Completed Rule Review of 7 TAC, Title 8, Chapter 151, Concerning Home Equity Lending Procedures and Chapter 153, Concerning Home Equity Lending.

Sealy Hutchings provided an overview of the proposed rule. Commissioner Pettijohn commented on the rule interpretation regarding the adoption of the rule review.

Stacy London made a motion to approve the adoption of the Completed Rule Review of 7 TAC, Title 8, Chapter 151, Concerning Home Equity Lending Procedures and Chapter 153, Concerning Home Equity Lending. Larry Patton seconded and the motion was adopted.

Department of Savings and Mortgage Lending

Industry Status and Departmental Operations:

Commissioner Foster provided an overview of the Agency’s legislative issues and items. He reported on the elimination of the residential mortgage license state test highlighting the new 3 hour educational requirement beginning October 1, 2013. The finalized legislative bills in thrifts or mortgage areas were primarily for clean-up and elimination of requirements that no other depository institution is required to meet.

The Commissioner continued with the thrift activities update, which continues to show a reoccurring positive trend and a greater return on average assets. He commented on the increased profitability that occurred in 43% of savings banks in comparison to the previous year, and highlighted the definite improvement in the worst performing institutions.

He further reported on the nonperforming assets in state-chartered thrifts showing a three-year declining trend. The thrift capital levels also remained strong and stable compared to the national average for savings banks.

Commissioner Foster provided an overview of the merger with a national bank by Orange Savings Bank, SSB, effective May 31, 2013.

The Commissioner summarized the CAMEL ratings highlighting the improving trend. He detailed the addition of commissioned examiners; one coming from the FDIC.

He further reported on the current mortgage licensee population that continues to have over 500 new license applications received per month and commented on the high volume of amendments or changes to existing licensees. The Agency continues to operate well ahead of schedule on the license examination processing time, which is currently 18 months with the average target time being 24 months.

The Commissioner concluded his discussion by providing an overview of the significant volume in consumer complaints commenting on 48% are related to loan servicing. The enforcement activity was summarized highlighting the Agency's hearing numbers and formal actions.

Mr. Leal commended the Commissioner and the Agency for the informative charts and graphs containing pertinent information provided to the Members.

Discussion of and Possible Vote to Take Action on the Proposal for Publication and Comment of Chapter 80.

Caroline Jones provided an overview of the proposed rule.

Jonathan Newton made a motion to approve the Proposal for Publication and Comment of Chapter 80. Stacy London seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Proposal for Publication and Comment of Chapter 81.

Caroline Jones provided an overview of the proposed rule.

Susan Burton made a motion to approve the Proposal for Publication and Comment of Chapter 81. Jay Shands seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Publication for Comment of Proposed Repeal of 7 TAC §76.4(a) Regarding Financial Statements, Annual Reports; Audits.

Caroline Jones provided an overview of the proposed rule.

Jay Shands made a motion to approve the Publication for Comment of Proposed Repeal of 7 TAC §76.4(a) Regarding Financial Statements, Annual Reports; Audits. Stacy London seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Publication for Comment of Proposed Repeal of 7 TAC §77.72 Regarding Liquidity.

Caroline Jones provided an overview of the proposed rule.

Susan Burton made a motion to approve the Publication for Comment of Proposed Repeal of 7 TAC §77.72 Regarding Liquidity. Jay Shands seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Publication for Comment of Proposed Repeal of 7 TAC §77.74 Regarding Local Service Area Investment Requirement.

Caroline Jones provided an overview of the proposed rule.

Larry Patton made a motion to approve the Publication for Comment of Proposed Repeal of 7 TAC §77.74 Regarding Local Service Area Investment Requirement. Lori McCool seconded and the motion was adopted.

Stacy London commended the Agency staff and the Mortgage Industry Advisory Committee for their hard work and dedication to implement the new legislative changes in the licensing area.

Chairman White introduced Mr. Rudy England, Chief Clerk and General Counsel, House Committee on Investments and Financial Services. The Members, Commissioners and staff commended Mr. England for his instrumental help and assistance with the past legislative session,

Office of Consumer Credit Commissioner

Industry Status and Departmental Operations:

Commissioner Pettijohn provided an overview and summarized the legislative bills that were enacted during the legislative session. She continued by highlighting specific bills and those significant to the OCCC while acknowledging Mr. Juan Garcia from the Governor's Office for his assistance and support throughout this legislative process. There was discussion among members with Commissioner Pettijohn addressing the questions.

She continued with a discussion of the Agency's consumer protection activities and highlighted examination staffing, noting gains and losses within this area. The Agency continues to prioritize the examination process for CAB's, motor vehicle sales and property tax lender exams throughout the remaining fiscal year.

The Commissioner provided an overview of the Agency's complaints and their continued use of the Consumer Financial Protection Bureau (CFPB) portal.

Commissioner Pettijohn continued with a discussion of the motor vehicle sales finance examinations and acceptable compliance levels. She noted the Agency's efforts and progress to increase the rate of compliance levels and the efforts at continued evaluation of documentary fee filings. There was discussion among members with Commissioner Pettijohn and Mr. Aguilar addressing the questions.

She further reported on the Agency's completion and distribution process within the investigations area.

Commissioner Pettijohn provided a general overview of the licensing report with notable trends being growth in the motor vehicle sales finance area. Significant improvement within the Agency's processing time for license applications continues.

The Commissioner continued by highlighting the CAB report noting additional filings by industry and the compilation of additional data fields in the processing of the report. She detailed new reports and information regarding the auto title loan industry. There was discussion among members with Commissioner Pettijohn addressing the questions.

She provided an overview of the Agency's information technology project within the licensing and registration self-service web-based portal. An industry advisory group was formed to assist with the success and completion of the project. There was discussion among members with Commissioner Pettijohn addressing the questions.

Commissioner Pettijohn provided an overview of the Agency's executive summary report highlighting the staffing and employee data including available hiring opportunities.

The Commissioner concluded her discussion by providing an overview of the legal report. She further reported the Agency's involvement to coordinate with the Texas Department of Insurance on the development of the recently revised Consumer Bill of Rights.

Discussion of and Possible Vote to Take Action on the Publication for Comment of Proposed Amendments to 7 TAC §83.503, Concerning Administrative Fee, and §83.605, Concerning Limitation on Acquisition Charge, for Regulated Lenders.

Laurie Hobbs provided an overview of the proposed rule. There was discussion among members with Commissioner Pettijohn addressing the questions.

Mr. Mark Silence with Texas Consumer Financial Association, and Mr. Phil Hitz with Springleaf Financial Services, were witnesses in favor of the proposed amendments to the rule but neither gave public testimony.

Victor Leal made a motion to approve the Publication for Comment of Proposed Amendments to 7 TAC §83.503, Concerning Administrative Fee, and §83.605, Concerning Limitation on Acquisition Charge, for Regulated Lenders. Stacy London seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Publication for Comment of Proposed New 7 TAC §86.201, Concerning Documentary Fee, for Retail Creditors.

Laurie Hobbs provided an overview of the proposed rule. There was discussion among members with Commissioner Pettijohn addressing the questions.

Cindy Lyons made a motion to approve the Publication for Comment of Proposed New 7 TAC §86.201, Concerning Documentary Fee, for Retail Creditors. Larry Patton seconded and the motion was adopted.

Discussion of and Possible Vote to Take Action on the Publication for Comment of Proposed New §§89.208, and 89.801 - 89.804, and Proposed Amendments to 7 TAC §§89.206 - 89.207, 89.504, 89.506 - 89.507, and 89.701, in Chapter 89, Concerning Property Tax Lenders.

Laurie Hobbs provided an overview of the proposed rule. There was discussion among members with Commissioner Pettijohn addressing the questions.

Mr. Charles Brown, Texas Property Tax Lienholders Association, submitted public testimony on the proposed amendments.

Ms. Mary B. Doggett, Propel Financial Services, LLC, submitted public testimony on the proposed amendments. She commended the OCCC staff and Commissioner for their work and efforts concerning property tax lenders. Ms. Doggett continued with additional recommendations and revisions to the proposed amendments.

Victor Leal made a motion to approve the Publication for Comment of Proposed New §§89.208, and 89.801 - 89.804, and Proposed Amendments to 7 TAC §§89.206 - 89.207, 89.504, 89.506 - 89.507, and 89.701, in Chapter 89, Concerning Property Tax Lenders. Stacy London seconded and the motion was adopted.

Department of Banking

Industry Status and Department Operations:

Kaylene Ray provided an overview and summarized the bills that were finalized during the legislative session that affected the agency. She continued by highlighting those significant to the DOB.

Commissioner Cooper commended the Governor's Office, the Agency's staff and legal department for their hard work and continued efforts during the entire legislative process. He continued with his appreciation for the committees and groups participating and supporting the Agency during this time.

He summarized the CAMEL ratings noting the total number of banks is now 287, declining primarily due to bank consolidations. Problem banks have been reduced to 26, and this continues to be a positive trend within the banking industry.

The Commissioner provided an overview of banking administrative actions and their compliance with examination priorities. He commented on the Agency's involvement with Community Bank Town Hall meetings to bring community bankers together from across the state. There will be a joint policy and research conference held in St. Louis in October to discuss the recent community bank survey. He also noted that Director Purdom had been named the Chairman of the Performance Standards Committee (PSC) by CSBS.

He further reported on the corporate activities and detailed the applications of mergers and conversions. He commented on the heavy volume of filing activity with concern at the smaller bank level. There is continued interest in converting from a national charter bank to a state bank charter.

Commissioner Cooper detailed the summary of strategic support activities and the complaints area. He noted that most complaints were due to ATM issues.

He continued with the new training process activity report of the Bank Examination Testing System (BETS). He highlighted the testing process and requirements for all new commissioned examiners.

Commissioner Cooper further reported on the Agency's staffing and employee data. Stephanie Newberg provided an update on the investigation performed by the agency and an outside private investigator relating to the misuse of prepaid funeral contract funds. The investigation resulted in a Travis County Grand Jury indictment.

The Commissioner concluded his discussion by providing an update on the legal division report.

Finance Commission Matters (Continued)

Chairman White called for an Executive Session at 11:00 a.m.

Chairman White reconvened the Open Meeting of the Finance Commission at 11:08 p.m.

Chairman White noted that no final action, decision, or vote on matters deliberated during executive session was made by the members.

Discussion of and Possible Action Regarding Anticipated and Pending Litigation Pursuant to Section 551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys regarding pending and contemplated litigation.

There was discussion with no vote on the agenda item.

The Finance Commission of Texas, The Credit Union Commission of Texas, and Texas Bankers Association v. Association of Community Organizations for Reform Now (ACORN), Valerie Norwood, Elise Shows, Maryann Robles-Valdez, Bobby Martin, Pamela Cooper, and Carlos Rivas.

Sealy Hutchings provided an overview of the recent Supreme Court decision in the homeowner's case. There was discussion among members with Mr. Hutchings addressing the questions.

There being no further business, Commission Chair Bill White adjourned the meeting of the Finance Commission at 11:25 a.m.

Bill White, Chair
Finance Commission of Texas

Doug Foster, Executive Director of the
Finance Commission of Texas

Tammy King Wooten, Executive Assistant
Finance Commission of Texas