

**MINUTES OF THE  
FINANCE COMMISSION MEETING**

Friday, August 16, 2013

The Finance Commission of Texas met Friday, August 16, 2013, in the Finance Commission Building, William F. Aldridge Hearing Room, 2601 North Lamar Boulevard, Austin, Texas.

**Members in attendance:**

Bill White, Finance Commission Chairman  
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 (arrived at 9:55 a.m.)  
Larry Patton, 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)  
Laurie Hobbs, Assistant General Counsel, (OCCC)  
Kaylene Ray, General Counsel, (DOB)  
Melissa Juarez, Assistant Attorney General, Office of the Attorney General (OAG)

Finance Commission Chair Bill White announced a quorum with eight members present and called the meeting to order at 8:30 a.m. Beginning at 9:55 a.m. there were nine members present.

**Discussion of and Possible Vote to Excuse the Absence of a Commission Member.**

Chairman White made a motion to excuse Paul Plunket and Jay Shands from the Finance Commission meeting held on August 16, 2013. The motion was seconded and adopted.

**Finance Commission Matters:**

**General Public Comment.**

No public comments were received.

**Consent Agenda.**

Susan Burton made a motion that the Finance Commission approve consent agenda items A1; C4-8; D3. Stacy London 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 that the Senate Committee on Business and Commerce had issued their interim hearing schedule requiring a written update of department activities. The Committee has requested verbal testimony be given on January 14, 2014, from the Office of Consumer Credit Commissioner on payday loans and property tax lien lending. There was also a testimony request for the Department of Savings and Mortgage Lending on reverse mortgage loans and the implementation of Texas SJR 18.

### **Audit Committee Report**

Committee Chair Lyons reported on the Audit Committee meeting held on August 15, 2013. Victor Leal commended all the agencies and staff for their cooperation and positive comments received from Garza/Gonzalez and Associates during their auditing review.

### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Department of Banking's Audit of the Corporate Area and the Annual Report 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 Corporate Activities Division and the Annual Report as prepared and presented by Garza/Gonzalez and Associates. A second was not needed and the motion carried.

### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Department of Saving and Mortgage Lending's Audit of the Thrift Supervision and Compliance Area and the Annual Report 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 Saving and Mortgage Lending's Audit of the Thrift Supervision and Compliance Area and the Annual Report as prepared and presented by Garza/Gonzalez and Associates. A second was not needed and the motion carried.

### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Office of Consumer Credit Commissioner's Audit of the Credit Access Businesses Area and the Annual Report 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 Office of Consumer Credit Commissioner's Audit of the Credit Access Businesses Area and the Annual Report as prepared and presented by Garza/Gonzalez and Associates. A second was not needed and the motion carried.

### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Department of Banking's Revisions to Administrative Memorandum 2027, the Investment Policy for Funds Under the Oversight of the Finance Commission.**

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the Department of Banking's revisions to Administrative Memorandum 2027, the Investment Policy for Funds under the oversight of the Finance Commission. A second was not needed and the motion carried.

### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' May 31, 2013, Investment Officer Reports.**

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the agencies' May 31, 2013, Investment Officer Reports. A second was not needed and the motion carried.

### **Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Third Quarter Financial Statements.**

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the agencies' Third Quarter Financial Statements. A second was not needed and the motion carried.

**Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fiscal Year 2014 Operating Budgets.**

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the agencies' Fiscal Year 2014 Operating Budgets. A second was not needed and the motion carried.

**Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Announcement of the Availability of \$250,000 in Grant Funds from the Texas Financial Education Endowment Fund.**

Committee Chair Lyons made a recommendation on behalf of the Audit Committee that the Finance Commission approve the announcement of the availability of \$250,000 in grant funds from the Texas Financial Education Endowment Fund. A second was not needed and the motion carried.

**Discussion of and Possible Vote to Take Action on the Agency Priorities for Fiscal 2014 for the Commissioners of the Texas Department of Banking, Texas Department of Savings and Mortgage Lending, and the Office of Consumer Credit Commissioner.**

***Department of Banking***

Commissioner Cooper reviewed the DOB's Agency Priorities for Fiscal Year 2014, noting the importance of remaining active at the national level on supervisory issues and within the Money Service Businesses (MSB) industry. He discussed the Conference of State Bank Supervisors (CSBS) reaccreditation process, and stated the Agency's objective and intent is to be considered the top financial regulator by their peers and counterparts.

***Department of Savings and Mortgage Lending***

Commissioner Foster summarized the SML's Agency Priorities for Fiscal Year 2014, stating the importance of implementing legislative requirements in the licensing and education related areas. He continued with an overview of the significant number of Consumer Financial Protection Bureau (CFPB) rules, effective January 2014.

He further reported on an upcoming examiner training to be held in September to modify examination procedures and processes to match federal level changes, and the initiation of measures to ensure compliance with both filing and accuracy of Mortgage Call Reports (MCR). During the renewal period companies will not be allowed to renew their licenses if they have not filed their reports. Additionally, penalties will be assessed to companies that have not filed or do not timely file their reports.

***Office of Consumer Credit Commissioner***

Commissioner Pettijohn reviewed the OCC's Agency Priorities for Fiscal Year 2014, and noted their goals remained significant as they continue to assimilate their new programs into the regulatory activities. She further reported on the improvements needed in the compliance areas of Credit Access Businesses (CAB's) and motor vehicle sales finance. The Texas Financial Education Endowment Fund program and the Legacy Modernization Information Technology project continue to be extremely important priorities for the Agency.

Victor Leal commended the Commissioner and OCC personnel for their continued work to reinforce the unique challenges within their Agency and industry stakeholders.

Cindy Lyons made a motion to approve the Agency Priorities for Fiscal Year 2014 for the Texas Department of Banking, Texas Department of Savings and Mortgage Lending, and the Office of Consumer Credit Commissioner. Will Lucas seconded and the motion adopted.

## **Department of Banking**

### **Industry Status and Department Operations:**

Commissioner Cooper 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 below 10%, 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 compliance of examination priorities noting there should be no past due examinations by the end of the fiscal year.

Commissioner Cooper discussed the Agency hosting bank examiners from the Central Bank of Azerbaijan as part of a sponsored program by the federal government. He also noted that CSBS was performing an accreditation review of the Agency and Director Kirk Purdom was the Chairman of the Performance Standards Committee (PSC). He also noted Review Examiner Kevin Wu has completed a week of testing of the new ETS-ALERT software in Arlington, Virginia.

He further reported on corporate activities and detailed the applications for mergers and conversions. There continues to be an interest in converting from a national bank charter to a state bank charter.

Commissioner Cooper detailed the summary of strategic support activities and the complaints area.

Commissioner Cooper further reported on the Agency's staffing and employee data. The Commissioner and Ms. Leilani Lim-Villegas recently participated as speakers at the Financial Literacy Summit hosted by the Federal Reserve Bank of Dallas.

Kaylene Ray concluded the discussion by providing an update on the legal division report.

### **Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New 7 TAC §26.6 Concerning Required Record for a Cremains Receptacle.**

Kaylene Ray provided an overview of the proposed rule.

Larry Patton made a motion to approve the Proposal and Publication for Comment of New 7 TAC §26.6 Concerning Required Record for a Cremains Receptacle. Susan Burton seconded and the motion was adopted.

### **Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §3.111, Concerning Confidential Information; 7 TAC §§15.9, 15.41, 15.104, 15.108, 15.122, Concerning Corporate Activities; 7 TAC §17.21, Concerning Physical Location of Trust Company Books and Records; and 7 TAC §§21.9, 21.24, 21.41, 21.61, 21.64, 21.69, 21.92, Concerning Trust Company Corporate Activities.**

Kaylene Ray provided an overview of the proposed rule.

Stacy London made a motion to approve the Proposal and Publication for Comment of Amendments to 7 TAC §3.111, Concerning Confidential Information; 7 TAC §§15.9, 15.41, 15.104, 15.108, 15.122, Concerning Corporate Activities; 7 TAC §17.21, Concerning Physical Location of Trust Company Books and Records; and 7 TAC §§21.9, 21.24, 21.41, 21.61, 21.64, 21.69, 21.92, Concerning Trust Company Corporate Activities. Cindy Lyons seconded and the motion was adopted.

### **Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §3.91 Concerning Loan Production Offices and §3.93, Concerning Deposit Production Offices.**

Kaylene Ray provided an overview of the proposed rule.

Victor Leal made a motion to approve the Proposal for Publication and Comment of Amendments to 7 TAC §3.91 Concerning Loan Production Offices and §3.93, Concerning Deposit Production Offices. Larry Patton seconded and the motion was adopted.

**Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §12.91, Concerning Other Real Estate Owned.**

Kaylene Ray provided an overview of the proposed rule.

Cindy Lyons made a motion to approve the Proposal for Publication and Comment of Amendments to 7 TAC §12.91, Concerning Other Real Estate Owned. Stacy London seconded and the motion was adopted.

**Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §19.51 Concerning Other Real Estate Owned.**

Kaylene Ray provided an overview of the proposed rule.

Will Lucas made a motion to approve the Proposal for Publication and Comment of Amendments to 7 TAC §19.51 Concerning Other Real Estate Owned. Stacy London seconded and the motion was adopted.

**Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §§12.2, 12.3, 12.10, and 12.12, Concerning the Application of Lending Limits to Credit Exposure Under Derivative Transactions and Securities Financing Transactions.**

Kaylene Ray provided an overview of the proposed rule. There was discussion among members with Commissioner Cooper addressing the questions.

Larry Patton made a motion to approve the Proposal for Publication and Comment of Amendments to 7 TAC §§12.2, 12.3, 12.10, and 12.12, Concerning the Application of Lending Limits to Credit Exposure Under Derivative Transactions and Securities Financing Transactions. Lori McCool seconded and the motion was adopted.

Chair White acknowledged Member Jonathan Newton's arrival.

**Department of Savings and Mortgage Lending**

**Industry Status and Departmental Operations:**

Commissioner Foster provided an overview of the Agency's executive summary report. He continued with the thrift activities update, which continues to show a reoccurring and positive trend.

He further reported on the charter activity of First Federal Community Bank, Paris converting to a state savings bank.

The Commissioner discussed the participation in the CSBS Safety and Soundness Examiner Certification program in June. The examiners will need to maintain their certification over the next three years by completing 63 hours of continuing education.

He commented on the upcoming 6<sup>th</sup> Annual Thrift Industry Day being held on August 23, 2013. There is a current plan with the Texas Mortgage Banker's Association for the first ever Mortgage Industry Day scheduled for November 12, 2013.

Commissioner Foster further reported on the current mortgage licensee population and growth. There have been over 650 new individual licensees approved within the last two months. The Agency received over 6,000 amendment filings which staff members must review and process. He continued with an update on license denials and the appellant process, while highlighting the new legislative change to one individual license, effective September 1, 2013.

The Commissioner provided an overview of the significant volume in consumer complaints commenting on the more than 30% increase, mostly related to loan servicing.

He continued by summarizing the enforcement activity and highlighting the Agency's hearing numbers and formal actions.

The Commissioner provided an update of the Mortgage Industry Advisory Committee meeting held on July 31, 2013.

Commissioner Foster concluded his discussion by providing an overview of the Agency's performance and efficiency measures.

Mr. Leal commended the Commissioner and the Agency for the informative and pertinent information provided to the members.

### **Office of Consumer Credit Commissioner**

#### **Industry Status and Departmental Operations:**

Commissioner Pettijohn opened with an historical overview of the constitutional amendment passed in 1960, authorizing the legislature to license and regulate lenders while permitting the legislature to set interest rates above 10% on specific loan types. This month the Agency celebrated its 50<sup>th</sup> anniversary.

She summarized 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 CABs, motor vehicle sales finance, and property tax lenders throughout the remaining fiscal year. There has been a significant and more than ten times increase in examinations over the prior year in the CAB area.

The Commissioner continued with an update on the motor vehicle sales finance report noting a continued increase of 60-70 licensed dealerships per month. There was discussion among members with Commissioner Pettijohn addressing the questions.

She provided an overview of the Agency's complaints with the largest category being reported within the motor vehicle sales finance area.

Commissioner Pettijohn summarized the licensing report with notable trends and significant improvement within the Agency's processing time for license applications.

The Commissioner continued by highlighting the CAB report, noting additional filings by industry and compliance with quarterly reporting deadlines. She detailed the additional notifications if a CAB missed a deadline date and the assessment of penalties after the expiration of the grace period. There was discussion among members with Commissioner Pettijohn addressing the questions.

She provided an overview and progress report of the Agency's information technology project within the licensing and registration self-service web-based portal. The contract for the new web portal includes data migration and a modern reporting system.

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

She further reported on the Agency's performance and efficiency measures giving updated and substantial information.

The Commissioner concluded her discussion by providing an overview of the legal report. She highlighted the Agency's advisory bulletin being published, related to the implementation of HB 2459; limiting the fees that may be charged for certain motor vehicle debt cancellation agreements.

Victor Leal commended the OCCC office personnel for their efforts continuing to work with the public and other stakeholder groups.

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

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

Mr. David Bell with Texas Consumer Finance Association, and Mr. Phillip Holt with the National Installment Lenders Association, were witnesses in favor of the proposed amendments to the rule but neither gave public testimony.

Mr. Carl Galant with Texas Consumer Finance Association, submitted public testimony on the proposed amendments after voting approval to testify from the Finance Commission.

Ms. Ann Baddour with Texas Appleseed, submitted public testimony on the proposed amendments after voting approval to testify from the Finance Commission.

Jonathan Newton made a motion to approve the Adoption of Amendments to 7 TAC §83.503, Concerning Administrative Fee, and §83.605, Concerning Limitation on Acquisition Charge, for Regulated Lenders. Susan Burton seconded and the motion was adopted.

Victor Leal opposed the motion.

**Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §§89.206, 89.504, 89.506 - 89.507, and 89.701, and New §89.208, in Chapter 89, Concerning Property Tax Lenders.**

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

Stacy London made a motion to approve the Adoption of Amendments to 7 TAC §§89.206, 89.504, 89.506 - 89.507, and 89.701, and New §89.208, in Chapter 89, Concerning Property Tax Lenders.

Will Lucas seconded and the motion was adopted.

**Discussion of and Possible Vote to Take Action on the Publication for Comment of Proposed Amendments to 7 TAC, Part 1, Chapter 2, §§2.101 - 2.105, and Proposed New §2.201 - §2.202, Concerning Residential Mortgage Loan Originators Applying for Licensure with the OCCC Under the SAFE Act.**

Laurie Hobbs provided an overview of the proposed rule.

Victor Leal made a motion to approve the Publication for Comment of Proposed Amendments to 7 TAC, Part 1, Chapter 2, §§2.101 - 2.105, and Proposed New §2.201 - §2.202, Concerning Residential Mortgage Loan Originators Applying for Licensure with the OCCC Under the SAFE Act. Lori McCool seconded and the motion was adopted.

**Discussion of and Possible Vote to Take Action on the Publication for Comment of Proposed New 7 TAC §83.606, Concerning Maximum Term and Maximum Installment Account Handling 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. Carl Galant with Texas Consumer Finance Association, and Mr. Charles Johnson with Charles Johnson Finance, were witnesses in favor of the proposed amendments to the rule but neither gave public testimony.

Stacy London made a motion to approve the Publication for Comment of Proposed New 7 TAC §83.606, Concerning Maximum Term and Maximum Installment Account Handling Charge, for Regulated Lenders. Cindy Lyons seconded and the motion was adopted.

**Finance Commission Matters (Continued)**

Chairman White congratulated Commissioner Pettijohn and the OCCC on their 50<sup>th</sup> anniversary and commented that their representation and decision making processes have been excellent.

The Chairman continued with commending the Audit Committee members for their outstanding work and diligent efforts.

Chairman White called for an Executive Session at 11:18 a.m.

Chairman White reconvened the Open Meeting of the Finance Commission at 12:08 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.

There being no further business, Commission Chairman Bill White adjourned the meeting of the Finance Commission at 12:09 p.m.

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Bill White, Chairman  
Finance Commission of Texas

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Doug Foster, Executive Director of the  
Finance Commission of Texas

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Tammy King Wooten, Executive Assistant  
Finance Commission of Texas