

**MINUTES OF THE
FINANCE COMMISSION MEETING**
Friday, February 20, 2015
9:00 a.m.

The Finance Commission of Texas met Friday, February 20, 2015, in the Finance Commission Building, William F. Aldridge Hearing Room, 2601 North Lamar Boulevard, Austin, Texas.

Finance Commission Members in attendance:

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

Others in attendance:

Charles G. Cooper, Executive Director of the Texas Finance Commission, and
Commissioner, Texas Department of Banking (TXDOB)
Caroline C. Jones, Commissioner, Texas Department of Savings and Mortgage Lending (TDSML)
Leslie Pettijohn, Commissioner, Office of Consumer Credit Commissioner (OCCC)
Jim Crowson, Assistant Attorney General, Office of the Attorney General

Finance Commission Chairman Bill White announced a quorum with eleven members present and called the meeting to order at 9:02 a.m.

FINANCE COMMISSION MATTERS

General Public Comment

Consent Agenda

Jay Shands made a motion to approve the consent agenda. Susan Burton seconded and the motion passed.

Finance Commission Operations

Charles Cooper, Executive Director, gave an overview of the first hearing of the House Investments and Finance Committee. The hearing was a briefing from each agency and general questions were asked.

Each agency will be reviewing their policy regarding contracts due to Governor Abbott's letter and numerous bill proposals. The Agencies will report back to the members at the next meeting on this review. Commissioner Cooper reminded Finance Commission members to take the statutorily required contract training stating it is now available 24/7 online.

Commissioner Cooper asked Catherine Reyer, General Counsel, to discuss future Finance Commission minutes. Ms. Reyer stated that in the future we would like to post an audio file of the meetings on the website and the typed minutes would only consist of the agenda item and the vote taken on that item. Paul Plunket asked about indexing the audio files. Stephanie Newberg, Deputy Commissioner, explained that the typed minutes will have the time next to each item that corresponds to the location on the audio file. There were no objections.

Audit Committee Report

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' November 30, 2014, Investment Officer Reports

Coming upon recommendation from the Audit Committee, no second was needed and the motion passed.

Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2015 First Quarter Financial Statements

Coming upon recommendation from the Audit Committee, no second was needed and the motion passed.

Discussion of and Possible Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties of Persons Holding the Position of Agency Commissioner Positions, and Other Staff

There was no discussion or vote on this agenda item.

Discussion of and Possible Action Regarding Facility Planning and Real Property Matters Pursuant to §551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property

There was no discussion or vote on this agenda item.

Discussion and Consultation with Attorney and Possible Action Pursuant to §551.071, Texas Government Code, for the purpose of seeking the advice or attorney-client privileged communications from our attorneys, including matters of pending and contemplated litigation

There was no discussion or vote on this agenda item.

DEPARTMENT OF BANKING

Industry Status and Departmental Operations: a) Items of Interest from the Commissioner's Office; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Special Audits Division Activities; e) Administrative and Fiscal Division Activities; f) Strategic Support Division Activities; g) Legal Division Activities; h) Legislative Activities; and i) General Items of Interest

Charles Cooper, Commissioner of Banking, gave an update on the Department of Banking operations beginning with legislative activity. He stated that Senator Eltife is sponsoring five bills that affect the Department's operations and on the House side, Representative Parker is evaluating these bills. At the federal level, we are watching a bill that will allow states to use the NMLS System created by the SAFE Act to perform criminal background checks. This bill would update the Government Code to the satisfaction of the FBI.

The Agency is down to 267 banks through consolidation. Of these banks, 3.7% are rated 3, 4 or 5. We are monitoring the effects of oil and gas prices on the banking industry. We are not as concerned with production loans as we are with service company related credits.

Commissioner Cooper mentioned his participation on an outreach panel for the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA). These outreach meetings are held to receive feedback from the industry regarding regulations under this Act.

Commissioner Cooper continued his update stating that corporate activities are normal, charter and merger activities are down due to some protests, and special audits is slightly behind in examinations due to coordinating with MTRA and CFPB. These late exams will be done jointly.

Catherine Reyer, General Counsel, gave the legal update. She stated a cease and desist order was issued to Escrow Hill Limited of New Zealand and a prohibition and removal order was issued against James R. Parker, Chairman of the Board and former president and CEO of The Elkhart State Bank. He was also a director of the holding company of that bank. He is prohibited from any further banking activity.

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §3.92, Concerning User Safety at Unmanned Teller Machines

Catherine Reyer, General Counsel, stated that we received a comment from a trade group and have made non-substantive changes to the rule based on the comment.

Jay Shands made a motion to approve the amendments to the rule. Jonathan Newton seconded and the motion passed.

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

Brenna McGee, Assistant General Counsel, provided explanation of the amendment to this rule stating that a foreign bank must comply with the Texas Finance Code Chapters 201 and 204. The one exception to this rule is if a federal branch is regulated by the OCC, then the branch will not be subject to DOB examination or fees.

Cindy Lyons made a motion to publish this amendment for comment. Susan Burton seconded and the motion passed.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New 7 TAC §3.23 Concerning Exercise of Trust Powers

Catherine Reyer, General Counsel, explained that this rule requires financial institutions to notify the DOB of their intent to exercise trust powers.

Lori McCool made a motion to publish this rule for comment. Larry Patton seconded and the motion passed.

Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New 7 TAC §33.52 Concerning How to Provide Information to Customers about Filing a Complaint

Catherine Reyer, General Counsel, explained that this rule requires an authorized delegate of a money service business to notify each of its customers how to file a complaint.

Stacy London made a motion to publish this rule for comment. Cindy Lyons seconded and the motion passed.

Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Antioch St. Johns Cemetery Co. v. The Texas Department of Banking Commissioner, Cause No. D-1-GN-14-000367, In the 261st District Court of Travis County, Texas.

Department of Banking v. Greg Abbott, Attorney General of Texas; Cause No. D-1-GV-11-001906, In the 53rd District Court of Travis County, Texas.

State of Texas v. Myrtlewood Memorial Services d/b/a Harlingen-Combes Memorial Cemetery, Cause No. 2013-DCL-2248-B, in the 138th Judicial District Court of Cameron County, Texas.

Chairman Bill White called for a recess at 10:05 a.m.

Chairman White reconvened the meeting at 10:27 a.m.

TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; b) State Savings Bank Charter and Application Activity; c) Recap of Problem Institutions/Enforcement Issues; and d) Other Items

Caroline Jones, Commissioner, Texas Department of Savings and Mortgage Lending, reported that they are monitoring the oil and gas effect on thrifts and iterated the same concerns of Commissioner Cooper regarding peripheral loans.

Commissioner Jones continued with her update and stated that the new assessment schedules become effective March 1. A bank that has not paid assessments for six quarters pays 75% of the OCC annual assessment; beyond the sixth quarter, they pay 50%.

Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; c) Consumer Complaints/Legal Activity; d) Mortgage Industry Advisory Committee Minutes; and e) Other Items

Commissioner Jones reported that licensing reinstatements run from January 1 through February 28. There have been over 12,000 amended filings and over 1,100 new license requests. TDSML has completed 103 exams covering 1,387 licensees. As for complaints, 61% of complaints relate to loan servicing. Complaints regarding reverse mortgages are very low. Fifty-five hearing notices have been issued on mortgage call reports.

Fiscal/Operations Activity: a) Funding Status/Audits/Financial Reporting; b) Staffing; c) Other Items; and d) Legislative Activity

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §67.17, Concerning User Safety at Unmanned Teller Machines

Ernest Garcia, General Counsel, stated that this rule and the below rule are essentially identical to the DOB rule.

Victor Leal made a motion to adopt amendments to this rule. Susan Burton seconded and the motion passed.

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §77.115, Concerning User Safety at Unmanned Teller Machines

Jay Shands made a motion to adopt amendments to this rule. Lori McCool seconded and the motion passed.

Discussion of and Possible Action Regarding Anticipated and Pending Litigation

Khosrow Khani v. Texas SML; Cause No. D-1-GN-13-000207, 200th Judicial District Court of Travis County, Texas

Sammy Trantham v. Texas Department of Savings and Mortgage Lending and Caroline C. Jones; Cause No. D-1-GN-14-004497, 419th Judicial District Court of Travis County, Texas

Commissioner Jones stated that as of January 1, 2015, these two lawsuits have been dismissed.

The Mortgage Industry Advisory Committee minutes are included in the Finance Commission packet. No rules were proposed at that meeting. Most of the discussion surrounded how to disseminate CFPB's disclosures under the TILA/RESPA.

Thrift examinations are down; most have moved from a 12-month cycle to 18 months due to the stabilization of the industry. Mortgage examinations are up due to examinations of two large mortgage companies in the first quarter.

OFFICE OF CONSUMER CREDIT COMMISSIONER

Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; e) Legal Division Activities; and f) Legislative Activities

Leslie Pettijohn, Commissioner, reported that FY15 as compared to FY14 examination activity is stable with normal seasonal variations. Motor Vehicle Sales Finance are 80% compliant, the pawn area is 100% compliant and Credit Access Businesses are at 85% compliant.

Complaints are up 16% over FY14. The increase is attributed to the areas of motor vehicle sales finance, regulated lenders, and credit card surcharge.

The licensing renewal cycle ended on December 31. A 5% discount was given to businesses to encourage the use of the online portal and about 70% took advantage of this discount. Effective February 1, motor vehicle applications were required to be submitted online.

Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC §§89.102, 89.207, 89.504, 89.601, and 89.802, Concerning Property Tax Lenders

Matt Nance, Assistant General Counsel, reviewed the proposed rule as published in December 2014 and the stakeholder comments related to the rule proposal. The Finance Commission discussed the rule proposal and various possible amendments to the proposal. After a lengthy and thoughtful discussion, a majority of the members agreed that discount points should be prohibited for property tax loans.

Victor Leal made a motion to amend the proposed rule to prohibit discount points in connection with a property tax loan. Will Lucas seconded, Jonathan Newton opposed and the motion passed (10-1).

Chairman Bill White called for an Executive session at 11:43 a.m.

Chairman White called the meeting back to order at 12:26 p.m.

Bill White introduced Ed Robertson, the Finance Commission's policy analyst, from the Governor's office.

There being no further business, Chairman Bill White adjourned the meeting of the Finance Commission at 12:27 p.m.

William J. White, Chairman
Finance Commission of Texas

Charles G. Cooper, Executive Director
Finance Commission of Texas

Brenda J. Medina, Executive Assistant
Finance Commission of Texas