

A.

Finance Commission

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FINANCE COMMISSION OF TEXAS

MEETING DATEFebruary 14, 2020

MEETING LOCATIONFinance Commission Building
William F. Aldridge Hearing Room
2601 North Lamar Boulevard
Austin, Texas 78705

CONTACT INFORMATION.....Phone: (512) 936-6222
Website: www.fc.texas.gov

FUTURE MEETING DATESApril 17, 2020
June 19, 2020
August 21, 2020
October 16, 2020
December 11, 2020

*** The State of Texas fiscal year begins September 1 and ends August 31. The dates noted meet the minimum statutory requirement of six meetings per calendar year. Fin. Code §11.106*

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FINANCE COMMISSION AGENDA

Friday, February 14, 2020
9:00 a.m.
or Upon Adjournment of the Audit Committee Meeting
Finance Commission Building
William F. Aldridge Hearing Room
2601 N. Lamar Blvd.
Austin, Texas 78705

Section A.3 will take up agenda items A1, C3 – C4 and D2 with NO DISCUSSION as notated in bold and italicized

Public comment on any agenda item or issue under the jurisdiction of the Finance Commission agencies is allowed unless the comment is in reference to a rule proposal for which the public comment period has ended. However, upon majority vote of the Commission, public comment may be allowed related to final rule adoption.

A. FINANCE COMMISSION MATTERS

- 1. Review and Approval of the Minutes of the December 13, 2019 Finance Commission Meeting***
2. General Public Comment
3. Consent Agenda
4. Finance Commission Operations
5. Presentation from the Texas Treasury Safekeeping Trust Company
6. Special Committee to Recommend Internal Auditor Report
 - A. Review and Approval of the Minutes of the January 30, 2020 Special Committee to Recommend Internal Auditor Meeting
 - B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Selection of an Internal Auditor for the Finance Commission Agencies for Fiscal Year 2020
7. Audit Committee Report
 - A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' November 30, 2019 Investment Officer Reports
 1. Department of Savings and Mortgage Lending
 2. Office of Consumer Credit Commissioner
 3. Texas Department of Banking
 - B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2020 First Quarter Financial Statements
 1. Department of Savings and Mortgage Lending
 2. Office of Consumer Credit Commissioner
 3. Texas Department of Banking

- C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Final Selection of Organizations to Receive Grant Funds in an Aggregate Amount Not to Exceed \$300,000 From the Texas Financial Education Endowment Fund
- 8. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties and Compensation of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties and Compensation of Persons Holding the Position of Agency Commissioner Positions, and Other Staff
- 9. Discussion of and Possible Vote to Take 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
- 10. Discussion of and Consultation with Attorney and Possible Vote to Take 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 Related to the Potential Financial Exposure of the Finance Commission Agencies and Their Officers and the Finance Commission and its Officers and Including Matters of Pending and Contemplated Litigation
- 11. Discussion of and Consultation on Security Audit, Possible Issue Related to Confidential or Sensitive Information, Security Breach Audit and Assessment, or Security Assessments or Deployment Related to Information Resources Technology as Authorized by Tex. Govt. Code Secs. 551.076 and 551.089

B. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

- 1. Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; and b) State Savings Bank Charter and Application Activity
- 2. Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; and c) Consumer Complaints
- 3. Fiscal and Departmental Operations: a) Funding Status/Audits/Financial Reporting; and b) Staffing
- 4. Legal Activity: a) Enforcement; b) Gift Reporting; and c) Legislative Activities
- 5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

- 1. 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
- 2. Discussion of and Possible Vote to Take Action in Response to Attorney General Opinion KP-0277 Regarding the Authority of a Credit Services Organization Under Chapter 393 of the Texas Finance Code
- 3. *Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, Resulting from Rule Review*

4. ***Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors, Resulting from Rule Review***
5. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, Resulting from Rule Review
6. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to §86.201 in 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors, Resulting from Rule Review
7. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation
Ernest Polk v. Texas Office of Consumer Credit Commissioner; Cause No. 2018-04375, in the 281st Judicial District Court of Harris County, Texas
State of Texas v. Cash Auto Sales, Inc. f/k/a Larry Lake d/b/a Cash Auto Sales and VIP Finance of Texas, Inc. f/k/a Travis Lake d/b/a VIP Finance; Case No. 19-0999, in the Supreme Court of Texas

D. TEXAS DEPARTMENT OF BANKING

1. Industry Status and Departmental Operations: a) Current Issues Affecting Department's Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Non-Depository Supervision Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities
2. ***Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §33.54 Concerning Exemption for Registered Securities Dealers and Agents***
3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §§25.7, 25.10, 25.11, 25.13, 25.17, 25.19, 25.24, 25.25, and 25.31 Concerning Contract Forms and Regulation of Licensees, Resulting from Rule Review
4. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

NOTE: The Finance Commission may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

Meeting Accessibility: Under the Americans with Disabilities Act, the Finance Commission will accommodate special needs. Those requesting auxiliary aids or services should notify the Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 936-6222, as far in advance of the meeting as possible.

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**MINUTES OF THE
FINANCE COMMISSION MEETING
Friday, December 13, 2019**

The Finance Commission of Texas convened at 8:35 a.m. on December 13, 2019 with the following members present:

Finance Commission Members in Attendance:

Paul W. Plunket, Chairman
Phillip Holt, Vice Chair
Hector Cerna
Molly Curl
Stacy G. London

Will Lucas
George “Cliff” McCauley
Lori B. McCool
Vince Puente

There was a quorum with nine members present.

Chairman Paul Plunket made a motion to excuse Bob Borochoff and Robin Armstrong from the Finance Commission meeting held on December 13, 2019. There were no objections and the motion passed unanimously. (:28 on audio file).

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. Finance Commission Matters		
1. Review and Approval of the Minutes of the October 18, 2019 Finance Commission Meeting	On Consent Agenda – Item A1	1:34 start of discussion
2. General Public Comment	No Action Required.	1:08 start of discussion
3. Consent Agenda – Item A1	Phillip Holt made a motion to Approve Consent Agenda item A1. Stacy London seconded and the motion passed.	1:34 start of discussion 1:58 vote
4. Finance Commission Operations	No Action Required.	2:27 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
5. Audit Committee Report		
A. Discussion and Possible Vote to Recommend that the Finance Commission Take Action on the Selection of an Internal Auditor for the Finance Commission Agencies for Fiscal Year 2020	Deferred to after Executive Session – no vote taken.	3:44 start of discussion
6. Discussion of and Possible Vote to Take Action on the Adoption of New Rules and Amendments in 7 TAC, Chapter 5, Concerning Administration of Finance Agencies, and a New Rule, Amendments, and Repeals in 7 TAC, Chapter 9 Concerning Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings	Stacy London made a motion to Approve the Adoption of New Rules and Amendments in 7 TAC, Chapter 5, Concerning Administration of Finance Agencies, and a New Rule, Amendments, and Repeals in 7 TAC, Chapter 9 Concerning Rules of Procedure for Contested Case Hearings, Appeals, and Rulemakings. Will Lucas seconded and the motion passed.	4:04 start of discussion 5:52 Vote
7. Discussion of and Possible Vote to Take Action on the Re-Adoption after Rule Review of 7 TAC, Chapter 155, Payoff Statements	Vince Puente made a motion to Approve the Re-Adoption after Rule Review of 7 TAC, Chapter 155, Payoff Statements. Lori McCool seconded and the motion passed.	6:30 start of discussion 10:28 Vote
8. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to the Payoff Statement Form found at 7 TAC, Chapter 155 Payoff Statements, §155.2(c)(6)	Stacy London made a motion to Approve the Proposal and Publication for Comment of Amendments to the Payoff Statement Form found at 7 TAC, Chapter 155 Payoff Statements, §155.2(c)(6). Lori McCool seconded and the motion passed.	10:51 start of discussion 16:13 Vote
9. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties and Compensation of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties and Compensation of Persons Holding the Position of Agency Commissioner Positions, and Other Staff	Discussion only – no vote taken.	16:49 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
10. Discussion of and Possible Vote to Take 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	Deferred to Executive Session – no vote taken.	n/a
11. Discussion and Consultation with Attorney and Possible Vote to Take 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 Related to the Potential Financial Exposure of the Finance Commission Agencies and Their Officers and the Finance Commission and its Officers and Including Matters of Pending and Contemplated Litigation	Deferred to Executive Session – no vote taken.	n/a
12. Discussion of and Consultation on Security Audit, Possible Issue Related to Confidential or Sensitive Information, Security Breach Audit and Assessment, or Security Assessments or Deployment Related to Information Resources Technology as Authorized by Tex. Govt. Code Secs. 551.076 and 551.089	Deferred to Executive Session – no vote taken.	n/a
B. Office of Consumer Credit Commissioner		
1. 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	No Action Required.	22:35 start of discussion
2. Discussion of and Possible Vote to Take Action on Request for an Attorney General Opinion RQ-0300-KP, Regarding the Authority of a Credit Services Organization Under Chapter 393 of the Texas Finance Code	Deferred to Executive Session – no vote taken.	n/a

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>3. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation</p> <p><i>Ernest Polk v. Texas Office of Consumer Credit Commissioner; Cause No. 2018-04375, in the 281st Judicial District Court of Harris County, Texas</i></p> <p><i>State of Texas v. Cash Auto Sales, Inc. f/k/a Larry Lake d/b/a Cash Auto Sales and VIP Finance of Texas, Inc. f/k/a Travis Lake d/b/a VIP Finance; Cause No. 05-18-00198-CV, in the Court of Appeals for the Fifth Judicial District, Dallas, Texas</i></p>	Deferred to Executive Session – no vote taken.	n/a

Chairman Paul Plunket called for a break at 9:49 a.m. (1:13:28 on the audio file). The open meeting resumed at 10:04 a.m. (1:13:45 on the audio file).

C. Texas Department of Banking		
<p>1. Industry Status and Departmental Operations: a) Current Issues Affecting Department's Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Non-Depository Supervision Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities</p>	No Action Required.	1:13:51 start of discussion
<p>2. Discussion of and Possible Vote to Take Action on the Reappointment of Rebecca Ann Motley as the Consumer Representative and the Reappointment of Amy Biggs as the Insurance Industry Representative to the Guaranty Fund Advisory Council for the Period January 1, 2020 to December 31, 2021</p>	<p>Cliff McCauley made a motion to Approve the Reappointment of Rebecca Ann Motley as the Consumer Representative and the Reappointment of Amy Biggs as the Insurance Industry Representative to the Guaranty Fund Advisory Council for the Period January 1, 2020 to December 31, 2021. Phillip Holt seconded and the motion passed.</p>	<p>1:42:53 start of discussion</p> <p>1:44:20 Vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
3. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §3.24 Concerning Notice of Cybersecurity Incident (State Banks)	Public Comment was made by Chris Furlow on behalf of the Texas Bankers Association (TBA). Stacy London made a motion to Approve the Adoption of New 7 TAC §3.24 Concerning Notice of Cybersecurity Incident (State Banks). Phillip Holt seconded and there was further discussion. Stacy London made a motion to amend the primary motion (primary amendment) with the language that the Finance Commission Approve the Adoption of New 7 TAC §3.24 Concerning Notice of Cybersecurity Incident (State Banks) based on the new documentation handed out by Attorney Everette Jobe. Molly Curl seconded and the amended motion passed.	1:45:30 start of discussion 2:20:53 Vote
4. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §17.5 Concerning Notice of Cybersecurity Incident (State Trust Companies)	Stacy London made a motion to Approve the Adoption of New 7 TAC §17.5 Concerning Notice of Cybersecurity Incident (State Trust Companies). Phillip Holt seconded and there was further discussion. Cliff McCauley made a motion to amend the primary motion (primary amendment) with the language that the Finance Commission Approve the Adoption of New 7 TAC §17.5 Concerning Notice of Cybersecurity Incident (State Trust Companies) based on the new documentation handed out by Attorney Everette Jobe. Stacy London seconded and the amended motion passed.	2:22:44 start of discussion 2:22:46 Vote
5. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §33.30 Concerning Notice of Cybersecurity Incident (Money Services Businesses)	Molly Curl made a motion to Approve the Adoption of New 7 TAC §33.3 Concerning Notice of Cybersecurity Incident (Money Services Businesses). Phillip Holt seconded and there was further discussion. Stacy London made a motion to amend the primary motion (primary amendment) with the language that the Finance Commission Approve the Adoption of New 7 TAC §33.30 Concerning Notice of Cybersecurity Incident (Money Services Businesses) based on the new documentation handed out by Attorney Everette Jobe. Molly Curl seconded and the amended motion passed.	2:23:59 start of discussion 2:24:05 Vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
6. Consent Agenda – Item B6	Phillip Holt made a motion to Approve Consent Agenda item B6. Stacy London seconded and the motion passed.	1:34 start of discussion 1:58 vote
7. Consent Agenda – Item B7	Phillip Holt made a motion to Approve Consent Agenda item B7. Stacy London seconded and the motion passed.	1:34 start of discussion 1:58 vote
8. Consent Agenda – Item B8	Phillip Holt made a motion to Approve Consent Agenda item B8. Stacy London seconded and the motion passed.	1:34 start of discussion 1:58 vote
9. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New 7 TAC §33.54 Concerning Exemption for Registered Securities Dealers and Agents	Phillip Holt made a motion to Approve the Proposal and Publication for Comment of New 7 TAC §33.54 Concerning Exemption for Registered Securities Dealers and Agents. Molly Curl seconded and the motion passed.	2:25:09 start of discussion 2:27:49 Vote
10. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation <i>E. Mex. Financial Services, Inc. v. Charles G. Cooper, Texas Banking Commissioner; Cause No. D-1-GN-19-003237, in the 200th District Court of Travis County, Texas</i>	No Action Required.	n/a

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
D. Department of Savings and Mortgage Lending		
1. Industry Status and Departmental Operations – State Savings Bank Activity: a) Industry Status; and b) State Savings Bank Charter and Application Activity	No Action Required.	2:28:22 start of discussion
2. Industry Status and Departmental Operations – Mortgage Lending Activity: a) Residential Mortgage Loan Originators; b) Mortgage Examination; and c) Consumer Complaints	No Action Required.	2:31:35 start of discussion
3. Fiscal and Departmental Operations: a) Funding Status/Audits/Financial Reporting; and b) Staffing	No Action Required.	2:39:01 start of discussion
4. Legal Activity: a) Enforcement; b) Gift Reporting; and c) Legislative Activities	No Action Required.	2:40:27 start of discussion
5. Consent Agenda – Item D5	Phillip Holt made a motion to Approve Consent Agenda item D5. Stacy London seconded and the motion passed.	1:34 start of discussion 1:58 vote
6. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Action Required.	n/a

Chairman Paul Plunket called for an Executive Session at 11:34 a.m. (2:45:42 on the audio file). The open meeting resumed at 12:09 p.m. (2:46:04 on the audio file).

There being no further business, Chairman Paul Plunket adjourned the meeting of the Finance Commission at 12:10 p.m. (2:46:40 on the audio file).

Paul W. Plunket, Chairman
Finance Commission of Texas

Charles G. Cooper, Executive Director
Finance Commission of Texas

Brenda Medina, Executive Assistant
Finance Commission of Texas

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Finance Commission of Texas

Consent Agenda

February 14, 2020

A. Finance Commission Matters

1. Review and Approval of the Minutes of the December 13, 2019 Finance Commission Meeting

C. Office of Consumer Credit Commissioner

3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, Resulting from Rule Review
4. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors, Resulting from Rule Review

D. Texas Department of Banking

2. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §33.54 Concerning Exemption for Registered Securities Dealers and Agents

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Finance Commission Agencies Tentative Strategic Planning Timeline*

Date	Action
January – April 2020	<ul style="list-style-type: none"> Review Goals and Performance Measures Prepare Workforce Analysis Customer Service Survey Survey of Employee Engagement Results
January – February 2020	Stakeholder meetings
March – April 2020	Drafting
Early May 2020	Provide drafts to Strategic Planning Committee and receive feedback
Early May 2020	Make edits and revisions as necessary
End of May 2020	Provide revised strategic plan drafts to all Finance Commission members
June 2020	<ul style="list-style-type: none"> Present strategic plans to Finance Commission for formal action Submission of final plan to state leadership

**Dates and actions are subject to change upon issuance of the instructions for preparing and submitting agency strategic plans by the Legislative Budget Board.*

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**MINUTES OF THE
SPECIAL COMMITTEE TO RECOMMEND INTERNAL AUDITOR MEETING
Thursday, January 30, 2020**

The Special Committee to Recommend Internal Auditor of the Finance Commission of Texas convened at 8:00 a.m. on January 30, 2020 with the following members present:

Special Committee to Recommend Internal Auditor Members in Attendance:

Phillip Holt, Chairman
George "Cliff" McCauley
Will Lucas

Chairman Holt announced there was a quorum of the Special Committee to Recommend Internal Auditor of the Finance Commission of Texas with three members present. *(:08 on audio file)*.

Chairman Holt called for an Executive Session at 8:01 a.m. *(:42 on the audio file)*. The open meeting resumed at 8:35 a.m. *(1:30 on the audio file)*.

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. Procurement Training for Special Committee to Recommend Internal Auditor	No Action Required.	1:43 start of discussion

Chairman Holt called for a break at 9:23 a.m. *(49:05 on the audio file)*. The open meeting resumed at 10:00 a.m. *(49:35 on the audio file)*.

B. Interview of Selected Respondents for the Internal Auditor Contract	No Action Required.	49:48 start of interview with Garza/Gonzalez & Associates
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After the interview with Garza/Gonzalez & Associates concluded *(1:23:52 on the audio file)*, Chairman Holt called for a break at 10:36 a.m. *(1:25:25 on the audio file)*.

The open meeting resumed at 11:13 a.m. *(1:25:49 on the audio file)* and the interview with Weaver and Tidwell, LLP started at 11:15 a.m. *(1:26:08 on the audio file)*.

After the interview with Weaver and Tidwell, LLP concluded *(2:03:18 on the audio file)*, Chairman Holt called for a break at 11:51 a.m. *(2:03:50 on the audio file)*.

The open meeting resumed at 1:25 p.m. *(2:04:09 on the audio file)* and the interview with DK Partners started at 1:30 p.m. *(2:04:41 on the audio file)*.

After the interview with DK Partners concluded *(2:24:22 on the audio file)*, discussion began on internal auditor matters *(2:24:55 on the audio file)*. Chairman Holt called for a break at 2:05 p.m. *(2:42:56 on the audio file)*.

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
C. Discussion and Possible Vote to Recommend that the Finance Commission Take Action on the Selection of an Internal Auditor for the Finance Commission Agencies for Fiscal Year 2020	Will Lucas made a motion to recommend that the Finance Commission Approve Garza/Gonzalez & Associates as the Internal Auditor for the Finance Commission Agencies for Fiscal Year 2020. Cliff McCauley seconded and the motion passed.	2:24:55 start of discussion 2:44:09 Vote

The open meeting resumed at 2:20 p.m. *(2:43:08 on the audio file)* and a vote was made *(2:44:09 on the audio file)*.

There being no further business of the Special Committee to Recommend Internal Auditor of the Finance Commission of Texas, Chairman Holt adjourned the meeting at 2:23 p.m. *(2:44:50 on the audio file)*.

Phillip Holt, Chairman, Special Committee to Recommend Internal Auditor
Finance Commission of Texas

Charles G. Cooper, Executive Director
Finance Commission of Texas

Brenda Medina, Executive Assistant
Finance Commission of Texas

B.

**Department of Savings and
Mortgage Lending**

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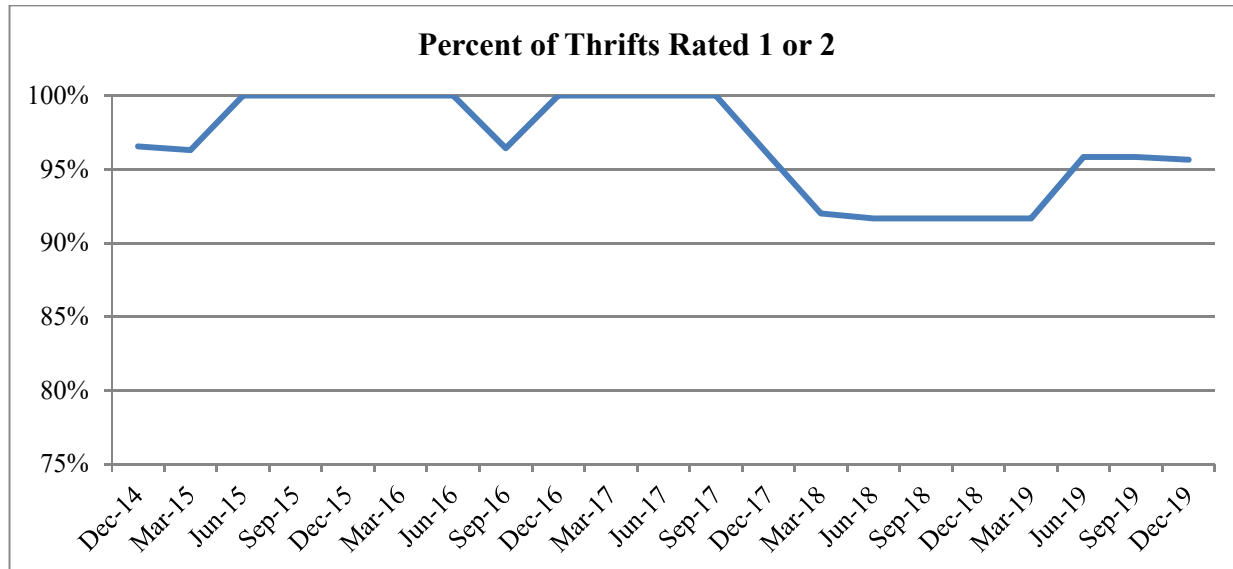
B. Texas Department of Savings and Mortgage Lending

1. Industry Status and Departmental Operations – State Savings Bank Activity:

a. Industry Status

The financial data on Texas state thrifts had not been finalized by the FDIC prior to the preparation of this report. A report on the 4th quarter of calendar year 2019 will be presented at the next meeting of the Finance Commission.

As of December 31, 2019, there are 23 state savings banks, all but one are rated a Composite 1 or 2. There is one outstanding formal enforcement action and three informal enforcement actions.



The Department continues to monitor various local, state, and national data sources for risks facing the industry and individual savings banks. Economic conditions, cybersecurity, interest rate risk, lending concentrations, and liquidity risk all continue to be areas of focus.

b. Savings Bank Charter and Merger Activity

On September 25, 2019, an application to acquire Heritage Bank, Pearland, was received from Third Coast Bank, ssb. The acquisition was effective January 1, 2020.

On September 18, 2019, an application for change of control of Shelby Bancshares, Inc., and indirectly, Shelby Savings Bank, SSB, Center, was received from the Campbell family group and Rick L. Campbell, individually. The change of control was effective December 20, 2019.

On January 2, 2020, an application for purchase and assumption of four branch office locations and one loan production office of Simmons Bank, Pine Bluff, Arkansas, was received from Spirit of Texas Bank, SSB. The application is pending an effective date.

The Department continues to receive and process various other applications.

Departmental Operations - Thrift

Commissioner Jones and Deputy Commissioner Trotti met with the TBA Future of Banking Task Force on January 14, 2020, to discuss FinTech issues and the banking sector.

The Thrift examiners held in-house training the week of January 13, 2020.

Department staff continue to serve on several committees on the national level. Some of these committees and staff include American Council of State Savings Supervisors (ACSSS) – Commissioner Jones; CSBS State Examiner Review Team – Deputy Commissioner Trotti; CSBS Risk Identification Team – Deputy Commissioner Trotti; Financial Services – Information Sharing and Analysis Center (FS-ISAC) – David Blackmon, Supervisory Examiner.

2. Industry Status and Departmental Operations – Mortgage Lending Activity:

a. Residential Mortgage Loan Originators

Current Licensing Population:

License Type As of 01/31/2020	Approved		
	Entity (MU1)	Branch (MU3)	MLO (MU4)
<i>Auxiliary</i>	3	n/a	
<i>CUSO</i>	4	2	
<i>FSC</i>	1	n/a	
<i>Independent Contractor</i>	165	n/a	
<i>Mortgage Company</i>	1,462	721	
<i>Mortgage Banker</i>	404	3,001	
<i>Mortgage Servicer</i>	192	n/a	
Totals	2,231	3,724	26,649

The number of licensed entities and individuals is slightly higher as compared to January 31, 2019. The number of licensed companies and branches were 2,020 and 3,460; respectively, while the number of MLOs were 24,710.

The Department is currently in the “Reinstatement” period of renewals, which runs from January 1 through February 29, and allows those licensees that did not timely renew, the ability to request renewal. If they did not timely renew, their license status went to “Terminated-Failed to Renew.” As of January 31, 2020, the Department had received 629 reinstatement requests. Prior to the reinstatement period, the Department received renewal requests from 25,633 individuals and 5,622 companies and branches. Additionally, between November and December, the renewal period, the Department received 21,078 amendment filings and 1,693 new license requests.

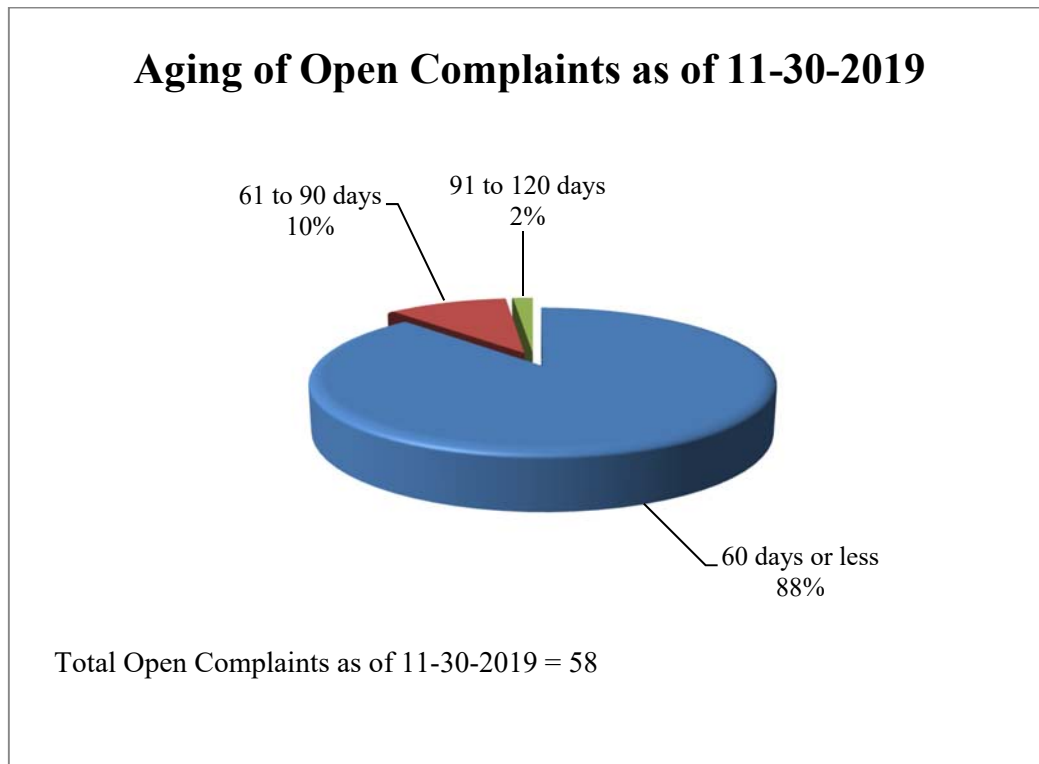
b. Mortgage Examinations

During the first quarter of FY20, a total of 141 examinations were completed covering 1,525 individual licensees. The number of examinations is higher when compared to the same reporting period in FY19 (117) and the number of individual licensees covered increased by 38%. The increase was due to 20% more examinations being conducted in the first quarter of FY20. The examinations are continuing to identify various degrees of unlicensed/unauthorized activity and the issuance of non-compliant conditional qualifications/approval letters.

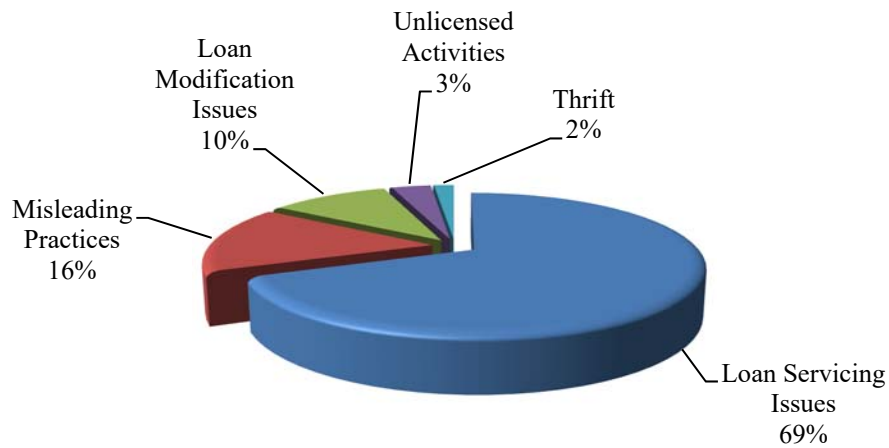
c. Consumer Complaints

The following charts reflect the consumer complaint information through the end of the first quarter of FY20. The aging of the open complaints remains within the target range with no open complaints over 180 days. Open complaint aging has remained within acceptable ranges with 98% being aged less than 90 days.

Loan Servicing complaints continue to be the largest complaint category accounting for 66% of the total number of complaints received in the first quarter of FY20. This represents a 3% decrease when compared to the same reporting period in FY19. The total number of complaints received in the first quarter of FY20 increased 24% when compared to the same reporting period in FY19.

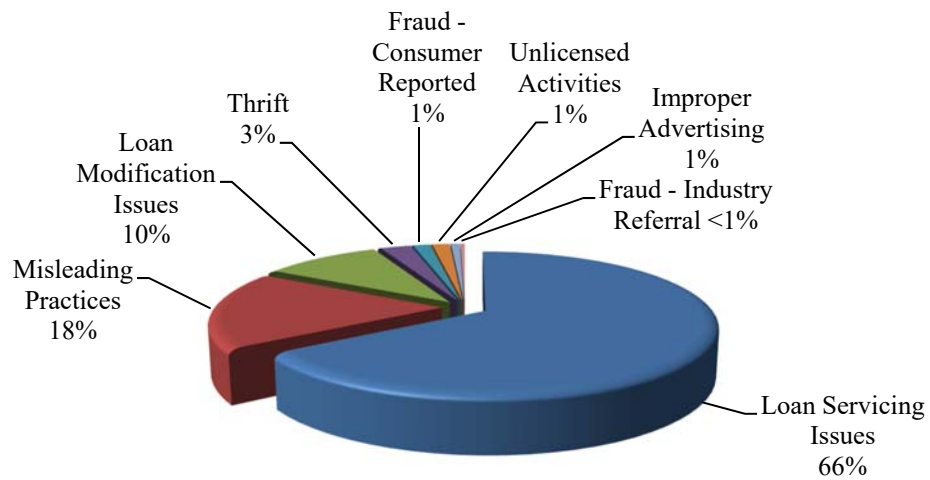


Nature of Open Complaints as of 11-30-2019



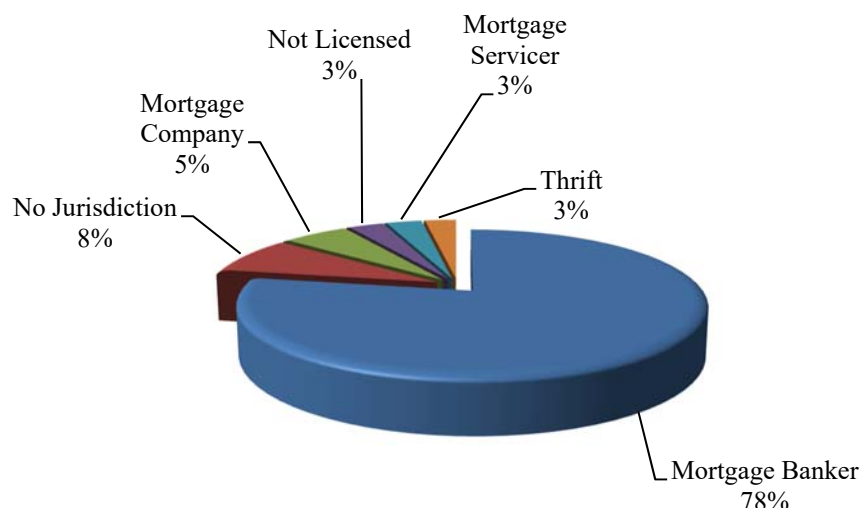
Total Open Complaints as of 11-30-2019 = 58

Nature of Complaints Received - 1st Qtr FY20



Total Complaints received 1st Qtr FY20 = 272

Respondent License Types - Complaints Received 1st Qtr FY20



Total Complaints Received Year-to-Date FY 2020 = 272

Complaint Activities Information by Quarter - FY20				
	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
Servicing Complaints				
Average Number of Days to Close a Complaint	25.9	-	-	-
Percentage of Complaints Resolved Within 90 Days	92.0%	-	-	-
Number of Servicing Complaints resolved	199	-	-	-
Non-Servicing Complaints				
Average Number of Days to Close a Complaint	26.9	-	-	-
Percentage of Complaints Resolved Within 90 Days	90.7%	-	-	-
Number of Non-Servicing Complaints resolved	107	-	-	-
All Complaints				
Total Complaints resolved	306	-	-	-

Departmental Operations – Mortgage

Department staff continue to serve on several committees on the national level. Some of these committees and staff include State Regulatory Registry Board – Tony Florence, Director of Mortgage Examination; NMLS Policy Committee – Bill Poe, Supervisory Compliance Examiner; Mortgage Testing and Education Board – Justin Accola, Supervisory Compliance Examiner; and Performance Standards Committee – Ellena Meier, Chief Mortgage Examiner.

Department of Savings and Mortgage Lending
Actual Performance for Output Measures

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	
Output Measures-Key					
1-1-1 Thrift Safety and Soundness					
1. Number of State Chartered Savings Institution Examinations Performed					
Quarter 1	21	5	5	23.81%	
2-1-1 Mortgage Regulation					
1. Number of Applications Processed					
Quarter 1	7,600	2,339	2,339	30.78%	*
The number of applications submitted is outside the Department's control; therefore, the number of applications processed is ultimately affected in the same manner.					
2. Number of Licensees Examined					
Quarter 1	6,600	1,525	1,525	23.11%	
3-1-1 Consumer Responsiveness					
1. Number of Complaints Closed					
Quarter 1	1,000	306	306	30.60%	*
Complaint dispositions with a resolution of no jurisdiction or insufficient evidence accounted for 81.4% of the complaints closed. These resolutions are normally less involved and can be closed without an extensive investigation.					

*Varies by 5% or more from target.

3. Fiscal/Operations Activity:

a. Funding Status/Audits/Financial Reporting

Accounting – Staff closed out the 1st quarter of FY20, and prepared and distributed the annual tax forms 1099 and W-2.

Financial Reporting:

Staff prepared and timely submitted the Annual Non-Financial Report FY19, including the annual HUB Progress Report, to the Governor’s Office and other oversight agencies.

In accordance with Texas Government Code, Section 659.0201(i), the questionnaire relating to the Salary Supplement Reporting was filled out and submitted to the State Auditor’s office.

Staff Development and Training – Antonia Antov, Director of Administration and Finance, successfully passed the Certified Texas Procurement Manager exam.

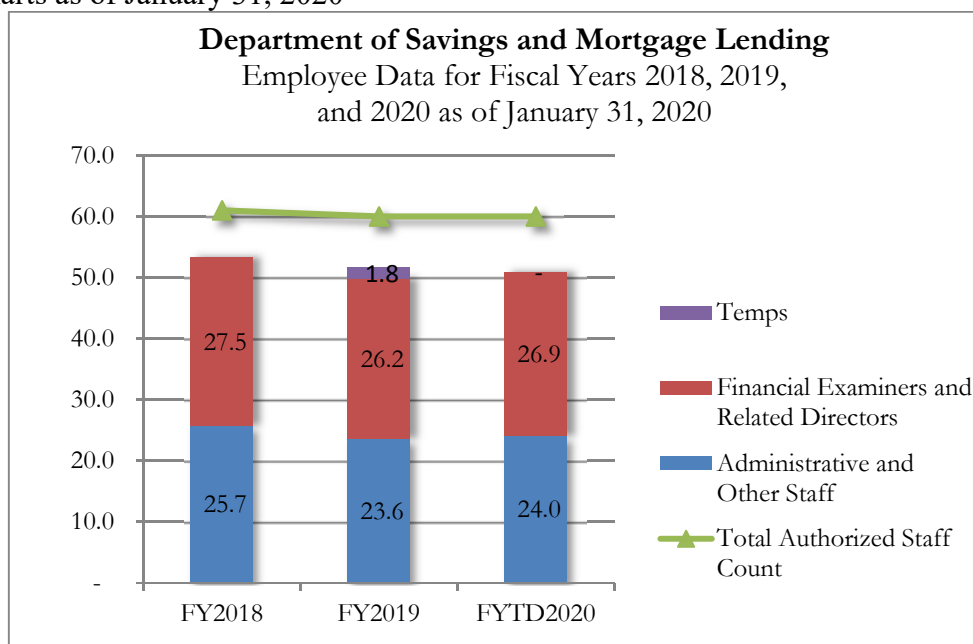
b. Staffing

Staffing and vacancies - As of January 31, 2020, the Department was staffed at 51 regular full-time and 1 part-time employees. During the months of December and January, the Department had one separation – a Mortgage Examiner, and one new hire - a Staff Services Specialist.

Below is the status of the Department’s vacancies:

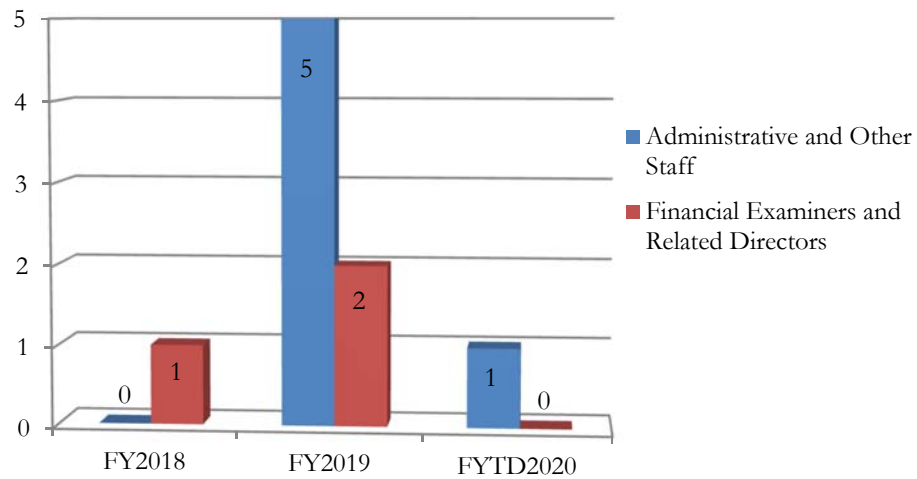
Vacancy Status	
Staff Services Specialist I/II	Vacancy Filled

Staffing Charts as of January 31, 2020



Department of Savings and Mortgage Lending

New Hire Data for Fiscal Years 2018, 2019,
and 2020 as of January 31, 2020

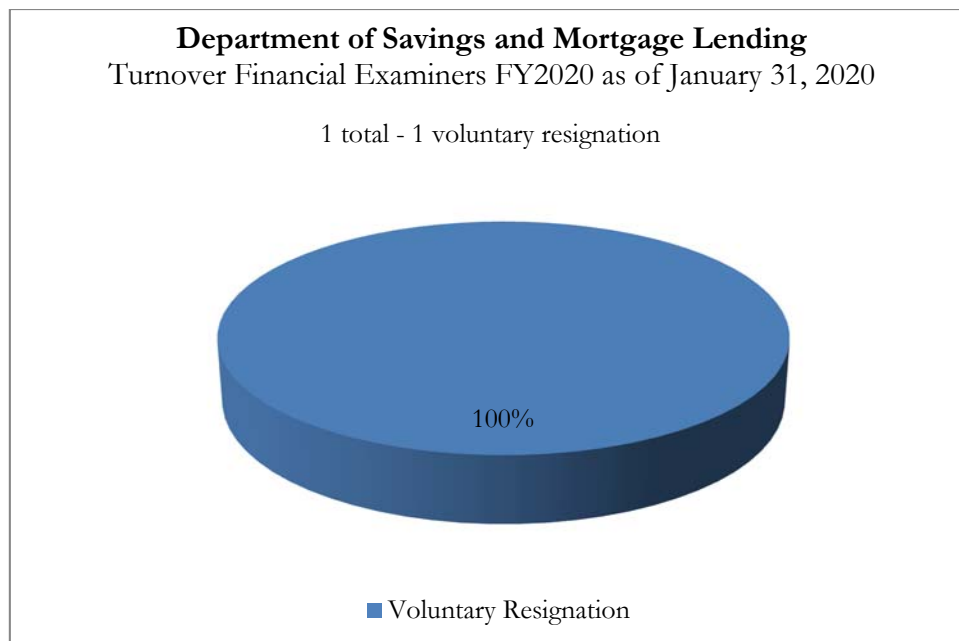


Department of Savings and Mortgage Lending

Turnover Agencywide FY2020 as of January 31, 2020

2 total - 1 involuntary separation and 1 voluntary resignation





Reporting – Staff has responded to the State Auditor’s Office Employee Turnover Survey, as requested.

Training and Staff Development – Staff is in the process of planning the Department’s Agencywide Training scheduled for April 28 – 30, 2020.

Departmental Operations

Teresa Nelson, Senior Supervisory Analyst, volunteered and was chosen as the representative for small State agencies on the ERS Group Benefits Advisory Committee (“GBAC”) for the term of January 1, 2020, through December 31, 2022. Her purpose on the GBAC is to bring issues, suggestions, and comments from the small agency staff perspective regarding ERS benefits, existing or planned. These discussions at GBAC are reported to the ERS Board of Trustees. While the Board is required to receive and review the report from GBAC, it is not required to adopt or act on its recommendations.

2020 Get Fit Texas! State Agency Challenge – The annual fitness challenge opened on January 20, 2020. Forty (40) employees have registered to participate.

4. Legal Activities:

SOAH Cases:

Case No. 450 19-6280; Department of Savings and Mortgage Lending v. Scott M. Marinelli. The respondent appealed a cease and desist order for unlicensed loan modification activity. A hearing before the Administrative Law Judge was held on October 18, 2019. On December 16, 2019, the Administrative Law Judge issued the Proposal for Decision requiring Scott Marinelli to pay restitution to Ron and Ann Nicole Jones in the amount of \$6,400.00 and to pay an administrative penalty in the amount of \$25,000.00. On January 10, 2020, the Commissioner issued the Final Order in favor of the Department.

Case No. 450 20-1248; Department of Savings and Mortgage Lending v. Lynda Varnell

Respondent submitted a recovery fund claim on February 19, 2019, naming PNC Bank/Mortgage/PNC Financial Services Group. After investigation of the claim, it was determined that the Applicant / Respondent is not eligible for reimbursement from the recovery fund as the Department has no jurisdiction over a National Bank. Ms. Varnell filed a timely appeal of the Department's determination. The Department's Motion for Summary Disposition was filed with SOAH on January 10, 2020. A contested hearing on the merits is scheduled for February 13, 2020.

Gift Reporting:

No gifts were received during the reporting period.

Rule Review:

The Department commenced a rule review under Texas Government Code, § 2001.039 during the last quarter of 2019.

Litigation:

Case No. 19-31300-HMC RE: John Hoang Trien, Sr, US Bankruptcy Court; Western District of Texas (Chapter 11 Bankruptcy Proceeding)

The Department sought to enforce past cease and desist orders for unlicensed residential loan origination as well as unregistered residential loan servicing, by enlisting the services of the Texas Attorney General's Office. The subject John Trien filed bankruptcy and the bankruptcy court appointed a Trustee, El Paso attorney Robert Sandoval. On January 28, 2020, the Attorney General's Office filed Adversary No. 20-03001-hcm against Mr. Trien. The Adversary summarized the details of numerous El Paso, Texas consumers / homeowners that have been negatively impacted by Mr. Trien's activity in the residential real estate market. The Adversary alleges violations of the Texas Finance Code, the Deceptive Trade Practices Act, and fraud. The Adversary seeks an injunction, consumer restitution, penalties, and an exception to any discharge under the bankruptcy code.

SML Future Rule Activity		
Rule	Short Title/Purpose	Projected Date for Presentation
7 TAC §77.73	Investment in Banking Premises and Other Real Estate Owned The purpose of the proposed amendment will be to raise the threshold for which a state savings bank may elect to perform an evaluation versus an appraisal of real property. Additionally, this will align state and federal appraisal requirements.	April 17, 2020

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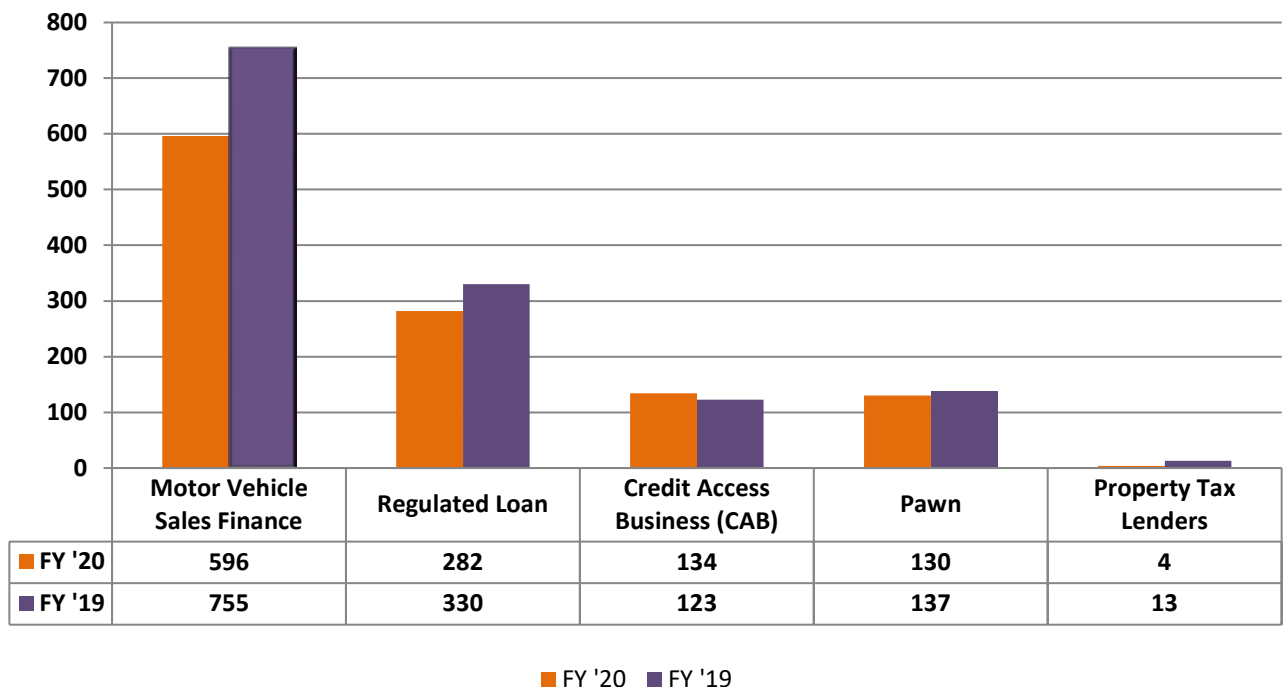
**Office of Consumer Credit
Commissioner**

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Consumer Protection and Consumer Assistance Report

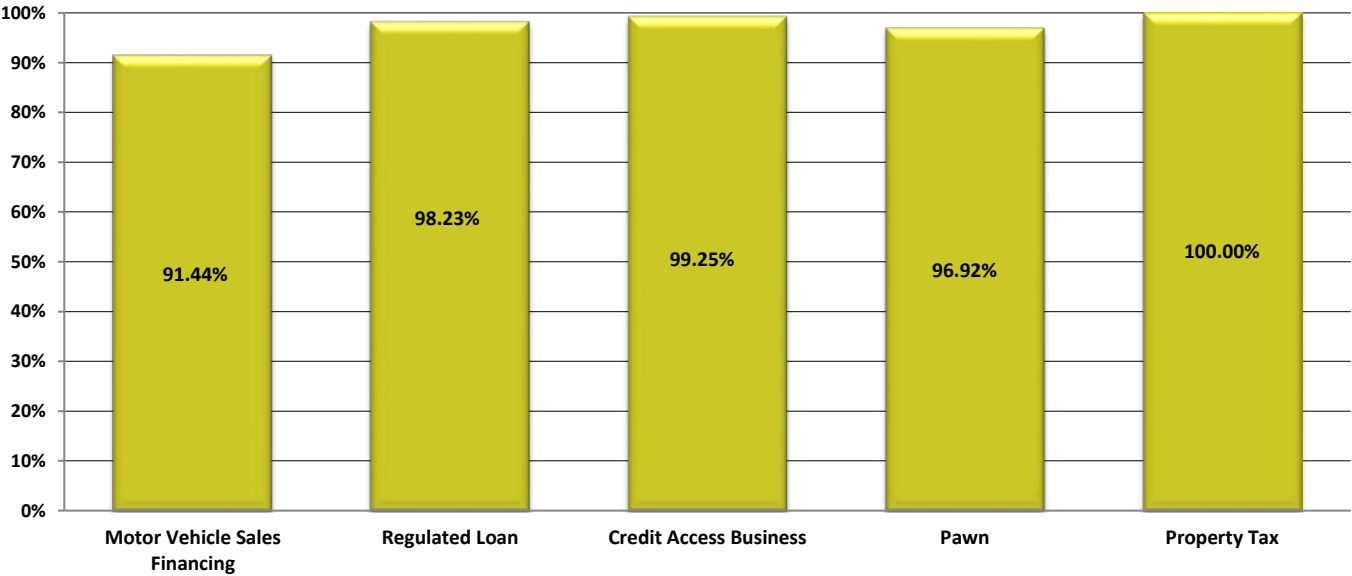
The overall examination results are below target fiscal year to date as a result of significant investments of time and resources in training during the first part of the fiscal year. As noted in the December briefing, a number of training initiatives were accomplished between October and December. These training initiatives continued in January with a large mortgage and property tax exam classroom training event. A total of 24 examiners attended this event and all examiners successfully completed the class room training and testing component. The agency's investment in examiner training is starting to produce results across all exam types. Currently, the agency has two large credit access business exams in progress representing a total of 82% of the agency's production target for fiscal year 2020. Additionally, the agency completed the site work for an enterprise examination of a large motor vehicle finance company and started site work on another large enterprise exam in this segment. Finally, scheduling has resumed which is expected to result in a significant production of regulated loan and pawn exams during the 3rd quarter.

Examinations Conducted: Sept - Dec Fiscal Year Comparison

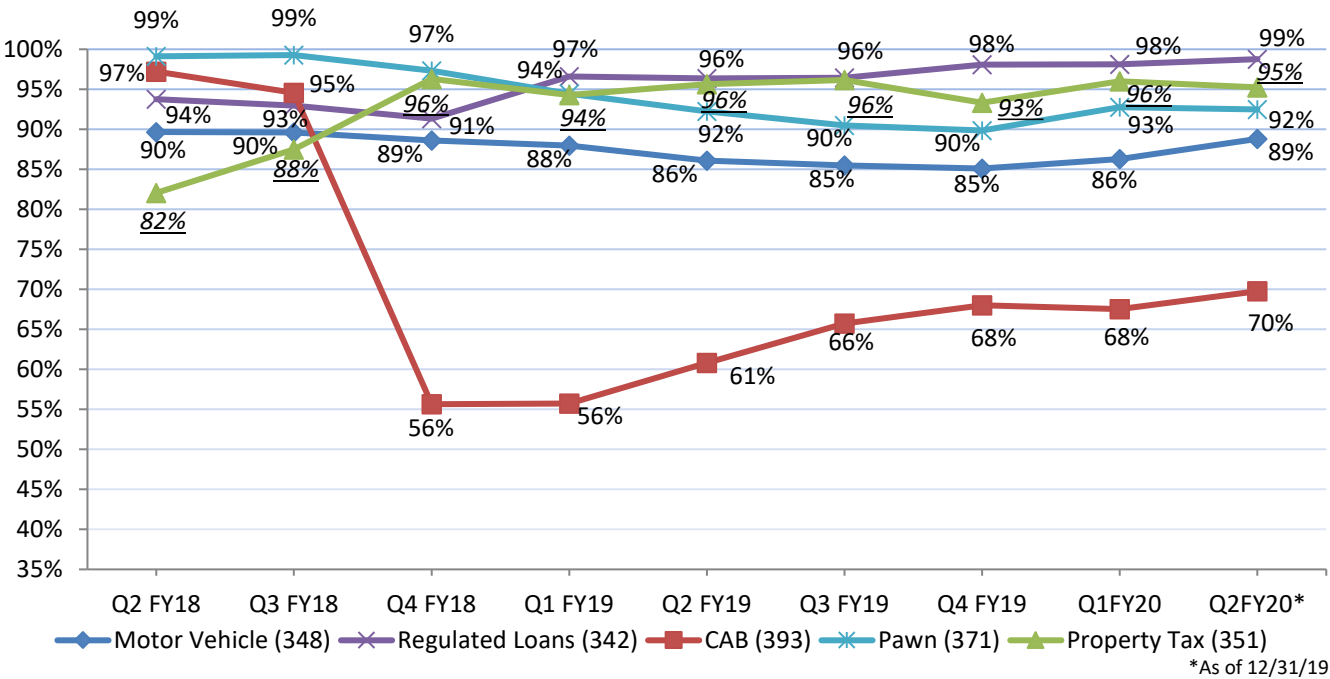


The acceptable level of compliance for all examinations is charted below. The first chart below shows the acceptable level of compliance for examinations conducted in FY 2020. All license types were above 85%. The second chart below denotes the acceptable level of compliance on a trailing 12 month basis through the end of December 2019.

Acceptable Level of Compliance FY '20 (Sept 2019 - Oct 2019)

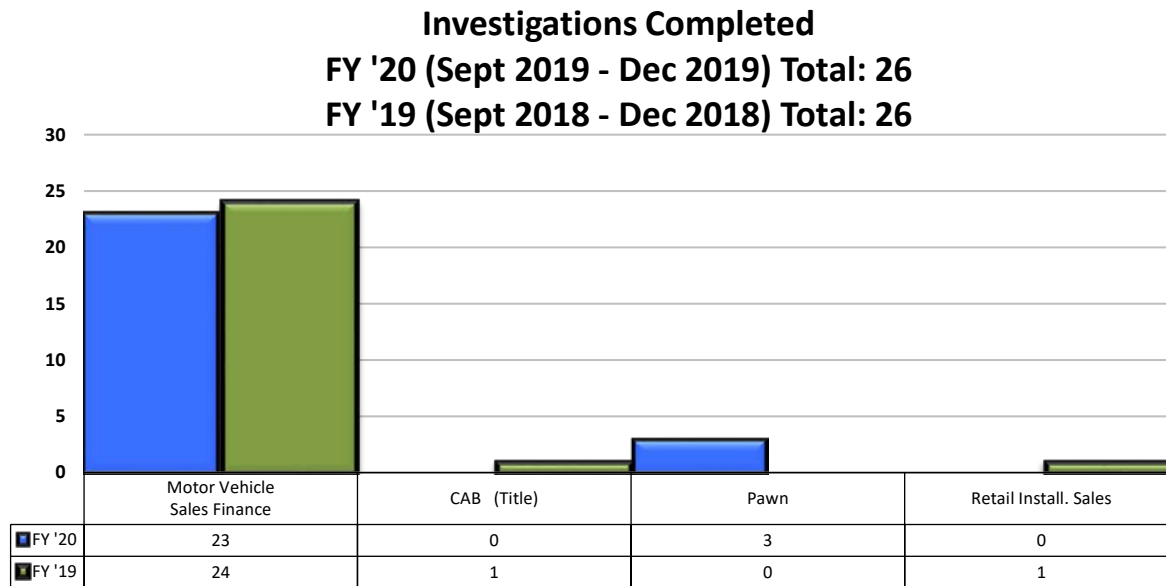


Acceptable Compliance Levels - Trailing 12 Months (at quarter end)



Investigations

For FY 2020, the agency completed 26 investigations, 32.5% of the FY 2020 goal of 80. Motor Vehicle Sales Finance was the largest category comprising 88.5% of the overall number of investigations.

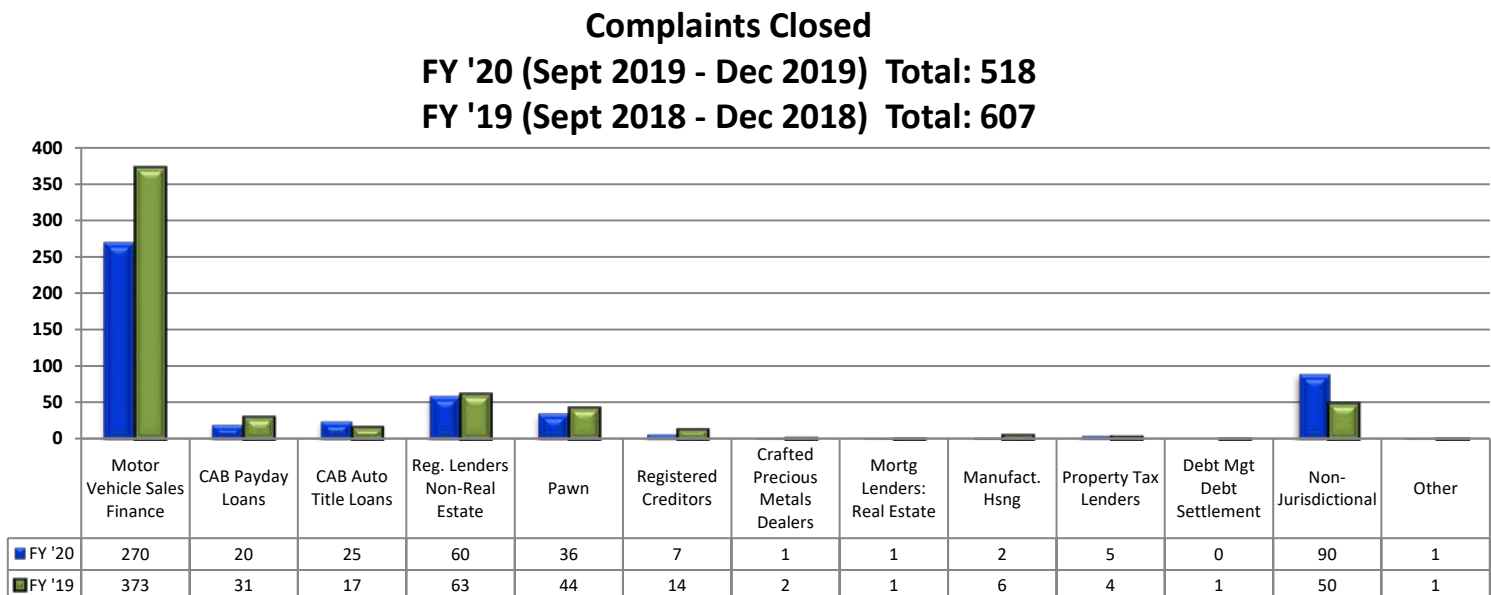


Consumer Assistance

For this period, 518 complaints were processed of which 90 were classified as non-jurisdictional.

The top four areas of jurisdictional complaints are (1) Motor Vehicle Sales Finance (MVSF), (2) Regulated Lenders Non-Real Estate, (3) Credit Access Business (CAB), and (4) Pawn.

MVSF complaints were the largest complaint category at 52.1%. The second largest number of complaints came from Regulated Lenders Non-Real Estate at 11.6%. The third largest category was CAB complaints at 8.7% collectively; separately, these are 4.8% for title loans and 3.9% for payday loans. The fourth largest category came from Pawn at 6.9%.

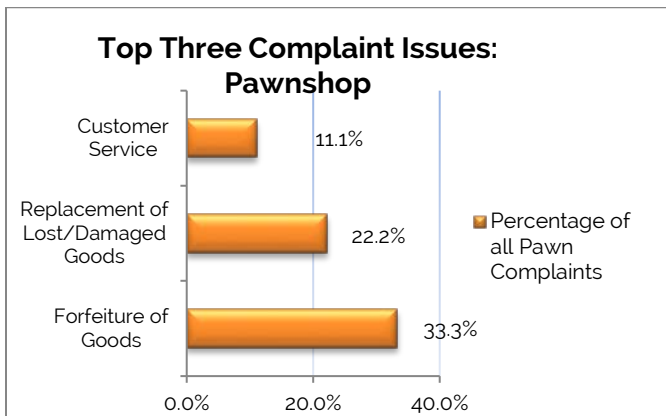
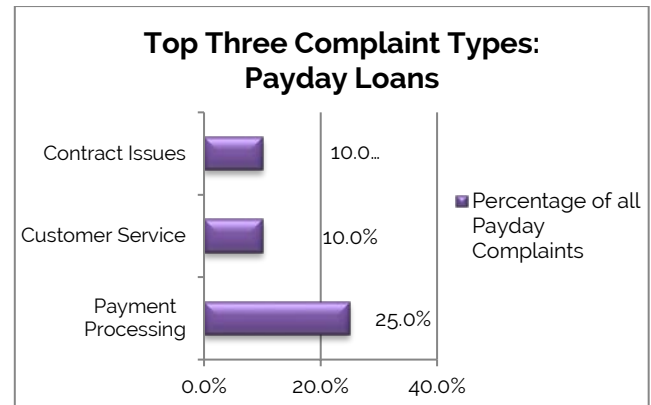
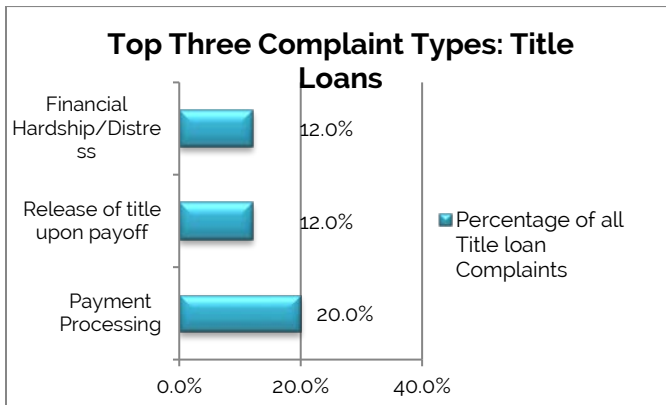
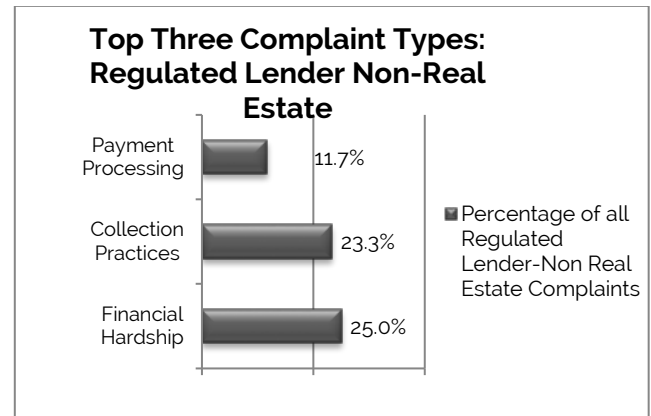
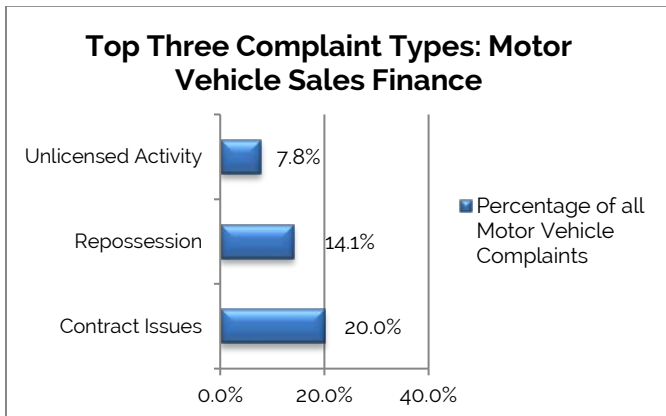


Source of Complaints	Number of Complaints Closed
Consumer	372
Business	2
Law Enforcement	0
State or Federal Agency	29
OCCC	1
Total	404

Subjects	Number of Complaints Closed
Motor Vehicle Sales Finance	208
CAB Payday Loans	15
CAB Auto Title Loans	17
Reg. Lenders Non-Real Estate	41
Pawn	34
Registered Creditors	6
Crafted Precious Metals Dealers	1
Mortgage Lenders: Real Estate	0
Manufactured. Housing	2
Property Tax Lenders	3
Debt Management Debt Settlement	0
Non-Jurisdictional	76
Other	1
Total	404

Disposition:	Number of Complaints Closed
Closed to Investigation	7
Closed to Legal	0
Closed-Action Taken	147
Closed-No Violation	86
Closed-Administratively	88
Closed-Non Jurisdictional	76
Total	404

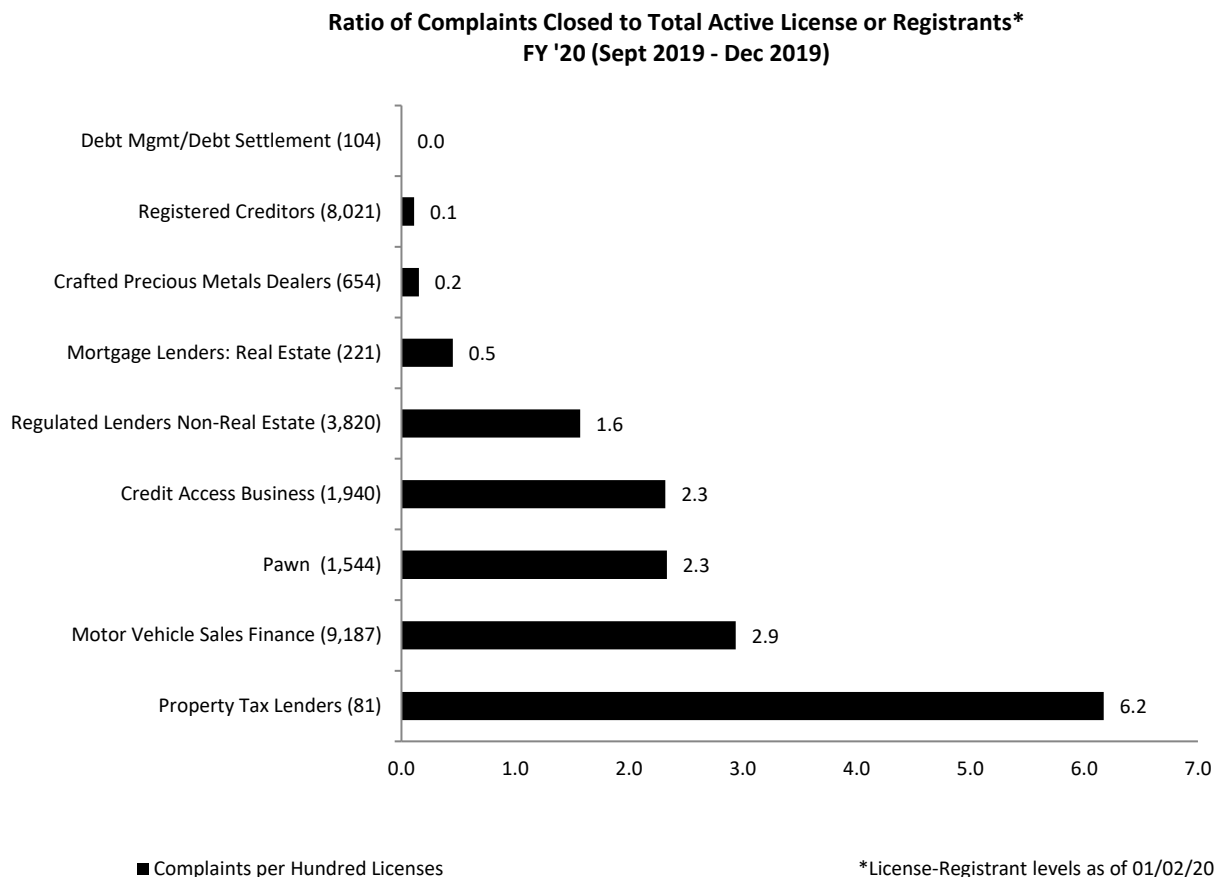
Each of the following charts represent the three top complaint areas per license type:



Consumer Assistance Activities Information by Quarter

	1st Qtr	2nd Qtr	3rd Qtr	4 th Qtr
Production Targets and Priorities				
Avg. Number of Days to Close a Written Complaint	45	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 Days	84.2%	N/A	N/A	N/A
Number of Complaints Closed	404	N/A	N/A	N/A

Comparison of complaints processed to the number of active license or registrant population is noted on the chart below. The highest ratio involved Property Tax Lenders, followed by Motor Vehicle Sales Finance as the second highest, Pawn as the third, and Credit Access Business as the fourth highest.



CAB Reporting Update

Presented are selected statistics of the first three calendar quarters (Jan-Sep) data compared through the years. The majority of new loans require multiple payments scheduled to last around five months. Depending on the loan structure, the multiple payments could either be principal reducing or fee only with the principal and interest due at maturity. Also presented in this chart, the fee charged per product that takes into account the term of the loan.

Repossession numbers continue to trend upwards coinciding with the move to longer payment terms. Installment loans typically have more affordable payments and default can happen after a few successful payments. Repossessions on those accounts can show up several periods after the loan was made depending on the number of payments made or refinancing activity. The agency will closely monitor that data point to see if it stabilizes or if it creates new compliance risk.

Data Highlights (All Loan Types) Q1-Q3 Comparison						
	2019	2018	2017	2016	2015	2014
Number of new payday loans	1,612,428	1,563,242	1,598,074	1,693,477	1,762,942	1,727,233
Number of new auto title loans	215,925	245,228	214,454	208,922	249,770	306,920
Percentage of payday loans due in multiple installments	56%	52%	45%	41%	39%	46%
Percentage of auto title loans due in multiple installments	61%	53%	40%	39%	27%	17%
Number of vehicles repossessed under all auto title loans	32,763	27,210	23,052	24,494	28,365	32,460
Total number of locations reporting activity	1,723	1,786	1,889	1,933	2,549	2,860

Payday Loans Q1-Q3						
	Single Installment			Multiple Installment		
	2019	2018	2017	2019	2018	2017
Number of consumers obtaining loans	488,908	519,736	622,317	820,017	725,458	642,011
Number of new loans	702,074	750,973	884,221	910,354	812,269	713,853
Number of total refinances ¹	780,786	1,094,106	1,421,129	280,023	225,229	209,289
Average loan amount	\$451	\$467	\$459	\$672	\$615	\$582
Average fee per \$100 borrowed	\$23	\$24	\$24	\$139	\$137	\$153
Average original term (in days)	22	21	20	150	143	148
Average Fee Converted to a Daily Rate ²	1.04%	1.11%	1.23%	0.93%	0.96%	1.03%

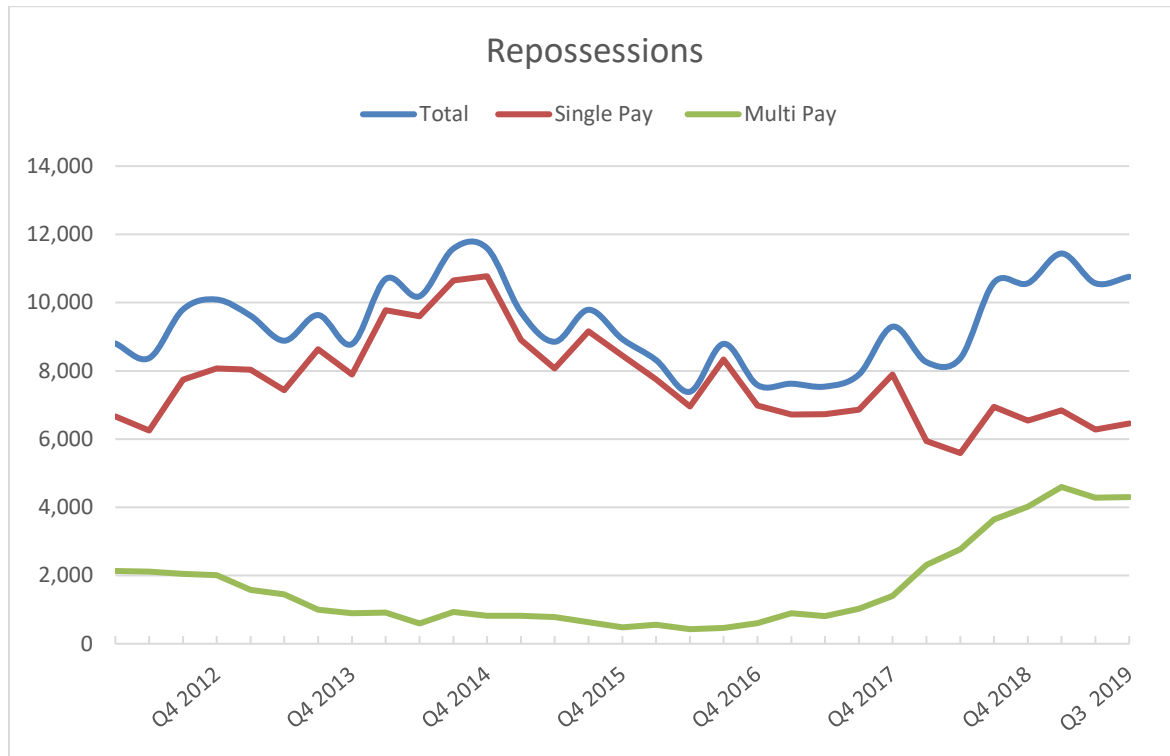
Title Loans Q1-Q3						
	Single Installment			Multiple Installment		
	2019	2018	2017	2019	2018	2017
Number of consumers obtaining loans	76,504	98,031	114,536	123,405	123,541	80,917
Number of new loans	85,083	114,430	127,799	130,842	130,798	86,655
Number of total refinances ¹	471,157	475,261	497,337	117,913	102,363	74,482
Average loan amount	\$1,690	\$1,325	\$1,310	\$1,260	\$1,190	\$1,050
Average fee per \$100 borrowed	\$15	\$16	\$16	\$117	\$115	\$132
Average original term (in days)	30	30	30	156	154	156
Average Fee Converted to a Daily Rate ²	0.51%	0.54%	0.55%	0.75%	0.75%	0.84%

1 Refinance activity represents all renewals, including the renewals of loans that originated in prior quarters.

2 Based on averages, per dollar borrowed a consumer would pay this percentage per day. The APR could be approximated by multiplying this rate by 365; however, it could be significantly higher if the multiple installment loans reduce principal with each payment and the total fees remain the same.

Additional Repossession Information

Quarterly report data began Jan 1, 2012. Looking back at every quarter, the highest single total for repossessions was Q4 2014. Since then, the number of new installment loans has risen sharply, from 17% in 2014 to 61% in 2019. Beginning in 2018, the number of “Multi Pay” or installment loan repossessions has risen sharply as indicated in the chart below.





Licensing Report- February 2020

Mirand Diamond, Director

Renewals

Renewal for regulated lenders, property tax lenders and credit access businesses ended on December 31st, with 97% of regulated lenders renewing, 92% of credit access businesses renewing and 94% of property tax lenders renewing. Approximately 85% of these industries renewed online through ALECS.

Renewal for residential mortgage loan originators ended on December 31st as well with approximately 67% of licensees renewing.

Registration renewal for debt management & settlement providers ends on February 1st and renewal for crafted precious metals dealers was extended through January 31st.

Applications Processing

The department continues to monitor application processing and aging applications. The number of pending applications remains near the goal.

Since the volume of incoming pawn employee applications has decreased as predicted due to optional licensing, the department has begun to reallocate staff resources towards motor vehicle sales finance applications.

Other Updates

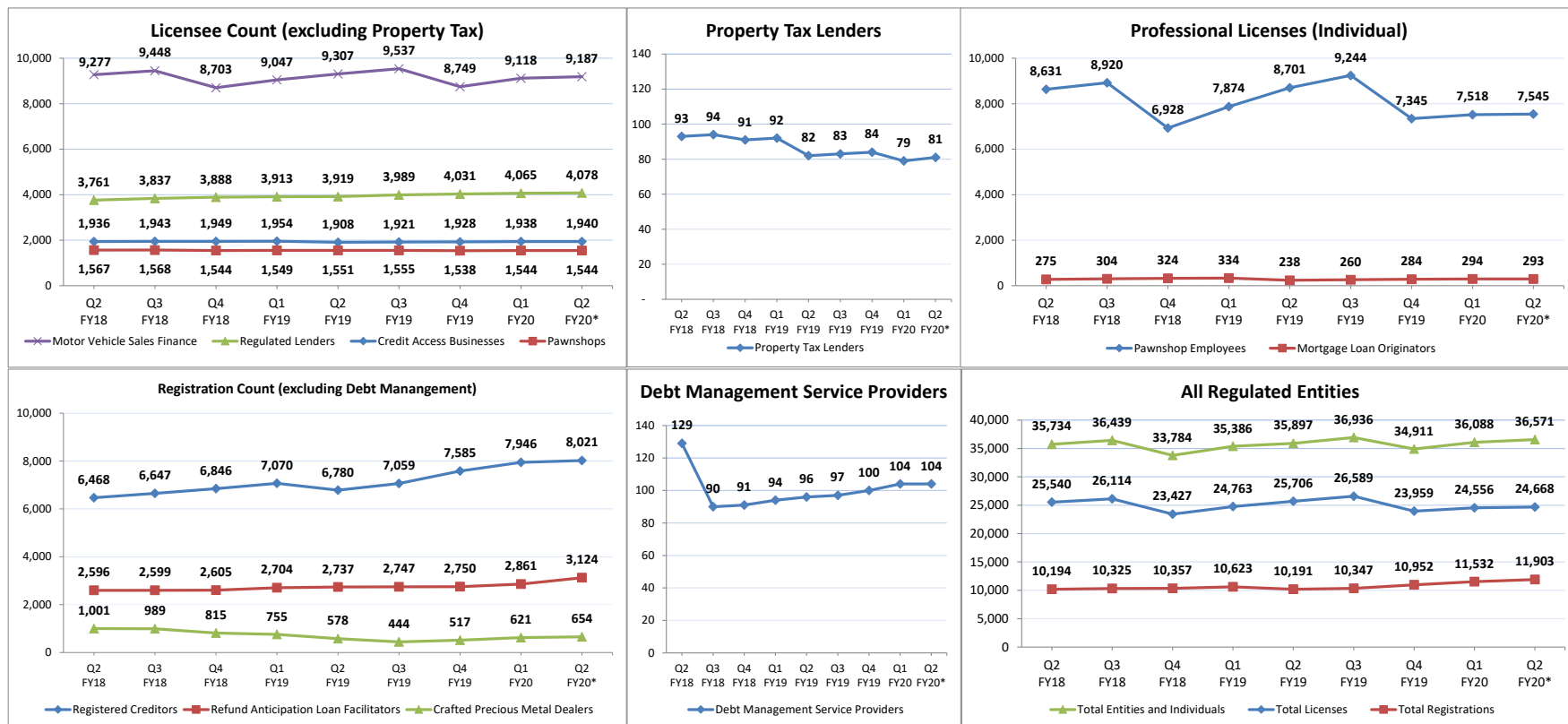
Two members of the licensing department plan to attend the NMLS annual conference and training in February 2020 to learn more about recent changes to the system and represent the agency to engage with industry participants.

The director of licensing is attending the Texas Association of Pawnbrokers annual conference in February and will provide information on the optional employee licensing process.

Regulated Entity Population Trends

The following charts reflect the number of OCCC regulated entities at the end of each quarter in fiscal years 2018 and 2019 to current data.

Number of OCC Regulated Entities Quarterly Comparison of FY18-20



*Data as of 1/2/2020



ADMINISTRATION REPORT

COMMUNICATIONS

As part of the strategic planning process, the OCCC will be initiating a customer service survey in the coming months. This survey will allow stakeholders to provide input on various areas of the agency. Additionally, agency staff continues to provide a combination of live presentations and communication through various channels to regulated entities and other regulatory groups.

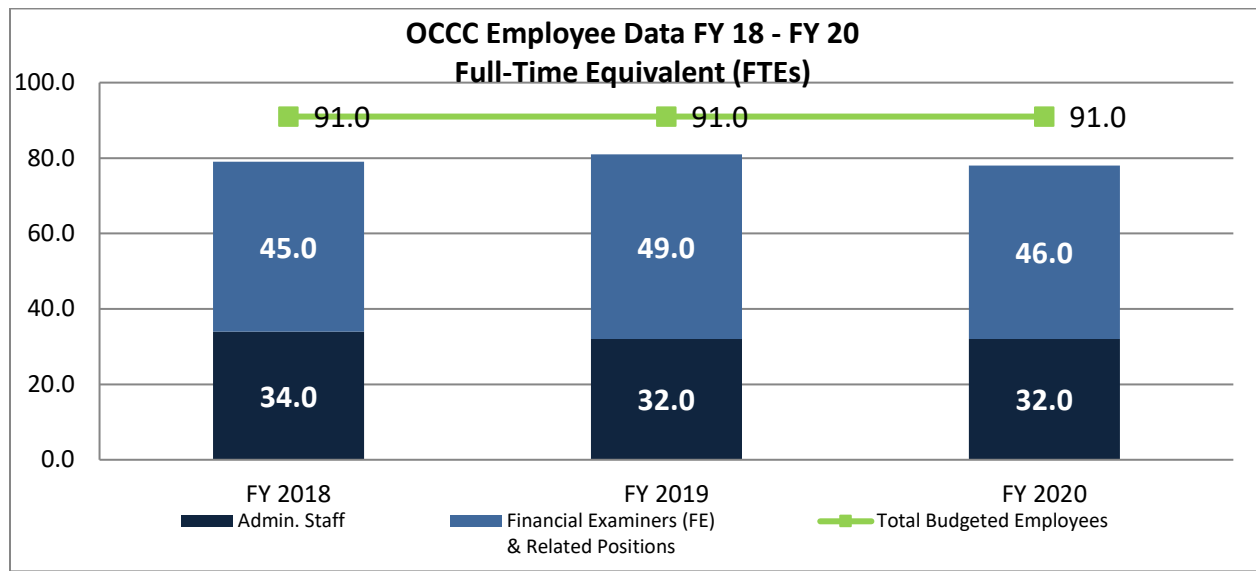
- On December 9, 2019 Commissioner Pettijohn, General Counsel Michael Rigby, Deputy General Counsel Matthew Nance, and Legal Assistant Ginger Harmon conducted a CSO Stakeholder Meeting in Austin.
- On December 19, 2019 Commissioner Pettijohn, Director of Consumer Protection Huff Lewis, and General Counsel Michael Rigby attended a TPTLA quarterly meeting in Austin.
- On January 7, 2020 Senior Supervising Examiner William Purce presented at the Texas Department of Housing and Community Affairs in Austin.
- On January 23, 2020 Financial Examiner Carlos Garcia presented at the DMV Seminar in San Antonio.
- On January 23, 2020 Commissioner Pettijohn, General Counsel Michael Rigby, Deputy General Counsel Matthew Nance and Legal Assistant Ginger Harmon conducted a RMLO and Registered Creditor Stakeholder meeting in Austin.
- On January 24, 2020 Supervising Financial Examiner Greg Williams, Financial Examiner Hunter Owens, and Financial Examiner Nayelli Sandoval presented at the Auto Action seminar in Houston.

HUMAN RESOURCES

From the end of November to the end of January 2020, the OCCC was staffed with a total of 78 FTEs (fulltime equivalent). Currently the agency is seeking to fill the following position:

Vacancy	Status
Accountant III-IV (1-Austin)	Active – Accepting Applications

The following chart compares administrative staff vs. financial examiners (FEs) for the last three fiscal years.



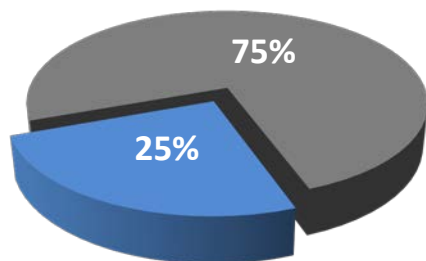
The current turnover rate is 10.1%, and the chart below represents FY20 data.

OCCC Turnover Categories

FY 20 - All Employees

(09/01/19 - 1/31/20)

8 total - 2 Interagency Transfer, 6 Voluntary Resignations.



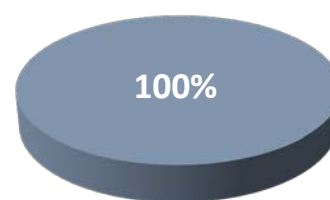
■ Interagency Transfer ■ Voluntary Resignation

OCCC Turnover

FY 20 - FE Series

(09/01/19 - 1/31/20)

2 total - 2 Voluntary Resignation.



■ Voluntary Resignation

OCCC conducted a review of all employees' job descriptions and provided updates as needed. The agency has developed a new Cross-Training Program that began, November 18, 2019. This is a pilot program designed to provide employees with a new development opportunity to enhance their knowledge, skills and abilities. Not only does the program offer opportunity for job and career growth, it also provides depth and bench strength for the OCCC staff.

FINANCIAL EDUCATION

The Financial Education Department provided a Preventing Elderly Exploitation presentation on 12/12/2019 at the Doris Griffin Senior Center in San Antonio, a second Preventing Elderly Exploitation presentation on 12/16/2019 at the Haltom City Senior Citizen City in Haltom City, and one Credit Basics presentation on 1/20/2020 at Community Action Inc. of Central Texas in San Marcos. These presentations reached combined sixty-six (66) individuals.

The agency received twenty-six (26) TFEE applications for the 2020-2021 grant cycle. The Grant Advisory Committee (GAC) has reviewed these applications and submitted recommendations for grant award recipients.

Semi-annual Program Activities and Grant Reimbursement Reports for the 4th period of the 2018-2019 4th grant cycle are currently being processed. These reports reflect activities related to the TFEE Grant from July 1, 2019 through December 31, 2019.

INFORMATION TECHNOLOGY

Hardware

OCCC has completely transitioned to Microsoft Windows 10 endpoint computers, pursuant to the end of support for Windows 7 in mid-January. Also, a file server approaching end of physical life while running an older Microsoft operating system is due to be phased out and replaced by a new server, running Windows Server 2019, by the end of January.

Security & Software

Windows passwords were reconfigured to a longer minimum length, making them more robust for resisting cracking attempts (this was pre-emptive, not in response to an incident).

Subsequent to the MS-ISAC security advisory on January 14 regarding a high-leverage vulnerability in various versions of Microsoft Windows, IT personnel thoroughly evaluated the agency's deployed fleet of endpoint computers and ensured each was updated with security patches.



ACCOUNTING REPORT

Christina Cuellar Hoke, Manager

The Accounting department completed and submitted the Annual Non-Financial Report for FY19. All Accounting staff have completed required cybersecurity training assignments and the Accounting Manager attended the Texas State Agency Business Administrator's Association Mid-Winter Conference January 16-17 in Kerrville. The Accounting department has finished reviewing tax information to prepare W-2 and 1099 tax documents.

OFFICE OF CONSUMER CREDIT COMMISSIONER
EXECUTIVE SUMMARY

As of November 30, 2019

	FY 2018	FY 2019	FISCAL YEAR 2020				
			1st QTR	2nd QTR	3rd QTR	4th QTR	FYTD
CONSUMER PROTECTION							
Monies Returned (000)	5,122	14,578	240				240
Regulated Lenders Examinations	1,085	942	233				233
Property Tax Lender Examinations	27	30	4				4
Pawnshop Examinations	484	473	123				123
Motor Vehicle Examinations	2,269	2,463	434				434
Credit Access Businesses Examinations	638	475	128				128
CONSUMER ASSISTANCE							
Telephone Complaints Received	986	510	83				83
Written Complaints Received	1,111	1,151	319				319
Total Complaints Closed	2,130	1,737	404				404
% of Written Complaints Closed within 90 Calendar Days	91.8%	85.4%	84.2%				84.2%
ADMINISTRATIVE ENFORCEMENT ACTIONS							
Originated	371	417	71				71
Finalized	389	324	101				101
LICENSING AND REGISTRATION							
Licenses							
Regulated Loan Licenses	3,845	4,031	4,065				4,065
Pawnshop Licenses	1,565	1,538	1,544				1,544
Pawnshop Employee Licenses	7,243	7,345	7,518				7,518
Commercial MV Sales Fin. Licenses	39	49	50				50
Motor Vehicle Sales Finance Licenses	8,539	8,700	9,068				9,068
Property Tax Loan Licenses	89	84	79				79
Mortgage Loan Originators	326	284	294				294
Credit Access Business Licenses	2,046	1,928	1,938				1,938
Registrations							
Registered Creditors	7,371	7,585	7,946				7,946
Crafted Precious Metal Dealers	1,061	517	621				621
Debt Management Service Providers	128	100	104				104
Refund Anticipation Loan Facilitators	2,634	2,750	2,861				2,861
Applications							
Business -- New	1,522	1,679	417				417
Business -- Change of Ownership	138	131	41				41
Pawnshop Employees -- New	3,133	3,640	327				327
HUMAN RESOURCES DATA							
Field Examiners Staffing	41	49	48				48
Total Staffing	82	81	79				79

Office of Consumer Credit Commissioner
Actual Performance for Output Measures
Fiscal Year 2020

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	
Output Measures-Key					
CONSUMER PROTECTION					
1-1-1 Complaint Resolution					
1. # Complaints Closed					
Quarter 1	1,800	404	404	22.4%	
2-1-1 Examination and Enforcement					
1. # Examinations Completed					
Quarter 1	4,000	922	922	23.1%	
EFFECTIVE LICENSING & REGISTRATION					
2-2-1 Licensing and Registration					
1. # Business License Applications Processed					
Quarter 1	1,750	417	417	23.8%	
3-3-1 Financial Education					
1. # People Receiving Direct Educational Services					
Quarter 1	325	134	134	41.2%	*
The Financial Education Department has exceeded its quarterly target for number of people receiving direct education services. During the first quarter the Financial Education Department provided direct education services to 134 individuals, higher than the target of 81 individuals. Increased community outreach and increased requests for presentations contributed to a higher number of individuals receiving direct education services during this period.					

*Varies by 5% or more from target.



Legal Department Report

Michael Rigby, General Counsel

February 2020

Enforcement Report

Contested Case

In January 2020, the OCCC participated in one contested case hearing before the State Office of Administrative Hearings (SOAH). The matter is *Office of Consumer Credit Commissioner v. Billy Joe and Tammy K. Hollingsworth d/b/a Million Dollar Pawn and Gun* (SOAH Docket No. 466-20-1527). The OCCC alleged that Million Dollar Pawn was locked out of its building for failure to pay rent. For this reason, the pawnshop has not maintained normal business hours, and customers have been unable to redeem their pledged goods since August 2019. The OCCC issued an order for Million Dollar Pawn to transfer the pledged goods to another licensed pawnshop within five miles. Million Dollar Pawn requested a hearing on the order, and a hearing was held on January 3. As of January 31, the OCCC is awaiting a proposal for decision from SOAH.

Orders for Reporting Violations

In December 2019, the OCCC issued 14 orders against credit access businesses that did not timely and accurately file their 2019 third quarter reports by the deadline of October 31, 2019. Of these orders, 10 were injunctions requiring the licensees to file timely and accurate reports, and 4 imposed an administrative penalty for violating a previous injunction.

Also in December, the OCCC issued an order of revocation against a regulated lender that had repeatedly failed to file annual reports since 2017, and had not paid a penalty required by a July 2018 order imposing an administrative penalty. The order of revocation became final in January 2020, and the regulated lender's license has been revoked.

Performance Report

The following table summarizes enforcement actions closed by the OCCC during the last four fiscal years. These figures reflect enforcement actions that have been fully resolved by formal order, informal resolution, or dismissal. Actions that are still pending are not included in the table.

Enforcement Actions Closed as of January 31, 2020				
	FYTD 2020	FY 2019	FY 2018	FY 2017
Injunction Actions				
Crafted Precious Metal Dealer	0	0	0	0
Credit Access Business	18	53	27	47
Debt Management Provider	6	10	5	2
Manufactured Housing	0	0	0	1
Motor Vehicle Sales Finance	30	20	19	31
Pawnshop	40	82	39	37
Pawnshop Employee	0	67	48	69
Property Tax Lender	0	8	2	2
Registered Creditor	0	0	1	1
Regulated Lender	48	22	12	37
Residential Mortgage Loan Originator	0	0	1	1
Total Injunction Actions	142	262	154	230
Administrative Penalty Actions				
Crafted Precious Metal Dealer	1	0	0	0
Credit Access Business	7	14	6	23
Debt Management Provider	0	0	1	0
Motor Vehicle Sales Finance	6	19	26	106
Pawnshop	27	12	6	3
Pawnshop Employee	0	0	0	0
Property Tax Lender	1	6	6	2
Regulated Lender	17	7	0	13
Residential Mortgage Loan Originator	0	0	0	0
Total Administrative Penalty Actions	59	58	45	147
Revocation / Suspension Actions				
Crafted Precious Metal Dealer	0	0	0	0
Credit Access Business	0	1	0	3
Motor Vehicle Sales Finance	0	0	1	2
Pawnshop	0	0	0	1
Pawnshop Employee	0	1	0	1
Property Tax Lender	0	0	0	0
Regulated Lender	1	0	0	1
Residential Mortgage Loan Originator	0	0	0	0
Total Revocation / Suspension Actions	1	2	1	8
Application Denial and Protest Actions				
Credit Access Business	0	0	0	0
Motor Vehicle Sales Finance	3	2	0	1
Pawnshop	0	0	0	1
Pawnshop Employee	0	0	0	0
Property Tax Lender	0	0	0	0
Regulated Lender	0	0	0	0
Residential Mortgage Loan Originator	0	0	0	1
Total App. Denial and Protest Actions	3	2	0	3
Total Actions Closed	205	324	200	388

The tables below includes data on performance measures the legal department is tracking.

September 1, 2019, through January 31, 2020	
Cases Opened	101
Cases Closed	205
Average Number of Days to Close an Enforcement Action	128
Cases referred to SOAH	1
Contested Cases Heard at SOAH	1
Enforcement Actions Taken	190

The OCCC has no hearings scheduled between February 1, 2020, and March 31, 2020.

Litigation

State of Texas v. Cash Auto Sales, Inc. and VIP Finance of Texas, Inc.

In 2017, the OCCC issued an Order to Cease and Desist, to Take Affirmative Action, and to Make Restitution against VIP Finance of Texas, Inc. The OCCC alleges that VIP violated the Texas Finance Code by engaging in unlicensed regulated lending, engaging in unlicensed motor vehicle sales finance, requiring the purchase of automobile clubs in credit transactions, and charging unreasonable automobile club fees.

VIP argues that the OCCC's enforcement action is barred because of a 1998 judgment, in which a Dallas district court held that VIP was not violating the Texas Credit Code and dismissed the State's claims against VIP. On February 22, 2018, a Dallas district court granted VIP's request for a temporary injunction against the OCCC. The OCCC appealed the case to the Dallas court of appeals, arguing that the Dallas district court does not have jurisdiction over the case.

On May 23, 2019, the Dallas court of appeals ruled in the OCCC's favor, dismissing the Dallas district court case. The court of appeals found that the current enforcement action against VIP deals with different transactions from the 1998 case. The court of appeals reversed the district court's denial of the OCCC's plea to the jurisdiction, reversed the district court's temporary injunction, and ordered VIP to pay the OCCC's costs of appeal. On November 7, VIP filed a petition for review with the Texas Supreme Court to appeal the case. The Texas Supreme Court has requested that the OCCC respond to the petition for review by February 10, 2020.

The OCCC is represented in the case by the Financial Litigation and Charitable Trusts Division of the Office of the Attorney General. The district court case number is DC-96-11528. The court of appeals case number is 05-18-00198-CV. The Texas Supreme Court case number is 19-0999.

Rule Actions

At the February meeting, the OCCC is presenting rule actions to readopt Chapter 2 (relating to residential mortgage loan originators) and Chapter 86 (relating to registered creditors) after rule review. The OCCC is also presenting proposals of amendments to these chapters resulting from rule review.

At future meetings, the OCCC plans to present the rule actions to readopt the following chapters after rule review (and to present proposals of any amendments resulting from the rule review):

- April 2020: Chapter 1 (relating to official interpretations)
Chapter 90 (relating to plain language contracts for regulated loans)
- June 2020: Chapter 83, subchapter B (relating to credit access businesses)
Chapter 85, subchapter B (relating to crafted precious metal dealers)
- August 2020: Chapter 82 (relating to administration)
Chapter 84 (relating to motor vehicle sales finance)

Federal Rulemaking

OCC and FDIC Interest Rate Authority Rules

Federal law allows a bank to export the usury limitations of its home state, meaning that the bank can use its home state's interest rate limitations when it makes loans to residents of other states. On November 18, 2019, the Office of the Comptroller of the Currency (OCC), the federal agency that regulates national banks, proposed rules on the permissible interest rate when a national bank transfers a loan to another entity. On November 19, the Federal Deposit Insurance Corporation (FDIC) proposed a similar rule for FDIC-insured state banks. These proposed federal rules would provide that if a bank makes a loan, the authorized interest rate for the loan is not affected by the loan's subsequent assignment, even if the loan is assigned to a nonbank entity. Comments were due on the OCC's proposed rules by January 21, 2020.

Advisory Bulletins

From December 1, 2019 to January 31, 2020, the OCCC did not issue any advisory bulletins.

Official Interpretation Requests

From December 1, 2019 to January 31, 2020, the OCCC did not receive any requests for official interpretations. As of January 31, 2020, there were no pending requests for official interpretations.

Public Information Requests

December 1, 2019, through January 31, 2020	
Requests Received	20
Requests Closed	17
Requests Withdrawn	0
Requests Referred to Office of Attorney General	0
Average Number of Days to Address a Public Information Request	2.1

Gifts Received by the OCCC

From December 1, 2019 to January 31, 2020, the OCCC received no gifts.

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, Resulting from Rule Review

PURPOSE: Pursuant to Texas Government Code, §2001.039, the OCCC has completed the review of 7 TAC Chapter 2, and believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

RECOMMENDED ACTION: The OCCC requests that the Finance Commission readopt 7 TAC Chapter 2 following rule review, because the reasons for the rules continue to exist.

RECOMMENDED MOTION: I move that we readopt 7 TAC Chapter 2 following rule review, because the reasons for the rules continue to exist.

Title 7. Banking and Securities

Part 1. Finance Commission of Texas

Chapter 2. Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 1, Chapter 2, Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapter 2 was published in the *Texas Register* on December 27, 2019 (44 TexReg 8343). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

As a result of internal review by the Office of Consumer Credit Commissioner, the commission has determined that certain revisions are appropriate and necessary. Those proposed changes are published elsewhere in this issue of the *Texas Register*.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 2 continue to exist, and readopts this chapter in accordance with the requirements of Texas Government Code, §2001.039.

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

4. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors, Resulting from Rule Review

PURPOSE: Pursuant to Texas Government Code, §2001.039, the OCCC has completed the review of 7 TAC Chapter 86, and believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

RECOMMENDED ACTION: The OCCC requests that the Finance Commission readopt 7 TAC Chapter 86 following rule review, because the reasons for the rules continue to exist.

RECOMMENDED MOTION: I move that we readopt 7 TAC Chapter 86 following rule review, because the reasons for the rules continue to exist.

Title 7. Banking and Securities

Part 5. Office of Consumer Credit Commissioner

Chapter 86. Retail Creditors

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 86, Retail Creditors, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapter 86 was published in the *Texas Register* on December 27, 2019 (44 TexReg 8343). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

As a result of internal review by the Office of Consumer Credit Commissioner, the commission has determined that certain revisions are appropriate and necessary. Those proposed changes are published elsewhere in this issue of the *Texas Register*.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 86 continue to exist, and readopts this chapter in accordance with the requirements of Texas Government Code, §2001.039.

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

5. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, Resulting from Rule Review

PURPOSE: The purpose of the proposed amendments to 7 TAC Chapter 2 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039. The proposed amendments are intended to reduce costs for individual residential mortgage loan originators, ensure consistency with current licensing procedures and processes, and make technical corrections.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve the amendments to 7 TAC Chapter 2 for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that we approve for publication and comment the amendments to 7 TAC Chapter 2.

Title 7. Banking and Securities

Part 1. Finance Commission of Texas

Chapter 2. Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner

Subchapter A. Application Procedures

The Finance Commission of Texas (commission) proposes amendments to §2.104 (relating to Application and Renewal Fees) and §2.106 (relating to Denial, Suspension, or Revocation Based on Criminal History), in 7 TAC, Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

In general, the purpose of the proposed amendments to 7 TAC Chapter 2 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 2 was published in the *Texas Register* on December 27, 2019 (44 TexReg 8343). The commission received no comments in response to that notice.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC did not receive any informal precomments on the rule text draft.

The proposed amendments are intended to reduce costs for individual residential mortgage loan originators (RMLOs), to ensure consistency with current licensing procedures and processes, and to make technical corrections.

The proposed amendments to §2.104 would lower the RMLO application and annual renewal fees from \$300 to \$200,

resulting in lower costs to individual RMLOs. These amendments are intended to reduce barriers for individuals to engage in the licensed occupation of being an RMLO regulated by the OCCC.

The proposed amendments to §2.106 relate to the OCCC's review of the criminal history of an RMLO applicant or licensee. The OCCC is authorized to review criminal history of RMLO applicants and licensees under Texas Occupations Code, Chapter 53, and Texas Finance Code, Chapter 180 (the Texas SAFE Act). Proposed amendments to subsection (c)(1) list the types of crimes that directly relate to the duties and responsibilities of being a regulated lender, as provided by Texas Occupations Code, §53.025(a). Other proposed amendments to §2.106 would ensure consistency with HB 1342, which the Texas Legislature enacted in 2019. HB 1342 included the following changes in Texas Occupations Code, Chapter 53: (1) the bill repealed a provision that generally allowed denial, suspension, or revocation for any offense occurring in the five years preceding the application, (2) the bill added provisions requiring an agency to consider correlation between element of a crime and the duties and responsibilities of the licensed occupation, as well as compliance with conditions of community supervision, parole, or mandatory supervision, and (3) the bill removed previous language specifying who could provide a letter of recommendation on behalf of an applicant. Proposed amendments throughout subsections (c) and (f) of §2.106 would implement these

statutory changes from HB 1342. Other proposed amendments to §2.106 include technical corrections, clarifying changes, and updates to citations.

Christina Cuellar Hoke, Manager of Accounting, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of administering the rule amendments. The amendments to §2.104 may reduce the revenue coming to the OCCC as a result of application and renewal fees from RMLOs. However, the OCCC intends to offset any reduction in revenue by adjusting discounts associated with annual license assessments for businesses holding regulated lender licenses.

Huffman Lewis, Director of Consumer Protection, has determined that for each year of the first five years the amendments are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will be more easily understood by licensees required to comply with the rules, and will be consistent with legislation recently passed by the legislature. In addition, each individual RMLO will pay \$100 less at the time of application and with each annual renewal. This will reduce barriers for individuals to engage in the licensed occupation.

There is no anticipated cost to individual RMLOs who are required to comply with the rule amendments as proposed. The OCCC intends to offset any reduction in revenue by adjusting discounts associated with annual license assessments for businesses holding regulated lender licenses. The OCCC anticipates that any effect on these business licensees will be minimal,

due to the relatively small number of individual RMLOs that the OCCC licenses.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, micro-businesses, and rural communities, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposed rule changes will provide a decrease in fees paid to the agency for RMLOs, although the OCCC intends to offset any reduction in revenue by adjusting discounts associated with annual license assessments for businesses holding regulated lender licenses. The proposed rule changes do not create a new regulation. The proposal would limit existing regulations by reducing fees and amending grounds on which the OCCC may deny, suspend, or revoke a license on grounds of criminal history. The proposed rule changes do not expand or repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject

to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. central time on the 31st day after the date the proposal is published in the *Texas Register*. At the conclusion of business on the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule amendments are proposed under Texas Finance Code, §180.061, which authorizes the commission to adopt rules relating to criminal background checks for RMLOs, as well as rules relating to payment of RMLO application and renewal fees. In addition, Texas Finance Code, §180.004(b) authorizes the commission to implement rules to comply with Texas Finance Code, Chapter 180. The amendments to §2.106 are also proposed under Texas Occupations Code, §53.025, which requires each state licensing authority to issue guidelines relating to review of criminal history.

The statutory provisions affected by the proposal are contained in Texas Occupations Code, Chapter 53 and Texas Finance Code, Chapter 180.

§2.104 Application and Renewal Fees

(a) Required submission to NMLS. To become an RMLO, an OCCC applicant must

submit the required fees to NMLS. A fee is required to be submitted at the time of application and at the time of renewal. All fees are nonrefundable and nontransferable. However, upon review of individual circumstances, the OCCC may refund or transfer the state fees.

(b) Fingerprint processing fees. Fingerprint processing fees must also be paid in the amount necessary to recover the costs of investigating the OCCC applicant's fingerprint record (amount required by third party).

(c) OCCC application and renewal fees. The Finance Commission of Texas sets the RMLO application fee at an amount not to exceed \$200 [~~\$300~~] and the RMLO annual renewal fee not to exceed \$200 [~~\$300~~] for applications filed with the OCCC. Annual renewal fees are due to NMLS by December 31 of each year. A third party operates NMLS and that third-party operator sets the amount of the required system fees. Applicants and RMLOs must pay all required application and renewal fees, fingerprint processing fees, and any additional amounts required by the third-party operator.

(d) OCCC reinstatement period and fee. The Finance Commission of Texas sets the RMLO reinstatement fee at \$50 for applications filed with the OCCC. The reinstatement period for OCCC applicants runs from January 1 through the last day of February each year.

§2.106 Denial, Suspension, or Revocation Based on Criminal History

(a) Criminal history record information. After an applicant submits a complete application to NMLS, including a set of

fingerprints, and pays the fees required under §2.104 of this title (relating to Application and Renewal Fees), the OCCC will investigate the applicant. The OCCC will obtain criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation based on the applicant's fingerprint submission. The OCCC will continue to receive information on new criminal activity reported after the fingerprint information has been initially processed.

(b) Disclosure of criminal history by applicant. The applicant must disclose all criminal history information required to file a complete application with NMLS. Failure to provide any information required by NMLS or requested by the OCCC reflects negatively on the applicant's character and general fitness to hold a license. The OCCC may request additional criminal history information from the applicant, including the following:

(1) information about arrests, charges, indictments, and convictions;

(2) reliable documents or testimony necessary to make a determination under subsection

(c), including letters of recommendation ~~[from prosecution, law enforcement, and correctional authorities];~~

(3) proof that the applicant has maintained a record of steady employment, has supported the applicant's dependents, and has otherwise maintained a record of good conduct; and

(4) proof that all outstanding court costs, supervision fees, fines, and restitution as may have been ordered have been paid.

(c) Crimes directly related to licensed occupation. The OCCC may deny a license application, or suspend or revoke a license, if the applicant or licensee has been convicted of an offense that directly relates to the duties and responsibilities of a licensed residential mortgage loan originator, as provided by Texas Occupations Code, §53.021(a)(1).

(1) Originating residential mortgage loans involves making representations to borrowers regarding the terms of the loan and collecting charges in a legal manner. Consequently, the following crimes are directly related to the duties and responsibilities of a licensee and may be grounds for denial, suspension, or revocation:

(A) theft;

(B) assault;

(C) any offense that involves the misrepresentation, deceptive practices, or making a false or misleading statement (including fraud or forgery);

(D) any offense that involves breach of trust or other fiduciary duty;

(E) any criminal violation of a statute governing credit transactions or debt collection;

(F) failure to file a government report, filing a false government report, or tampering with a government record;

(G) any greater offense that includes an offense described in subparagraphs (A) - (F) of this paragraph as a lesser included offense; and

(H) any offense that involves intent, attempt, aiding, solicitation, or conspiracy to commit an offense described in subparagraphs (A) - (G) of this paragraph. ~~[Consequently, crimes involving the misrepresentation of costs or benefits of a product or service, the improper handling of money or property entrusted to the person, failure to file a governmental report or filing a false report, or the use or threat of force against another person are directly related to the duties and responsibilities of a licensee and may be grounds for denial, suspension, or revocation.]~~

(2) In determining whether a criminal offense directly relates to the duties and responsibilities of holding a license, the OCCC will consider the following factors, as specified in Texas Occupations Code, §53.022:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; ~~[and]~~

(D) the relationship of the crime to the ability or capacity ~~[, capacity, or fitness]~~ required to perform the duties and discharge the responsibilities of a licensee; and ~~[.]~~

(E) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

(3) If a criminal conviction directly relates to the duties and responsibilities of the license ~~[In determining whether a conviction for a crime renders an applicant or a licensee unfit to hold a license]~~, the OCCC will consider the following factors in determining whether to deny a license application, or suspend or revoke a license, as specified in Texas Occupations Code, §53.023:

(A) the extent and nature of the person's past criminal activity;

(B) the age of the person when the crime was committed;

(C) the amount of time that has elapsed since the person's last criminal activity;

(D) the conduct and work activity of the person before and after the criminal activity;

(E) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release, or following the criminal activity if no time was served; ~~[and]~~

(F) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and

(G) [(F)] evidence of the person's current circumstances relating to fitness to hold a license, which may include letters of recommendation ~~[from one or more of the following:]~~

~~[(i) — prosecution, — law enforcement, and — correctional officers who~~

~~prosecuted, arrested, or had custodial responsibility for the person;~~

~~[(ii) the sheriff or chief of police in the community where the person resides; and]~~

~~[(iii) other persons in contact with the convicted person].~~

(d) Crimes related to financial responsibility, character, or general fitness. The OCCC may deny a license application, or suspend or revoke a license, if the applicant or licensee has been convicted of an offense that relates to financial responsibility, character, or general fitness to hold a license, as provided by Texas Finance Code, §180.055(a)(3) and §180.201(2)(A). If the applicant or licensee has been convicted of an offense described by subsections (c)(1), (f)(1), or (f)(2) of this section, this reflects negatively on the applicant or licensee's character and fitness. The OCCC may deny a license application based on other criminal history of the applicant if, when the application is considered as a whole, the agency does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the applicant will operate lawfully and fairly. The OCCC will consider the factors identified in subsection (c)(2) - (3) of this section in its review of character and fitness. [Crimes that relate to financial responsibility, character, or general fitness include the following:]

~~[(1) fraud, misrepresentation, deception, or forgery;]~~

~~[(2) breach of trust or other fiduciary duty;]~~

~~[(3) dishonesty or theft;]~~

~~[(4) money laundering;]~~

~~[(5) assault;]~~

~~[(6) violation of a statute governing lending of this or another state;]~~

~~[(7) failure to file a required report with a governmental body, or filing a false report; or]~~

~~[(8) attempt, preparation, or conspiracy to commit one of the preceding crimes.]~~

(e) Revocation on imprisonment. A license will be revoked on the licensee's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision, as provided by Texas Occupations Code, §53.021(b).

(f) Other grounds for denial, suspension, or revocation. The OCCC may deny a license application, or suspend or revoke a license, based on any other ground authorized by statute, including the following:

~~[(1) a conviction for an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date of application, as provided by Texas Occupations Code, §53.021(a)(2);]~~

(1) [(2)] a conviction for an offense listed in Texas Code of Criminal Procedure, art. 42A.054 [art. 42.12, §3g], or art. 62.001(6), as provided by Texas

Occupations Code, §53.021(a)(2)-(3)
[~~§53.021(a)(3)-(4)~~];

(2) [~~(3)~~] a conviction for, or plea of guilty or nolo contendere to, a felony during the preceding seven years or a felony involving an act of fraud, dishonesty, breach of trust, or money laundering, as provided by Texas Finance Code, §180.055(a)(2) and §180.201(2)(A);

(3) [~~(4)~~] a material misstatement or failure to provide information in a license application, as provided by Texas Finance Code, §180.201(2); and

(4) [~~(5)~~] any other information indicating that the financial responsibility, character, or general fitness of the applicant or licensee do not command the confidence of the public or do not warrant the determination that the applicant or licensee will operate honestly, fairly, and efficiently within the purposes of Texas Finance Code, Chapter 180 and other appropriate regulatory laws of this state, as provided by Texas Finance Code, §180.055(a)(3) and §180.201(2)(A).

Certification

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on February 14, 2020.

Matthew J. Nance
Deputy General Counsel
Office of Consumer Credit Commissioner

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

6. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to §86.201 in 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors, Resulting from Rule Review

PURPOSE: The purpose of the proposed amendments to 7 TAC §86.201 is to implement changes resulting from the commission's review of 7 TAC Chapter 86 under Texas Government Code, §2001.039. The proposed amendments are intended to provide clarity and make technical corrections.

RECOMMENDED ACTION: The agency requests that the Finance Commission approve the amendments to 7 TAC §86.201 for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that we approve for publication and comment the amendments to 7 TAC §86.201.

Title 7. Banking and Securities
Part 5. Office of Consumer Credit Commissioner
Chapter 86. Retail Creditors
Subchapter B. Retail Installment Contract
§86.201. Documentary Fee

The Finance Commission of Texas (commission) proposes amendments to §86.201 (relating to Documentary Fee) in 7 TAC, Chapter 86, concerning Retail Creditors.

In general, the purpose of the proposed amendments to §86.201 is to implement changes resulting from the commission's review of 7 TAC Chapter 86 under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 86 was published in the *Texas Register* on December 27, 2019 (44 TexReg 8343). The commission received no comments in response to that notice.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC did not receive any informal precomments on the rule text draft.

The proposed amendments to §86.201 are intended to provide clarity and to update a statutory citation. Proposed new subsection (a) would add a purpose statement to specify which vehicles the rule applies to. A proposed amendment at subsection (b)(1) would amend a citation to the statutory definition of "all-terrain vehicle" in the Texas Transportation Code. This definition was moved to Texas Transportation Code, §551A.001(1) by HB 1548, which the Texas Legislature enacted during the 2019 legislative session.

Christina Cuellar Hoke, Manager of Accounting, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of administering the rule amendments.

Huffman Lewis, Director of Consumer Protection, has determined that for each year of the first five years the amendments are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will be more easily understood by persons required to comply with the rules, and will be consistent with legislation recently passed by the legislature.

There is no anticipated cost to persons who are required to comply with the new rule as proposed. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposed rule changes will not require an increase or decrease in fees paid to the agency. The proposed rule

changes do not create a new regulation. The proposed rule changes do not limit, expand, or repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. central time on the 31st day after the date the proposal is published in the *Texas Register*. At the conclusion of business on the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

These amendments are proposed under Texas Finance Code, §345.251(e), which authorizes the commission to adopt rules to implement and enforce the statutory provision authorizing a documentary fee for certain retail installment transactions under Texas Finance Code, Chapter 345. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Title 4 of the Texas Finance Code.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 345.

§86.201 Documentary Fee

(a) Purpose. The purpose of this section is to specify the maximum documentary fee in a retail installment transaction for the sale of a motorcycle, moped, all-terrain vehicle, boat, boat motor, boat trailer, or towable recreational vehicle, as provided by Texas Finance Code, §345.251.

(b) [(a)] Definitions.

(1) All-terrain vehicle--Has the meaning provided by Texas Transportation Code, §551A.001(1) [~~§502.001(1)~~].

(2) Boat--A vessel, as described by Texas Parks and Wildlife Code, §31.003(2).

(3) Boat motor--An outboard motor, as described by Texas Parks and Wildlife Code, §31.003(13).

(4) Covered land vehicle--A motorcycle, moped, all-terrain vehicle, boat trailer, or towable recreational vehicle.

(5) Covered watercraft--A boat or boat motor.

(6) Moped--Has the meaning provided by Texas Transportation Code, §541.201(8).

(7) Motorcycle--Has the meaning provided by Texas Transportation Code, §541.201(9).

(8) Retail installment contract--Has the meaning provided by Texas Finance Code, §345.001(6) and refers to one or more instruments entered into that evidence a secured or unsecured retail installment transaction for the sale of goods under Texas Finance Code, Chapter 345.

(9) Towable recreational vehicle--
Has the meaning provided by Texas Finance
Code, §348.001(10-a).

(c) [~~(b)~~] Contract for covered land
vehicles only. For a retail installment
contract for the purchase of one or more
covered land vehicles, the reasonable
maximum amount of the documentary fee is
\$125.

(d) [~~(c)~~] Contract for covered watercraft
only. For a retail installment contract for the
purchase of one or more covered watercraft,
the reasonable maximum amount of the
documentary fee is \$125.

(e) [~~(d)~~] Contract for both covered land
vehicles and covered watercraft. For a retail
installment contract for the purchase of one
or more covered land vehicles and one or
more covered watercraft, the reasonable
maximum amount of the documentary fee is
\$175.

Certification

This agency hereby certifies that the
proposal has been reviewed by legal counsel
and found to be within the agency's legal
authority to adopt.

Issued in Austin, Texas on February 14,
2020.

Matthew J. Nance
Deputy General Counsel
Office of Consumer Credit Commissioner

D.

Texas Department of Banking

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Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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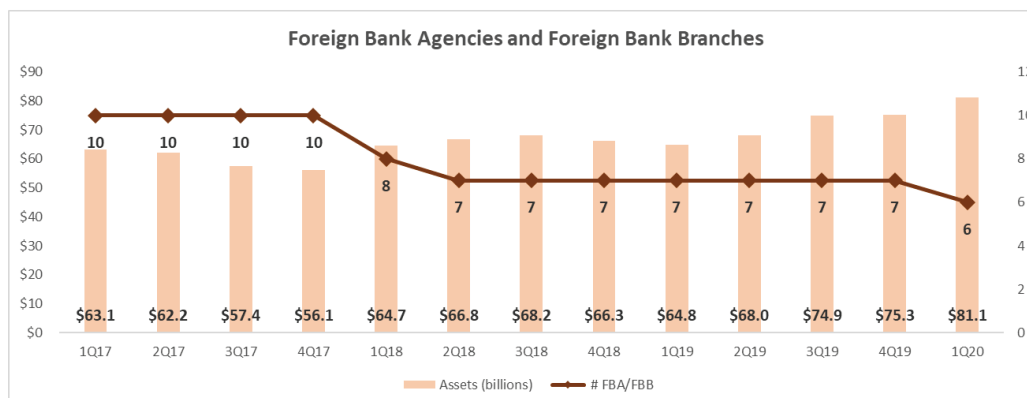
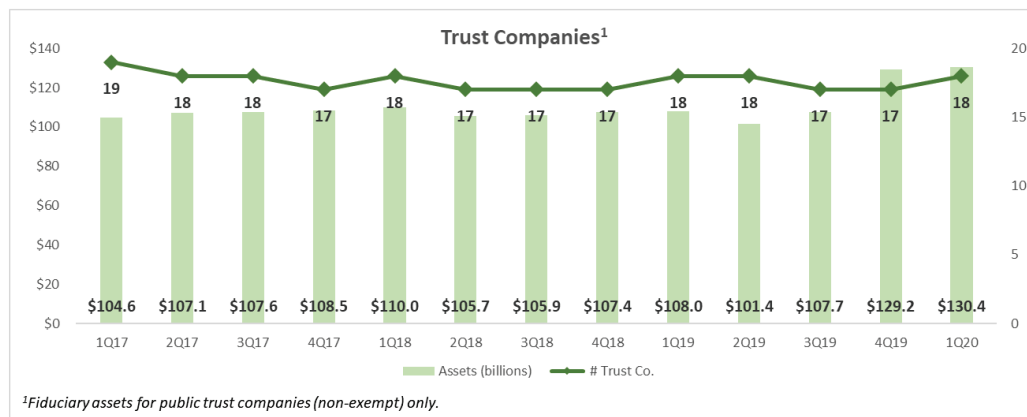
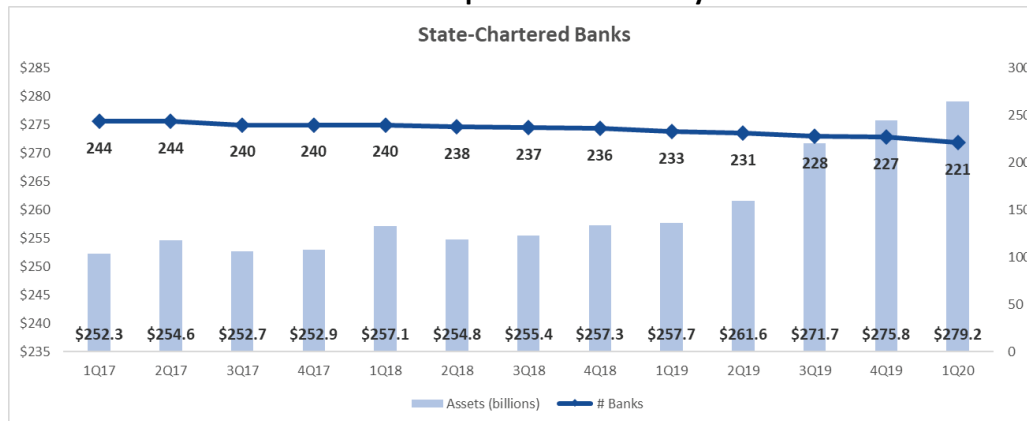
To: Finance Commission Members

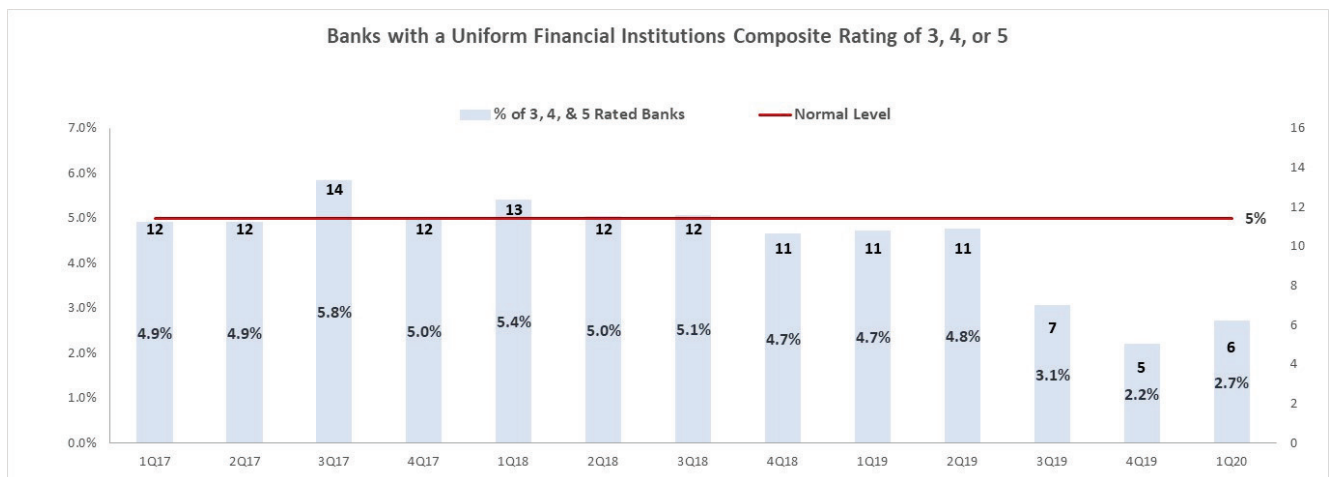
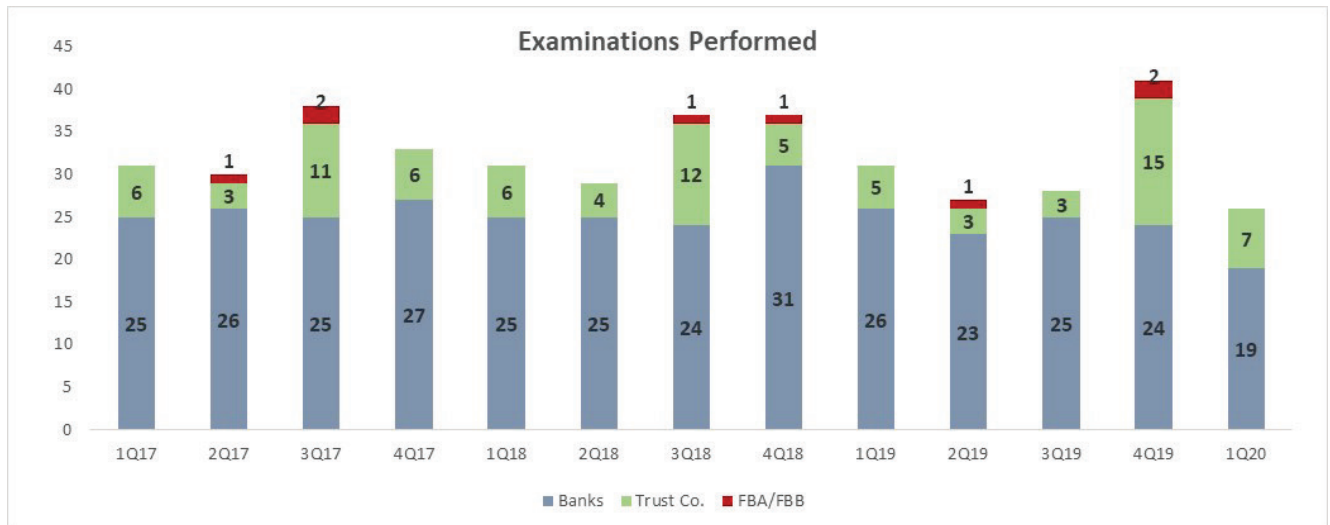
From: Daniel Frasier, Director of Bank & Trust Supervision *DBF*

Date: January 31, 2020

Subject: Summary of the Bank & Trust Supervision Division Activities

Bank and Trust Supervision – Industry Profiles





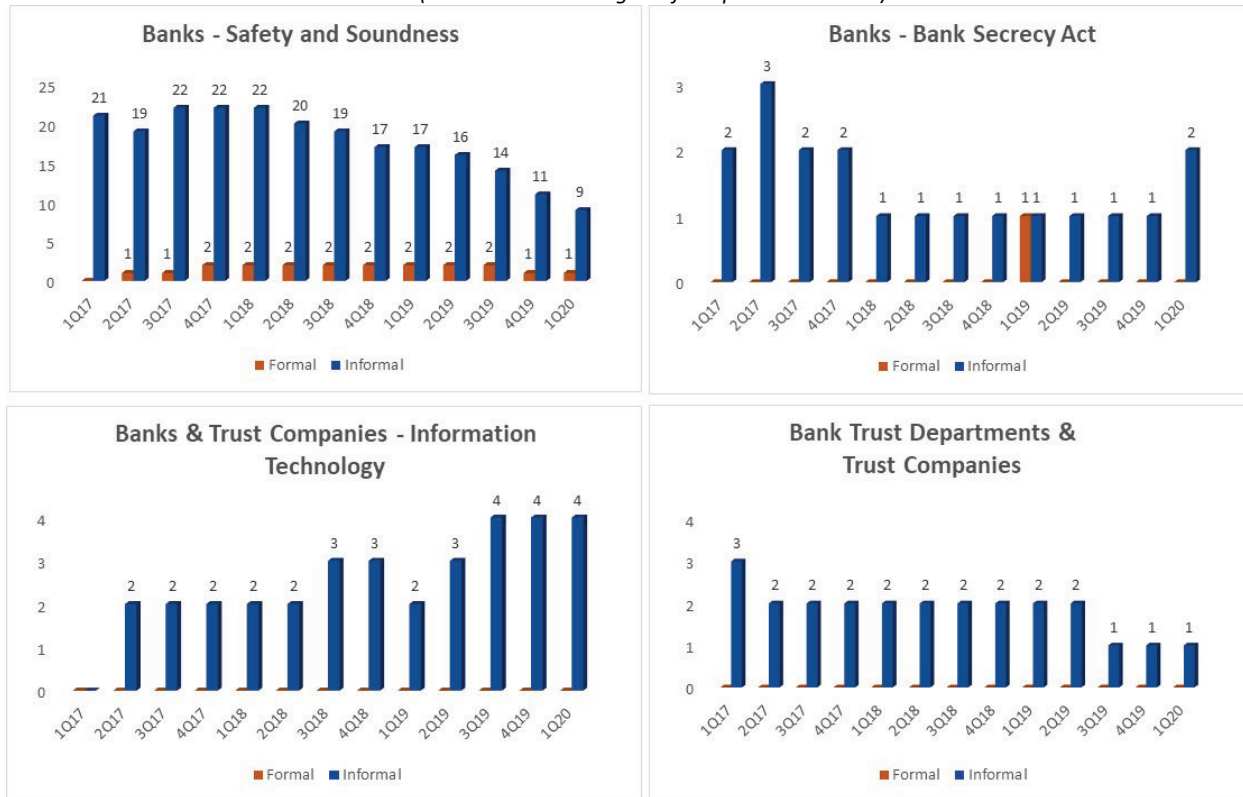
The Department considers any bank with a Uniform Financial Institutions Composite Rating of 3, 4, or 5, to be a problem bank. The number of problem banks ticked up slightly during the 1st quarter of fiscal year 2020, and further net additions are possible in the coming months. However, the overall level of problem banks remains below what we consider to be a normal range of between 3% and 5% of the total number of institutions.

Summary of the Bank & Trust Supervision Division Activities

Page 3

Enforcement Actions Outstanding by Type

(Number outstanding as of the period indicated)



Formal actions include Orders to Cease and Desist, Consent Orders, Written Agreements and Supervisor Actions.

Informal actions include Determination Letters, Memoranda of Understanding, Commitment Letters and Board Resolutions.

Compliance actions are not included.

Compliance with Examination Priorities		
Percent of Examinations Conducted within Department Guidelines		
Entity Type	FY 2019	FY 2020 (YTD – Dec. 2019)
Commercial Banks (All / DOB Only)	93% / 92%	100% / 100%
IT	96% / 96%	98% / 96%
Trust	93% / 94%	100% / 100%
Foreign Banks (FRB)	100%	100%
Trust Companies (DOB)	48%	78%
IT	92%	100%

For this first fiscal quarter of 2020, we met all examination priorities except for examinations of trust companies. Compliance with examination priorities for trust companies is improving over fiscal year 2019 and is expected to continue improving throughout fiscal year 2020. The hiring of experienced trust examiners to fill vacancies and temporary operational changes have resulted in good progress. Barring any unexpected setbacks, we anticipate being current on trust company examinations by February 29, 2020.

Division Highlights

- **LIBOR Transition:** The London Interbank Offered Rate (LIBOR) as a pricing index is set to be phased out by year end 2021. In the time remaining until the LIBOR index no longer exists, financial institutions should be implementing plans for that inevitability. For banks, trust companies and foreign bank agencies that have financial instruments tied to LIBOR, Department staff will evaluate their readiness for the transition away from LIBOR. Our goal is to ensure that management and the Board are aware that LIBOR will be eliminated in 2021, and that management is taking necessary steps to transition to a new index.
- **Congratulations to Our Newly Commissioned Examiners:** The Bank & Trust Supervision Division is proud to congratulate seven examiners for passing the Department's Bank Examination Testing System (BETS) in 2019, and thereby earning their promotion to Commissioned Examiner. In December alone, four examiners successfully completed the final phase of BETS. The seven newly commissioned examiners are: Keith Bryan; Charli McCue; Robert Chandler; Elisha Polk; Danny Salinas; Adrienne Spradlin; and Chris Rains.
- **Senior Leadership Meeting:** Once each year, the Bank & Trust Supervision Division holds a meeting with the senior leaders of the division. This includes the Regional Directors, Regional Review Examiners, Review Examiners, Chief Trust Examiner, Chief IT Security Examiner and other senior leaders. The most recent meeting began on January 28, 2020, in Austin. This annual meeting allows greater coordination of supervision activities, the transfer of knowledge to the Department's less tenured leaders, and the development of professional interpersonal relationships that are crucial to the Department's continued success.
- **Examination Modernization:** In 2019, the Department began implementing a project with the objective of modernizing our examination processes and procedures. The primary goals of this initiative are to:
 1. Better tailor the supervision process to the size, complexity, and risks of individual institutions;
 2. Focus examination resources on examining areas of greater risk, while limiting overly burdensome examination documentation requirements; and
 3. Better leverage technology in the examination process to increase the effectiveness and efficiency of supervisory efforts.

In January, project staff met with two of the regional offices to discuss the project. We will regularly engage with staff and other stakeholders, including bank management and our federal counterparts, as the project progresses.

- **Special Operations and Conferences:**
 1. Beginning December 2, 2019, Commissioner Cooper, Deputy Commissioner Purdom, Assistant Deputy Commissioner Reese, General Counsel Reyer, and Assistant Regional Director Reese attended the CSBS Board Meeting and Supervisors Symposium in Scottsdale, Arizona.



Charles G. Cooper
Commissioner

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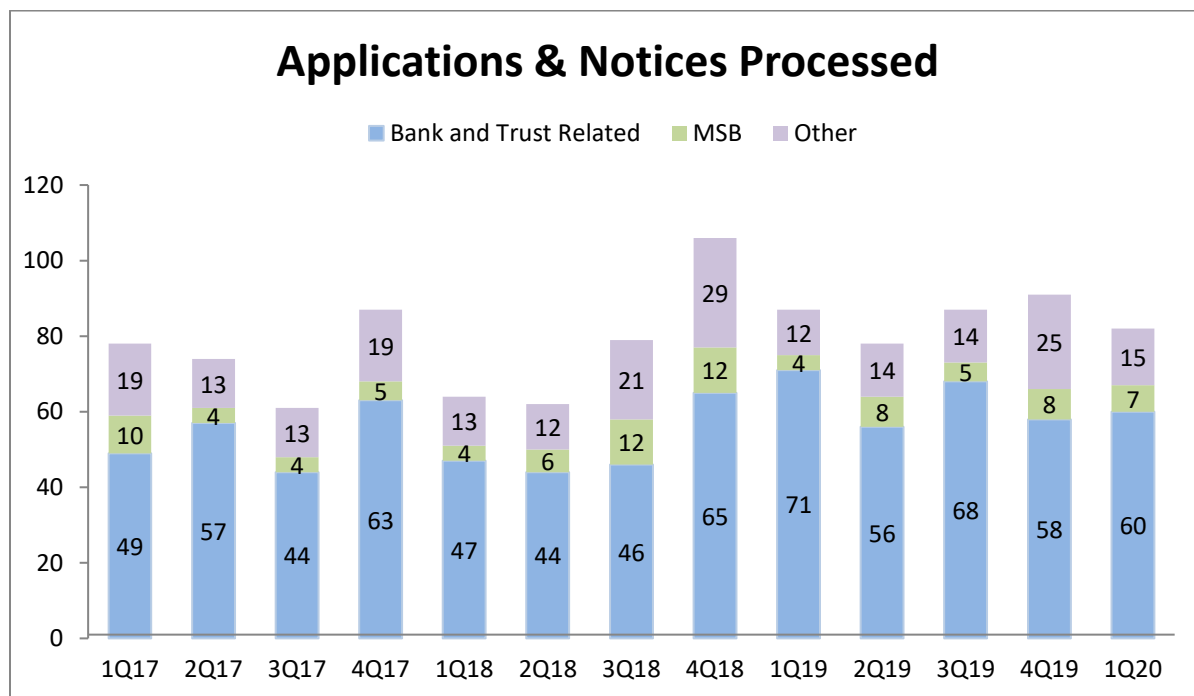
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To: Finance Commission Members

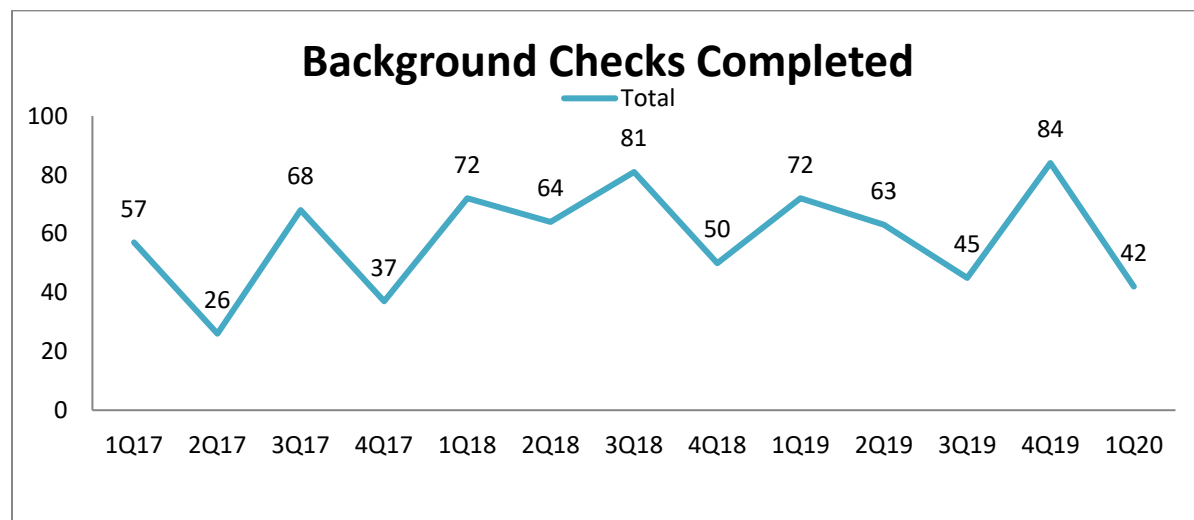
From: Mark Largent, Director of Corporate Activities

Date: January 27, 2020

Subject: Summary of the Corporate Division's Activities



Information on a Fiscal Quarter Basis.



Information on a Fiscal Quarter Basis.

Entities/Activities	Applications and Notices Under Review (as of January 26, 2020)
Bank Related	22
Trust Companies	6
Money Services Business (MSB)	16
Others	3
Totals	47

Division Highlights

- Application volume remains significant although moderately below the level reported at the last Finance Commission meeting. Compared to our last report submitted, the Corporate Division's filings presently under review by category type changed by:
 - Bank related decreased 9 (29%)
 - Trust company decreased 1 (14%)
 - MSB related was unchanged 0 (0%)
 - Other was unchanged 0 (0%)
- Gulf Capital Bank, Houston, Texas, opened for business on December 18, 2019. This is the second de novo bank chartered in Texas since 2009 and the first since The Bank of Austin, Austin, Texas, opened for business on July 10, 2017.
- Significant filing:
 - Independent Bank, McKinney, Texas, has applied to acquire via merger Texas Capital Bank, N.A., Dallas, Texas [estimated gain in state banking assets of \$32.5 billion].
- **Charter, Conversion, and Merger Activity** – Since the last report to the Finance Commission, the following transactions have consummated:
 - *Banks*
 - Interstate Bank, SSB, Perryton, Texas converted to a Texas state bank charter under the name of Interstate Bank [estimated gain in state banking assets of approximately \$200 million].
 - Gulf Capital Bank, Houston, Texas, a de novo Texas state bank, opened for business [estimated gain in state banking assets of approximately \$39 million].
 - Lakeside National Bank, Rockwall, Texas converted to a Texas state bank charter under the name of Lakeside Bank [estimated gain in state banking assets of approximately \$84 million].
 - Oakwood Bank, Dallas, Texas completed its acquisition merger of Community Bank of Snyder, Snyder, Texas [no change in state banking assets].
 - Happy State Bank, Happy, Texas completed its acquisition merger of First State Bank of Mobeetie, Mobeetie, Texas [no change in state banking assets].

- Heritage Bank, Pearland, Texas merged into Third Coast Bank, SSB, Humble, Texas [estimated loss in state banking assets of approximately \$298 million].
 - The Bank & Trust of Bryan/College Station, Bryan, Texas merged into First Financial Bank, N.A., Abilene, Texas [estimated loss in state banking assets of approximately \$630 million].
 - Texas First State Bank, Riesel, Texas merged into BancorpSouth Bank, Tupelo, Mississippi [estimated loss in state banking assets of approximately \$398 million].
- *Trust Companies*
 - N/A.
- **Conferences, Conventions, and Committee Meetings** – Since the last report to the Finance Commission, Corporate Division personnel have not participated in such events.



Charles G. Cooper
Commissioner

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To: Finance Commission Members

From: Jesus "Jesse" Saucillo, Director of Non-Depository Supervision *JS*

Date: February 1, 2020

Subject: Summary of Non-Depository Supervision (NDS) Activities

			FY 2020							
Entity	FY 2019		1 st		2 nd		3 rd		4 th	
Industry Profile (# / Assets (billions))										
Money Services Businesses (MSB)	171	\$140.5	170	\$140.3						
Prepaid Funeral Contract (PFC)	359	\$4.2	357	\$4.2						
Perpetual Care Cemeteries (PCC)	241	\$365.3 *	241	\$369.4*						
Check Verification Entities (CVE)	2	n/a	2	n/a						
Examinations Performed										
MSB	101		19							
MSB Limited Scope	2		2							
MSB Accepted other State	13		4							
PFC	260		53							
PFC Limited Scope	5		0							
PCC	184		68							
PCC Limited Scope	2		0							
Ratings (# / %) Assigned to All Regulated Entities										
1	276	36.56%	281	37.42%						
2	409	54.17%	409	54.46%						
3	60	7.95%	50	6.66%						
4 & 5	10	1.32%	11	1.46%						
Noncompliance with Examination Priorities (Past Due)										
MSB	14		23							
PFC	3		2							
PCC	1		2							

NOTES:

* PCC \$ amounts reflected in the millions.

Limited scope examinations do not receive a rating.

Noncompliance with Examination Priorities (Past Due)

- The MSB past due examinations are on average 1.0 month past due.
 - Our examination schedule reflects that four of the past due MSB examinations were completed in December 2019, six were completed in January 2020, and the remaining will be completed in February and March 2020.
- The two PCC past due examinations are on average 1.5 months past due and the two PFC past due examinations are on average 0.5 month past due.
 - Our examination schedule reflects that one of the past due PFC/PCC examinations was completed in December 2019, two were completed in January 2020, and the remaining past due PFC/PCC examination will be completed in February 2020.
- NDS met or exceeded all performance measures for the first quarter of FY 2020.

Division Activities

On December 2nd, Commissioner Cooper and Assistant Deputy Commissioner (ADC) Russell Reese, along with other Department personnel, attended the Conference of State Bank Supervisors (CSBS) Board Meeting & Supervisors Symposium in Scottsdale, AZ. This symposium is attended by various state and federal agencies and is used to discuss current and emerging policies and trends affecting entities licensed by our Department.

On December 19th, a new Administrative Memorandum (AM) 2034 was issued to clarify the examination due date calculation for NDS license holders. The calculation due date revisions closely mirror the examination due date calculation utilized by the Bank & Trust Supervision Division and improves consistency within the Department in monitoring compliance with examination frequency requirements.

During the week of January 13th, Commissioner Cooper and NDS Director Saucillo attended the annual Multi-State MSB Examination Taskforce (MMET) meeting in New Orleans, LA. The MMET is the state representative body charged with coordinating and facilitating multi-state examinations and supervision of MSBs. The MMET consists of ten state regulatory representatives appointed by the Money Transmitter Regulators Association (MTRA) and CSBS. Texas is a CSBS appointee.

NDS staff continues to participate in various MMET and MTRA committees, such as the MTRA Examination Standards Committee tasked with updating the MSB work program. NDS staff also continues to participate in MMET/MTRA quarterly scheduling calls to coordinate multi-state MSB examinations.

The Division conducted interviews in mid-January to fill the MSB Financial Examiner I vacancy and anticipates filling the position in early February 2020.



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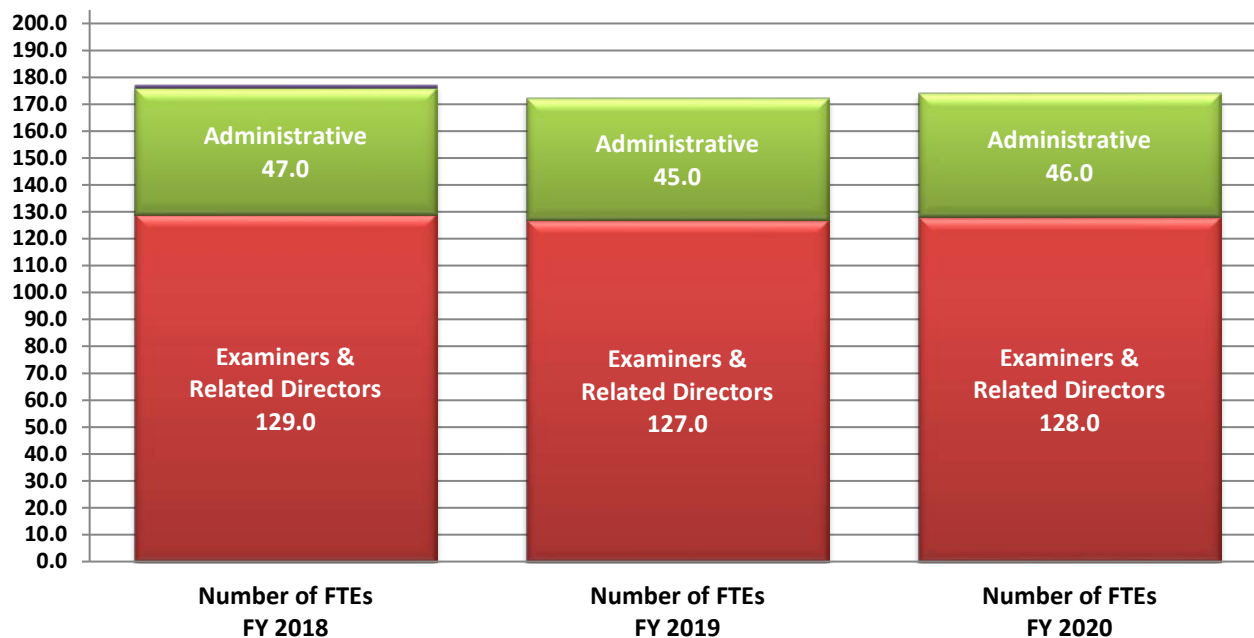
Memorandum

To: Finance Commission Members
From: Lori Wright, Director Human Resources
Date: January 31, 2020
Subject: Summary of the Human Resources Division Activities

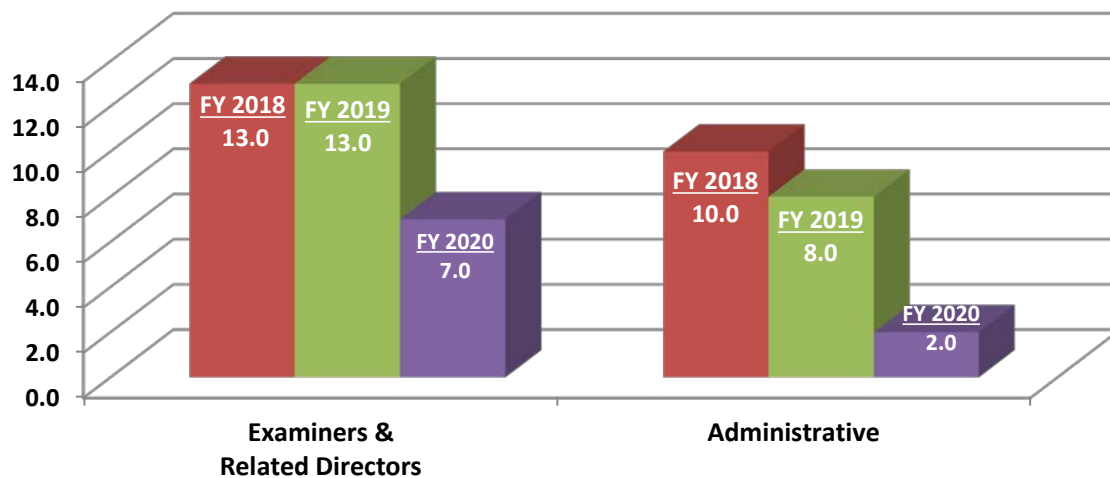
Human Resources Fiscal Year 2020 Activities as of 01/31/2020

Active Postings		
Position	Status	Activities
Financial Examiner IV-VII (Trust)	Open Until Filled	Screening Applications
Financial Examiner I-III (Trust)	Close 02/14/2020	Open
Financial Examiner I (MSB)	Closed 12/6/2019	Reference Checks
Systems Administrator VI	Open Until Filled	Open
Law Clerk	Closed 01/31/2020	Screening Applications
Program Specialist II (DSS)	Open Until Filled	Open
Financial Examiner IV-V	Open Until Filled	Perpetual Posting
Financial Examiner VI-VII	Open Until Filled	Perpetual Posting

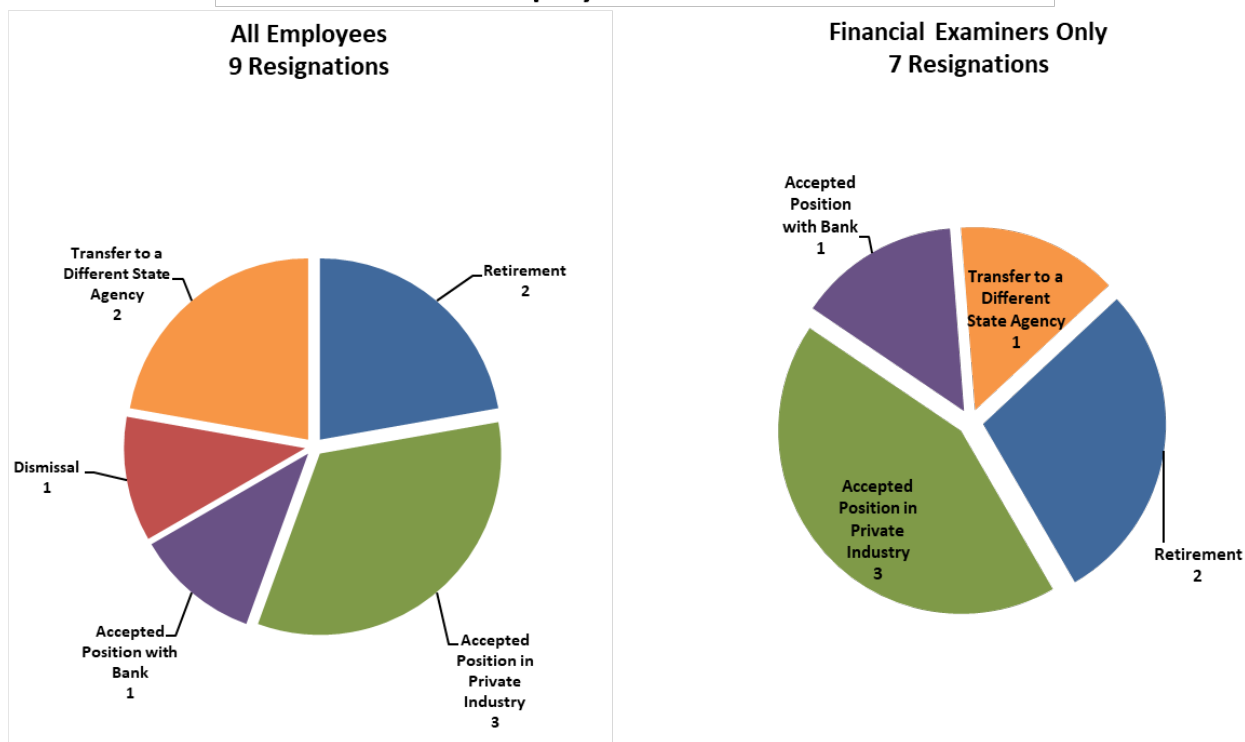
**Texas Department of Banking
Employee Data for Fiscal Years 2018, 2019 and 2020 as of
01/31/2020**



New Hire Data for Fiscal Years 2018, 2019 and 2020



FY 2020 Employee Turnover Reasons



Other Agency Items:

New Chief Information Officer

Sean P. Miller was named Chief Information Officer effective January 13, 2020. Mr. Miller will provide direction and guidance for the daily operations and long-range planning needs of the Department's Information Technology Division.

UT Survey of Employee Engagement

Every other year the agency participates in the UT Survey of Employee Engagement to determine what areas employees are generally satisfied and what areas need improvement or modification. This year, the overall survey response rate was 96.5%. The final results of the survey will be provided to the agency in the near future in preparation for the agency strategic plan.

Department of Banking
Actual Performance for Output Measures
Fiscal Year 2020

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target
Output Measures-Key				
1-1-1 Bank Examination				
1. # Bank Examinations Performed				
Quarter 1	90	19	19	21.11%
2. # Foreign/Trust/IT Examinations Performed				
Quarter 1	185	42	42	22.70%
1-2-1 Non-Depositary Supervision (NDS)				
1. # NDS Licensees Examined				
Quarter 1	550	146	146	26.55%
1-3-1 Application Processing				
1. # License Applications Completed				
Quarter 1	311	81	81	26.05%

*Varies by 5% or more from target.



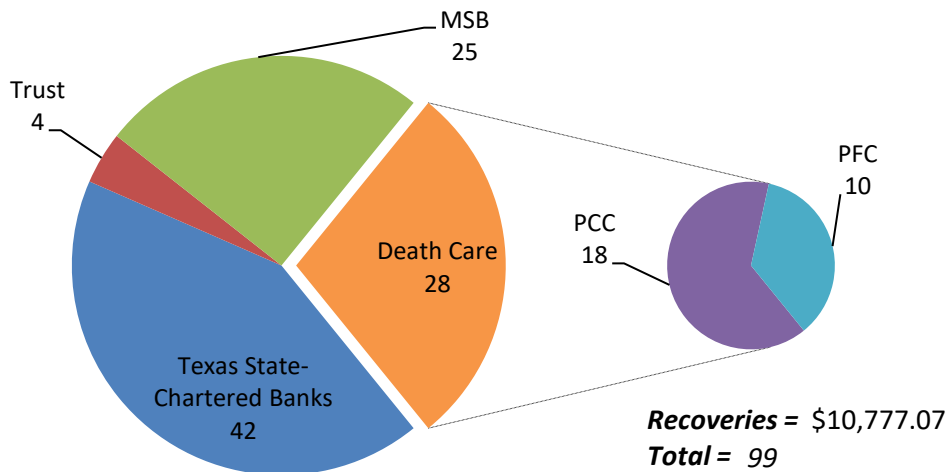
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Commissioner

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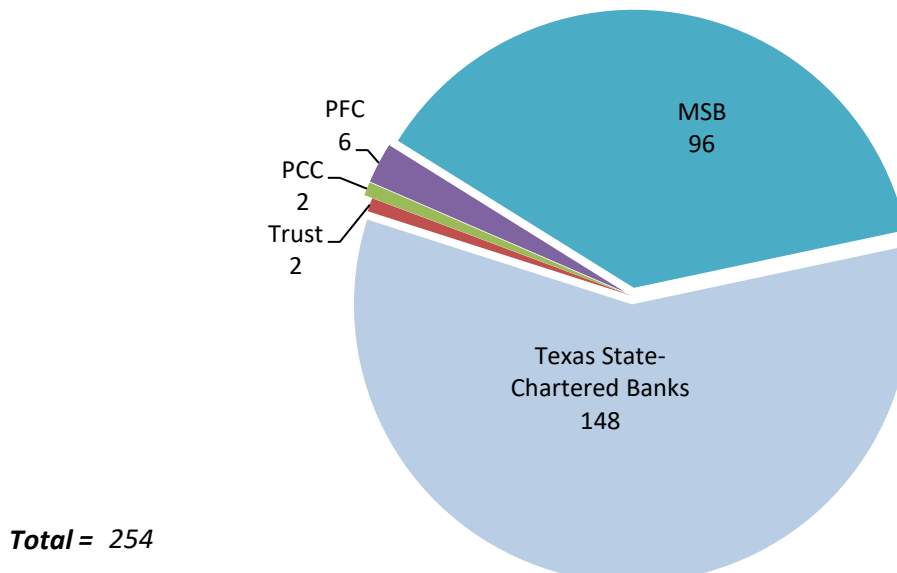
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To: Finance Commission Members
From: Wendy Rodriguez, Chief Operating Officer *WR*
Date: February 1, 2020
Subject: Summary of the Strategic Support Division Activities

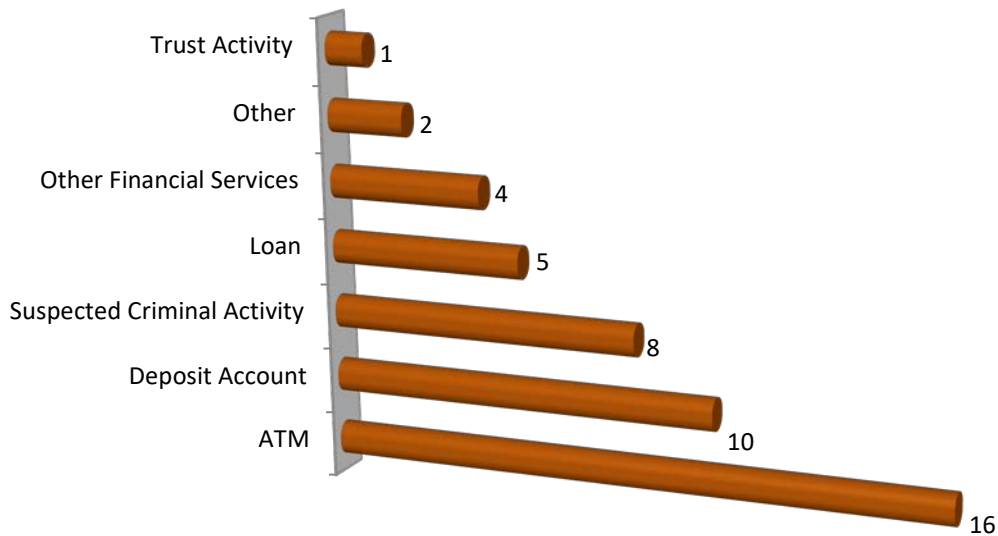
Jurisdictional Written Complaints September 2019 - December 2019



Inquiries on Jurisdictional Entities September 2019 - December 2019

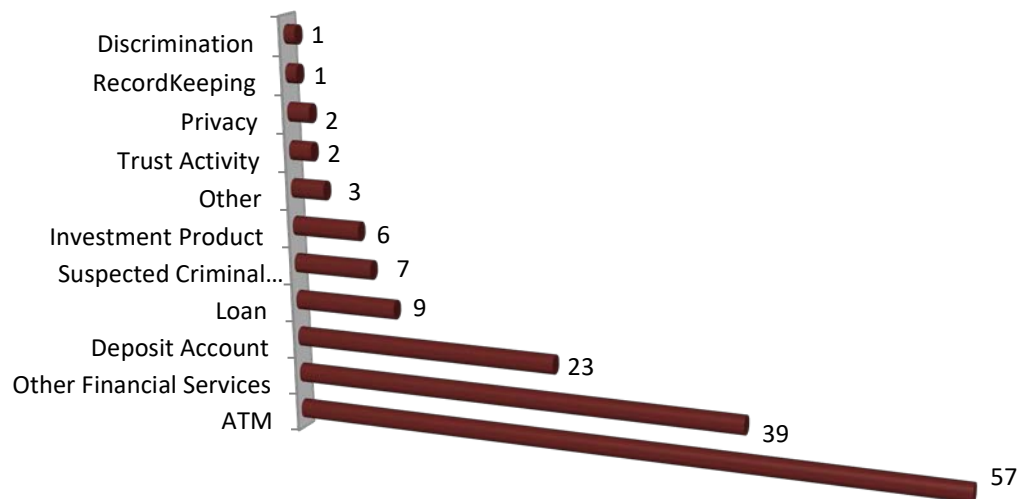


**State-Chartered Banks and Trust Companies
Written Complaints by Type
September 2019 - December 2019**



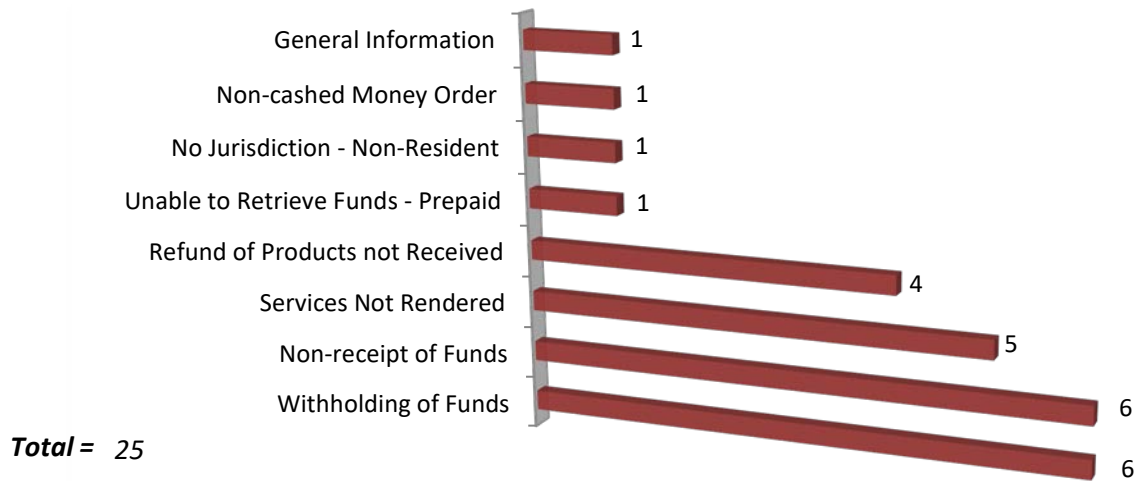
Total = 46

**State-Chartered Banks and Trust Companies
Inquiries by Type
September 2019 - December 2019**

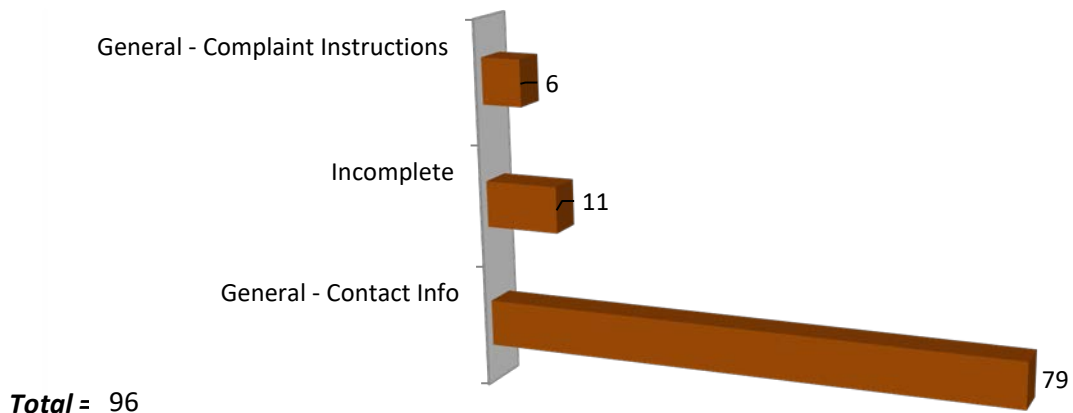


Total = 150

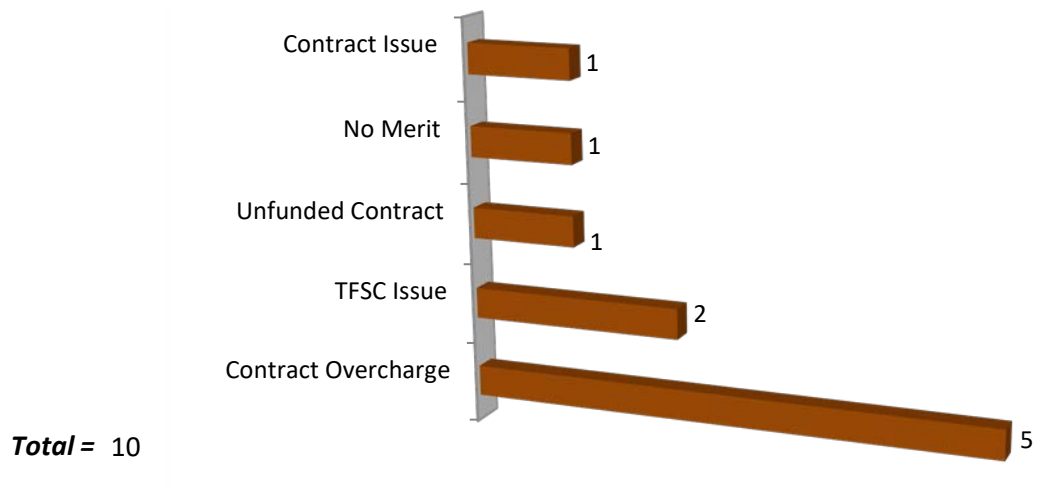
**Money Services Businesses
Written Complaints by Type
September 2019 - December 2019**



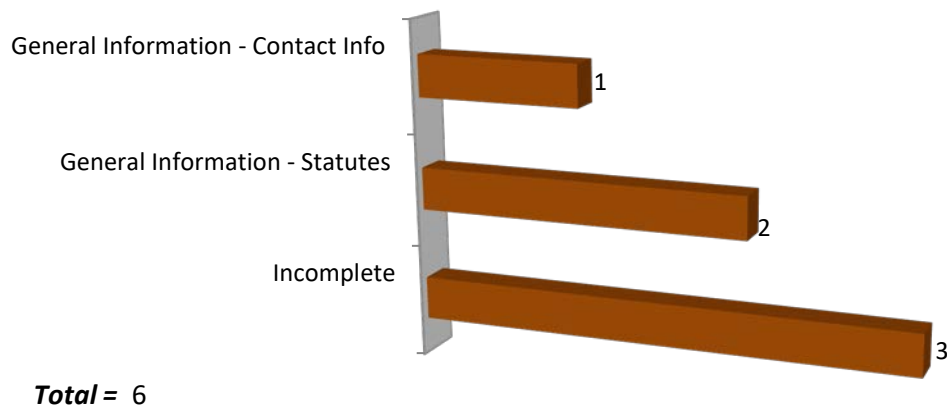
**Money Services Businesses
Inquiries by Type
September 2019 - December 2019**



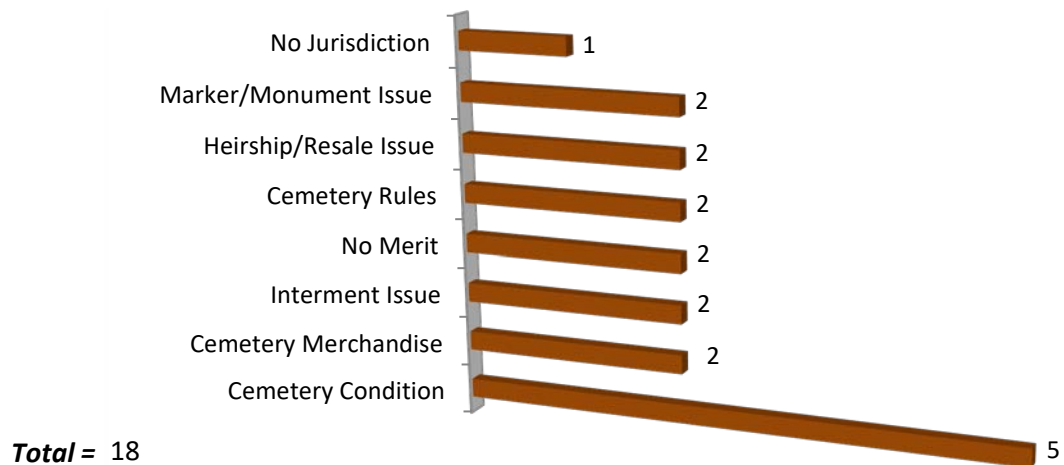
**Prepaid Funeral Contract Sellers
Written Complaints by Type
September 2019 - December 2019**



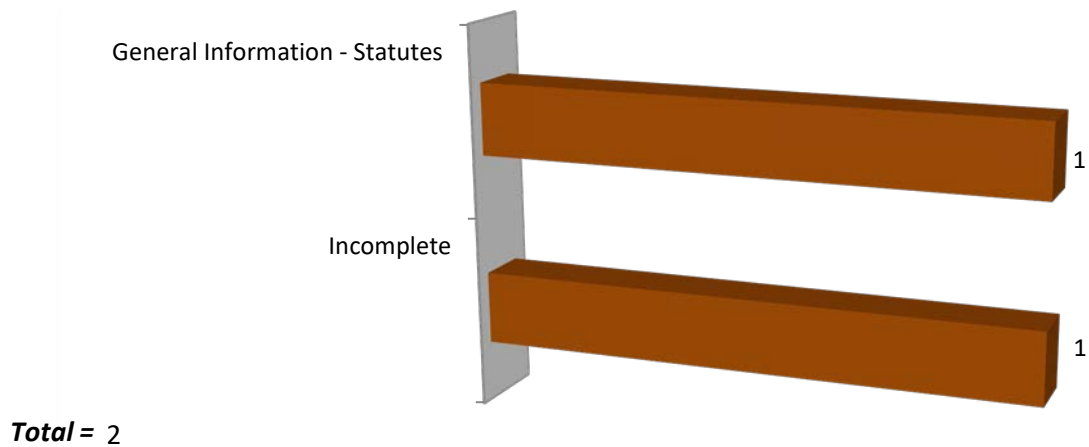
**Prepaid Funeral Contract Sellers
Inquiries by Type
September 2019 - December 2019**



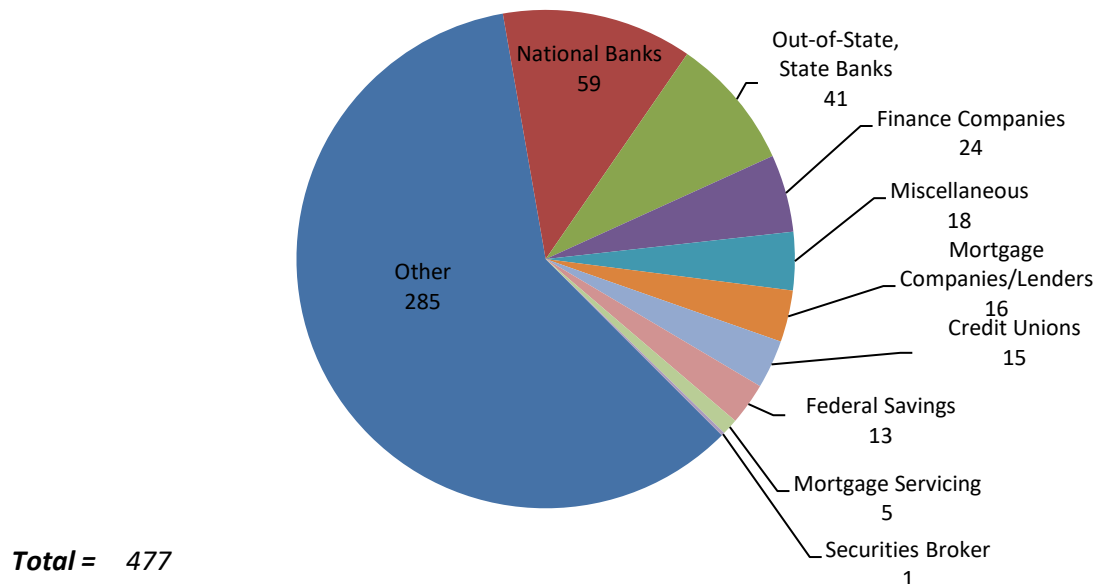
**Perpetual Care Cemeteries
Written Complaints by Type
September 2019 - December 2019**



**Perpetual Care Cemeteries
Inquiries by Type
September 2019 - December 2019**



Complaints and Inquiries Against Non-Jurisdictional Entities September 2019 - December 2019



Often, consumers do not provide the name of the entity they need assistance with. In these situations, the communication is categorized in the "Other" category.

Consumer Assistance Activities Information by Quarter

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
State-Chartered Banks				
Avg. Number of Days to Close a Written Complaint	12	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	N/A	N/A	N/A
Number of Written Complaints Resolved	23	N/A	N/A	N/A
Trust				
Avg. Number of Days to Close a Written Complaint	12	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	N/A	N/A	N/A
Number of Written Complaints Resolved	1	N/A	N/A	N/A
PFC/PCC				
Avg. Number of Days to Close a Written Complaint	39	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	N/A	N/A	N/A
Number of Written Complaints Resolved	25	N/A	N/A	N/A
MSB				
Avg. Number of Days to Close a Written Complaint	18	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	N/A	N/A	N/A
Number of Written Complaints Resolved	16	N/A	N/A	N/A

Closed Account Notification System (CANS) ACTIVITY
January 1, 2017 – January 27, 2020

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	196	406
Texas State-Chartered Savings Banks	23	45
Federal Savings Banks	10	1
State Credit Unions	132	686
Federal Credit Unions	229	354
National Banks	170	128
Out-of-State State-Chartered Banks	12	153
Out-of-State National Banks	6	1
Total	778	1,774

Bank Examination Testing System (BETS) Activity
Number of Candidates Passing Each Phase

	FY 2017	FY 2018	FY 2019	FY 2020 As of 01/31/20
I. General Knowledge	8	6	3	2
II. Loan Analysis	3	3	5	1
III. Panel	2	2	5	4
IV. Test Bank	3	3	4	5
Total FE3	24	22	19	16

Promotions

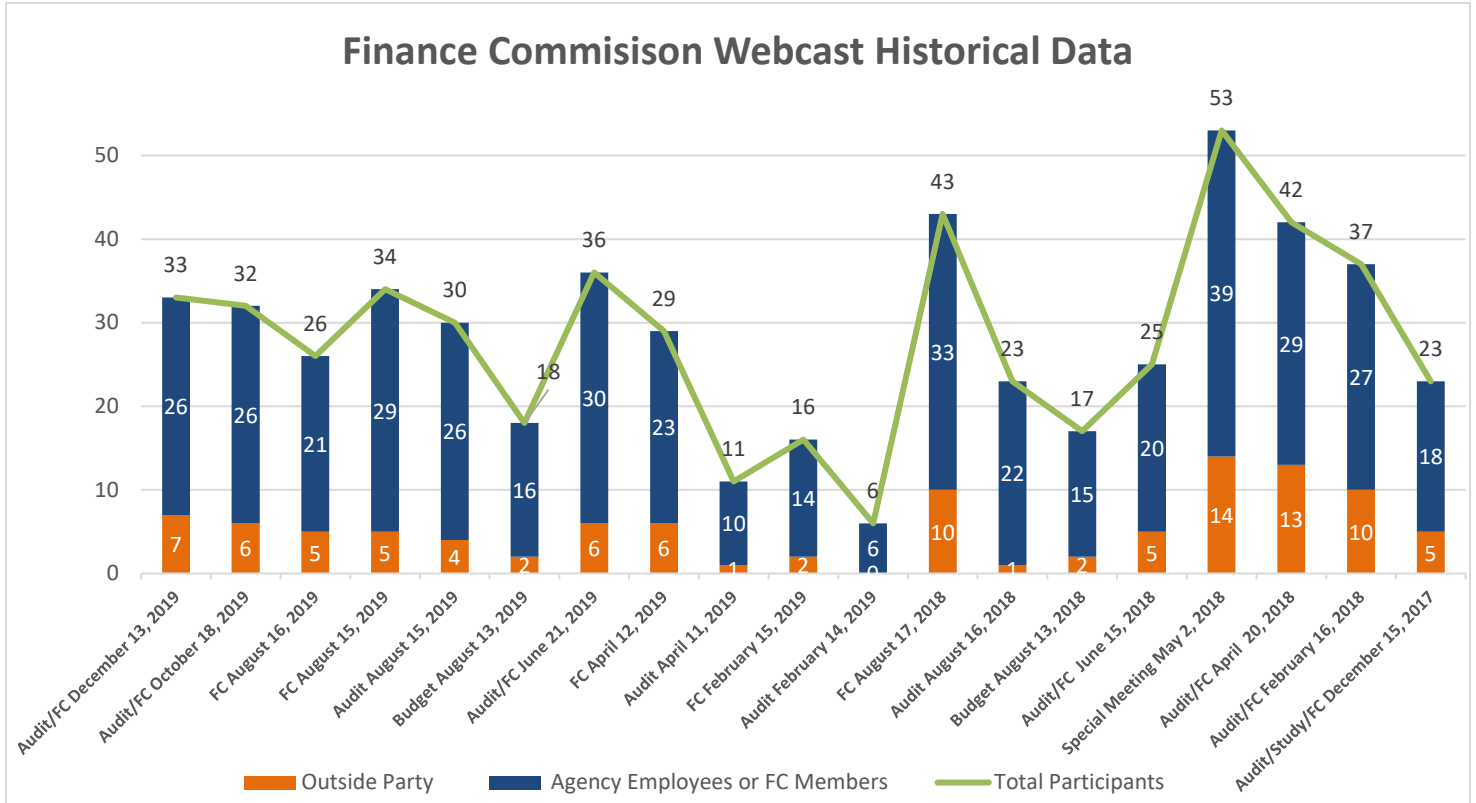
Commissioned Examiners	3	2	5*	4
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*Includes a FE V Credit Specialist

Other Divisional Items:

- *Rate the Department*
 - The annual Rate the Department survey opened on January 6, 2020. The survey is available to chartered, registered, or licensed entities to provide feedback on their experience in communicating or working with Department personnel over the last 12 months. Results will be available at the next Finance Commission of Texas meeting.
- *Leadership Training*
 - A fifth class of eleven supervisory staff and future leaders began the Department's Leadership Program on January 28, 2020. The five-session program is designed to impact the areas of building influence and trust with teams and expanding a participant's leadership style. In total, over 45 staff members have participated in the program.

- *Publications*
 - The Winter edition of the [Texas Bank Report](#) with September 30, 2019 financial data was released on December 18, 2019 on the Department of Banking's website.
 - The following were updated with September 30, 2019 financial data:
 - Agency Profile – An overview of the Department and its regulated and licensed entities.
 - Texas Banking Activity – Contains all state and national banking activity in Texas.
 - Top 100 Banks – List of Texas banks by asset size.
- *Personnel and Policies Manual Updates*
 - Personnel Manual
 - Section 6 – Performance Management System (January)
 - Section 14 – Information Technology Standards and Procedures (November)
 - Revised Administrative Memorandums (AM)
 - AM 2003 – Suspicious Activity Reports Filed by the Department (January)
 - AM 2009 – Examination Report Submission and Processing (January)
 - AM 2031 – Delegation of Authority (December)
 - AM 2013 – Authorization for Release of Confidential information to Governmental Entity (December)
 - AM 2048 – External Website Accessibility Standards (November)
 - New Administrative Memorandums (AM)
 - AM 2034 – Examination Due Date Calculation for MSB, PCC, and PFC License Holders (December)
 - Revised Supervisory Memorandums (SM)
 - SM 1025 – Level II Full Scope Examinations (November)
- *Examiners' Council*
 - Examiners' Council met in Austin the week of January 13, 2020 to review work papers for commercial, trust, and information technology examinations. Several commercial examination procedures were revised between November 2019 and January 2020 based on recommendations by the Examiners' Council.



* Webcast data is not available for the October 2018 and December 2018 meetings held at the capitol.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705

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Memorandum

TO: Finance Commission Members
FROM: Catherine Reyer, General Counsel
DATE: February 1, 2020
RE: Legal Division Update

Pending Contested Cases

There are no pending contested cases at this time.

Gifts

The Department received tuition and expense reimbursement totaling \$5,198.11 from the Conference of State Bank Supervisors for three staff members Intermediate training held in New Orleans, Louisiana in November 2019.

Orders Issued 12/1/19 – 1/31/20

During this time period, the Commissioner issued three enforcement orders, all of which are final and non-appealable:

Non-Depository Supervision

- Consent Order dated December 6, 2019; Maria de la Luz Hernandez and Hernandez Funeral Home, Inc., Rosenberg, TX
- Consent Order dated December 9, 2019; Tango Card, Inc., Seattle, WA
- Consent Order dated December 23, 2019; E. Mex. Financial Services, Inc., Laredo, TX

FY 2020 To Date Quarterly Order Activity

BANK				
Type of Action	1st	2nd	3rd	4th
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Supervision	0	0	0	0
Prohibition	2	0	0	0
Total	2	0	0	0
TRUST COMPANY				
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Supervision	0	0	0	0
Prohibition	0	0	0	0
Total	0	0	0	0
MONEY SERVICES BUSINESS				
Consent Order	0	0	0	0
Cease & Desist	1	0	0	0
Total	1	0	0	0
PERPETUAL CARE CEMETERY				
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Refusal to Renew Cert/Auth	0	0	0	0
Final Order after hearing	0	0	0	0
Total	0	0	0	0
PREPAID FUNERAL CONTRACT				
Consent Order	1	0	0	0
Cease & Desist	0	0	0	0
Conversion	0	0	0	0
Total	1	0	0	0

2. Discussion of and Possible Vote to Take Action on the Adoption of New 7 TAC §33.54 Concerning Exemption for Registered Securities Dealers and Agents

PURPOSE: New §33.54 exempts dealers and dealer agents from money transmission licensing if they are registered and in good standing with the Texas State Securities Board to the extent they are operating in their capacity as securities dealers and securities dealer agents.

RECOMMENDED ACTION: No comments were received regarding proposed new 7 TAC §33.54. The Department recommends that the Commission approve adoption of the new rule without changes to the proposal as previously published in the *Texas Register*.

RECOMMENDED MOTION: I move that we adopt new 7 TAC §33.54 without changes to the proposal as previously published in the *Texas Register*.

Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 33. Money Services Businesses
7 TAC §33.54

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts new §33.54, concerning an exemption for registered securities dealers and agents of securities dealers (securities agents) without changes to the proposed text as published in the December 27, 2019, issue of the *Texas Register* (44 TexReg 8138). The new rule will not be republished.

Summary of New Rule

New subsection (a) provides that the terms “agent,” “dealer” and “securities” have the meanings assigned by the Texas Securities Act.

New subsection (b) provides that a dealer or an agent of a dealer who, in the course of providing dealer or agent services as to securities, receives or has control over a customer’s money or monetary value, is exempt from money transmission licensing requirements if they are: 1) registered and in good standing with the board as a dealer or dealer’s agent; 2) only conducting money transmission as defined by the Texas Finance Code to the extent reasonable and necessary to provide securities dealer or securities agent services for contractual customers.

The department regulates money transmission, defined by the Texas Finance Code, §151.301(b)(4) as the receipt of money or monetary value by any means in exchange for a promise to make the money or monetary value available at a later time or different location. A money transmission license is

required to engage in the business of money transmission in Texas. See Texas Finance Code, §151.302(a).

Many registered securities dealers and securities agents include money transmission in their business models and as part of the services provided to their clients. Both securities dealers and securities agents, however, are already regulated by, and subject to registration requirements enforced by, the Texas State Securities Board. As such, further regulation by the department would be duplicative to the extent that such persons operate only as securities dealers and securities agents. The department does not intend for this rule to exempt securities dealers and securities agents from money transmission licensing if they perform separate money transmission activities as defined by the Texas Finance Code, unrelated to their operation as securities dealers or agents.

Securities dealers and securities agents whose business includes non-securities related activities, that may constitute money transmission under the Texas Finance Code, should submit their business plan for review and obtain a determination letter from the Texas Department of Banking.

The department received no comments regarding the proposed new rule.

Statutory Authority

The new rule is adopted pursuant to Texas Finance Code, §151.102(a), which authorizes the commission to adopt rules necessary or appropriate to preserve and protect the safety and soundness of money services businesses and protect the interests

of purchasers of money services and the public.

§33.54. Exemption for Registered Securities Dealers and Agents.

(a) For purposes of this section, the terms “agent,” “dealer,” and “securities” have the meanings assigned by the Texas Securities Act.

(b) A dealer or dealer agent who, in the course of providing dealer or dealer agent services as to securities, receives or has control over a customer’s money or monetary value, need not obtain a money transmission license if they are:

(1) registered and in good standing with the Texas State Securities Board as a dealer or dealer agent; and

(2) only conducting money transmission as defined by Texas Finance Code §151.301, to the extent reasonable and necessary to provide dealer or dealer agent services for contractual customers as to securities.

3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §§25.7, 25.10, 25.11, 25.13, 25.17, 25.19, 25.24, 25.25, and 25.31 Concerning Contract Forms and Regulation of Licensees, Resulting from Rule Review

PURPOSE: Texas Government Code (Government Code) §2001.039 requires a state agency to review each of its rules every four years and either readopt, readopt with amendments, or repeal rules based upon the agency's review and determination as to whether the reasons for initially adopting the rules continue to exist. On June 21, 2019, Chapter 25 was readopted without amendments pursuant to Government Code §2001.039. At the time it was presented to the Commission, staff stated that certain amendments which were necessary would be proposed at a later date.

On August 19, 2019, Chapter 25 was amended in response to a legislative directive that the Commission by rule prescribe the term of a permit to sell prepaid funeral benefits. As a result of the amendments, permits are no longer renewed, but are effective until revoked by the Department or surrendered by the permit holder. However, §§25.17, 25.19, 25.24, 25.25, and 25.31 still refer to the "renewal" of the permits. Thus, amendments to these sections are now proposed to eliminate all remaining references to the requirement that these permits be renewed. Amendments to §§25.7, 25.10, 25.11, and 25.13 are proposed to update citations, correct typographical errors and eliminate outdated language.

RECOMMENDED ACTION: The Department recommends that the Commission approve publication of the proposed amended rules in the *Texas Register* for comment.

RECOMMENDED MOTION: I move that we publish the proposed amendments to 7 TAC §§25.7, 25.10, 25.11, 25.13, 25.17, 25.19, 25.24, 25.25, and 25.31 in the *Texas Register*.

Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 25. Prepaid Funeral Contracts
7 TAC §§25.7, 25.10, 25.11, 25.13, 25.17,
25.19, 25.24, 25.25, 25.31

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend §§25.7, 25.10, 25.11, 25.13, 25.17, 25.19, 25.24, 25.25, and 25.31 concerning contract forms and regulation of licensees.

Texas Government Code (Government Code) §2001.039 requires a state agency to review each of its rules every four years and either readopt, readopt with amendments, or repeal rules based upon the agency's review and determination as to whether the reasons for initially adopting the rules continue to exist. On June 21, 2019, Chapter 25 was readopted without amendments pursuant to Government Code §2001.039. At the time it was presented to the commission, staff stated that certain amendments which were necessary would be proposed at a later date.

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Amendments to §§25.7, 25.10, 25.11, and 25.13 are proposed to update citations, correct typographical errors and eliminate outdated language.

Russell Reese, Assistant Deputy Commissioner, Texas Department of Banking, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the rules.

Mr. Reese has also determined that, for each year of the first five years the rules as proposed are in effect, the public benefit anticipated as a result of enforcing the rules is improved accuracy and clarity for persons required to comply with the rules.

For each year of the first five years that the rules will be in effect, there will be no economic costs to persons required to comply with the rules as proposed.

For each year of the first five years that the rules will be in effect, the rules will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;

- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect this state's economy.

There will be no adverse economic effect on small businesses, micro-businesses or rural communities. There will be no difference in the cost of compliance for these entities.

To be considered, comments on the proposed amendments must be submitted no later than 5:00 p.m. on Monday, March 30, 2020. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

Amendments to Chapter 25, Subchapter A, §§25.7 and Subchapter B, §§25.10, 25.11, 25.13, 25.17, 25.19, 25.24, 25.25, and 25.31 are proposed under Texas Finance Code (Finance Code) §154.051, which provides that the commission may adopt rules necessary or reasonable to supervise and regulate prepaid funeral services.

Finance Code, Chapter 154, Subchapters C and H are affected by the proposed amendments to Chapter 25, Subchapters A and B.

§25.7. Casket and Outer-Burial Containers.

- (a) (No change.)
- (b) Descriptions.
 - (1) (No change.)
 - (2) Description content.

(A) Caskets. The description of a casket under this section must, at a minimum, include the following specifications:

(i) (No change.)

(ii) The type of sealing feature, e.g., sealer, non-sealer, gasketed, or non-gasketed, if specified on the permit holder's price list; and

(iii) (No change.)

(B) Urns. The description of an urn under this section must, at a minimum, include the type of material predominately used in its construction. Bronze urns must be described as sheet bronze or cast~~[easte]~~ bronze, whichever is applicable.

(C) – (E) (No change.)

(c) (No change.)

§25.10. Record Keeping Requirements for Insurance-Funded Contracts.

(a) Application and general requirements. This section applies to a permit holder that sells or maintains insurance-funded prepaid funeral benefit contracts (prepaid contracts). Unless the commissioner grants an exception as provided for in subsections (f)(3) and (g) of this section, a permit holder must maintain and produce for examination the records as specified in this section. The permit holder:

(1) – (2) (No change.)

(3) must maintain the records either in hard-copy form, ~~[or stored on microfiche or~~ in an electronic database, or on another form of media from which the record can be retrieved and printed in hard copy in a

manner that does not impede the efficient completion of the examination.

(b) – (i) (No change.)

§25.11. Record Keeping Requirements for Trust-Funded Contracts.

(a) Application and general requirements. This section applies to a permit holder that sells or maintains trust-funded prepaid funeral benefit contracts (prepaid contracts). Unless the commissioner grants an exception as provided for in subsections (f)(2) and (g) of this section, a permit holder must maintain and produce for examination the records as specified in this section. The permit holder:

(1) – (2) (No change.)

(3) must maintain the records either in hard-copy form, ~~[or stored on microfiche or~~ in an electronic database, or on another form of media from which the record can be retrieved and printed in hard copy in a manner that does not impede the efficient completion of the examination.

(b) – (d) (No change.)

(e) Other records. A permit holder subject to this section must maintain the following records regarding its prepaid funeral benefits operations in hard-copy form, ~~[or on microfiche or~~ in an electronic database, or on another form of media from which they may be reasonably retrieved in hard-copy form:

(1) – (5) (No change.)

(f) – (i) (No change.)

§25.13. Annual Report Filing.

(a) – (b) (No change.)

(c) Contents of filing. The Annual Report filing must be sworn to by an authorized agent or corporate officer of the permit holder before a notary and must provide:

(1) – (4) (No change.)

(5) an explanation for any material variances between the ending balances in the recapitulation described in subsection (c)(3) ~~[(b)(3)]~~ of this section, and those in the in-force policy run or control ledger described in subsection (c)(4) ~~[(b)(4)]~~ of this section;

(6) – (7) (No change.)

§25.17. Guaranty Fund.

(a) – (b) (No change.)

(c) Assessments. The department shall make and collect assessments from all sellers of prepaid funeral benefits pursuant to Finance Code Chapter 154, Subchapter H. Each seller shall remit the amount of its calculated assessment to the department each year with its ~~[Renewal or]~~ Annual Report filing.

(d) – (e) (No change.)

§25.19. Guaranty Fund Claims.

(a) Claims not eligible. In addition to claims excluded under Finance Code §154.359, the following claims are not eligible for payment from the Prepaid Funeral Guaranty Fund:

(1) – (3) (No change.)

(4) a claim under an insurance-funded prepaid funeral contract for a loss arising from or relating to the occurrence of one of the following events:

(A) – (B) (No change.)

(C) the suspension or[~~;~~] revocation of[, ~~or refusal to renew~~] a permit under Chapter 154 of the Finance Code prior to September 1, 2009; or

(D) (No change.)

(b) – (c) (No change.)

§25.24 What fees must I pay for an examination?

(a) (No change.)

(b) As a prepaid funeral benefits seller, what fees must I pay for department examinations?

(1) An annual assessment must be paid as an examination fee [~~and as a renewal fee~~]to the department to defray the cost of administering Chapter 154 of the Finance Code. The amount of your annual assessment is based on the number of outstanding contracts as reflected on your most recent annual report filed with the department. You must pay the annual assessment specified in the following table:

Figure: 7 TAC §25.24(b)(1) (No change.)

(2) – (3) (No change.)

(c) – (d) (No change.)

§25.25. Conversion from Trust-Funded to Insurance-Funded Benefits.

(a) – (b) (No change.)

(c) Contents of application. An application for conversion must respond to each paragraph of this subsection by number. Overlapping or duplicate responses may be cross-referenced for brevity.

(1) – (6) (No change.)

(7) Commitment of insurance company. If the post-conversion permit holder is not the insurance company and is unable to independently demonstrate that it has the organizational and financial resources to discharge its permit holder responsibilities, or otherwise intends to rely on the insurance company to provide such resources, the insurance company or its insurance holding company must commit to the department in writing to take all necessary steps to maintain the existence of the current or a successor post-conversion permit holder, cause such permit holder to maintain a[~~annually renew its~~] permit[~~if renewal is required by Finance Code, §154.107~~], and provide adequate resources to such post-conversion permit holder to enable it to maintain the financial condition and general fitness necessary to discharge the post-conversion permit holder's responsibilities under Finance Code, Chapter 154, and this chapter.

(8) Commitment of applicant. The applicant must commit to the department in writing to obtain and maintain[~~annually renew~~] a permit under Chapter 154 and assume the post-conversion permit holder's responsibilities with respect to each converted contract for any year in which any

converted contract remains outstanding~~[-and the post-conversion permit holder or a duly licensed successor fails to renew its permit as required with respect to the converted contracts, as evidenced by a final order revoking the permit]~~. The commitment must obligate the applicant to submit its completed application with all required fees not later than the 31st day after the date the department notifies the applicant in writing of the facts that require licensure under the commitment.

(9) – (18) (No change.)

(19) Application fee. In connection with an application submitted under this section, the applicant must submit the conversion application fee required by §25.23 of this title (relating to Application ~~[and Renewal]~~ Fees).

(20) (No change.)

(d) – (e) (No change.)

§25.31. Effect of Criminal Convictions on Permits.

(a) (No change.)

(b) Effect of criminal conviction on proposed or existing permit. The commissioner may deny an application for a permit, or cancel or suspend ~~[-or refuse to renew]~~ a permit if an official has been convicted of a crime which directly relates to the duties and responsibilities of a seller or servicer of prepaid funeral benefits contracts. Adverse action by the commissioner in response to a conviction of a crime specified in subsection (c) of this section is subject to mitigating circumstances and rights of the applicant or permit holder as specified in subsections (d)-(h) of this section.

(c) – (e) (No change.)

(f) Notification of adverse action. If a permit application is denied, or if a permit is canceled or suspended ~~[-or not renewed]~~ because of the criminal conviction of an official, the commissioner will so notify the applicant or permit holder in writing. The notification must include a statement of the reasons for the action and a description of the procedure for administrative or judicial review of the action.

(g) Administrative hearing. An applicant whose permit application is denied, or a permit holder whose permit is suspended or canceled ~~[-or not renewed]~~ may request a hearing. A hearing on an order of suspension or cancellation ~~[-or non-renewal]~~ must be requested not later than the 15th day after the date the order is mailed. A hearing is subject to the provisions of the Administrative Procedure Act, Chapter 2001, Government Code and the provisions of Chapter 9, Subchapter B of this title (relating to Contested Case Hearings).

(h) Judicial review. An applicant whose permit application has been denied or a permit holder whose permit has been suspended or canceled ~~[-or not renewed]~~ because of the criminal conviction of an official may appeal a final order as set forth in Government Code, Chapter 2001, Subchapter G.

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