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## **Finance Commission**

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## FINANCE COMMISSION OF TEXAS

**MEETING DATE** .....April 17, 2020

**MEETING LOCATION** .....Via Webinar

**CONTACT INFORMATION**.....Phone: (512) 936-6222  
Website: [www.fc.texas.gov](http://www.fc.texas.gov)

**FUTURE MEETING DATES** .....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, April 17, 2020  
9:00 a.m.  
or Upon Adjournment of the Audit Committee Meeting  
Via Webinar

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**Due to Governor Greg Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, the April 17, 2020 meeting of the Finance Commission of Texas will be held by telephonic conference call, as authorized under Texas Government Code section 551.125.**

Members of the public who would like to participate in this meeting will need to register at [www.fc.texas.gov](http://www.fc.texas.gov). An electronic copy of the agenda is now available at [www.fc.texas.gov](http://www.fc.texas.gov), and a copy of the meeting materials will be available on April 9, 2020 at [www.fc.texas.gov](http://www.fc.texas.gov). To access the recording visit [www.fc.texas.gov](http://www.fc.texas.gov) after April 17, 2020.

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***Section A.3 will take up agenda items A1, B2-B3 and D2-D5 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 February 14, 2020 Finance Commission Meeting***
2. General Public Comment
3. Consent Agenda
4. Finance Commission Operations
5. Report on COVID-19 from the Finance Commission Agencies
6. Audit Committee Report
  - A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fiscal Year 2020 Internal Auditor's Risk Assessment and Audit Plan
    1. Texas Department of Banking
    2. Department of Savings and Mortgage Lending
    3. Office of Consumer Credit Commissioner

- B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' February 29, 2020 Investment Officer Reports
  - 1. Texas Department of Banking
  - 2. Department of Savings and Mortgage Lending
  - 3. Office of Consumer Credit Commissioner
- C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2020 Second Quarter Financial Statements
  - 1. Texas Department of Banking
  - 2. Department of Savings and Mortgage Lending
  - 3. Office of Consumer Credit Commissioner
- D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Reduction of Assessment Rates, and the Reserve and Expenditure of Funds for Thrift Examination and Supervision for FY2020, as needed, in Connection with the Charles Schwab Bank, SSB and Charles Schwab Premier Bank, SSB Conversions
- 7. Status Report on Implementation of Finance Commission Directive on the Efficiency Audit Regarding Sunset Recommendation 2.6 – “Direct the Finance Commission to minimize duplication of agency functions and promote more cost efficient administration of the finance agencies.”
- 8. Discussion of the Process for the 2021-2025 Strategic Plans for the Finance Commission Agencies
- 9. Discussion of and Possible Vote to Take Action on the Finance Commission Agencies' Fiscal Year 2020 Mid-Term Accomplishment Reports
- 10. Discussion of the Condition of the Texas State Banking System Report  
(*Note: Report provided separately*)
- 11. 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
- 12. 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
- 13. 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
- 14. 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

15. Discussion of and Consultation on Matters Made Confidential by Law as Authorized by Tex. Govt. Code Sec. 551.0811

**B. 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 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*
3. *Discussion of and Possible Vote to Take Action on the Re-adoption of 7 TAC, Chapter 35 §§35.1–35.72 Concerning Check Verification Entities, Resulting from Rule Review*
4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendment to 7 TAC §33.27 Concerning Fees for Money Services Businesses Licenses
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

**C. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

1. Industry Status and Departmental Operations: a) State Savings Bank Examinations and Supervision Division Activities; b) Mortgage Licensing Division Activities; c) Mortgage Examinations Division Activities; d) Consumer Complaints Division Activities; e) Administration and Finance Division Activities; f) Legal Division Activities, including Gift Reporting; and g) Legislative Activities
2. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §77.73 Concerning Investment in Banking Premises and Other Real Estate Owned
3. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

**D. 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 on the Adoption 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*
3. *Discussion of and Possible Vote to Take Action on the Adoption of Amendments to §86.201 in 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors, Resulting from Rule Review*

4. *Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 1, Concerning Consumer Credit Regulation, Resulting from Rule Review*
5. *Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 5, Chapter 90, Concerning Chapter 342, Plain Language Contract Provisions, Resulting from Rule Review*
6. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 5, Chapter 90, Concerning Chapter 342, Plain Language Contract Provisions, 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*

**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.



**MINUTES OF THE  
FINANCE COMMISSION MEETING  
Friday, February 14, 2020**

The Finance Commission of Texas convened at 9:13 a.m. on February 14, 2020 with the following members present:

**Finance Commission Members in Attendance:**

Paul W. Plunket, Chairman  
Phillip Holt, Vice Chair  
Robin Armstrong, M.D.  
Bob Borochoff  
Hector Cerna

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

Chairman Paul Plunket announced there was a quorum with ten members present. (:19 on audio file).

Chairman Paul Plunket made a motion to excuse Stacy London from the Finance Commission meeting held on February 14, 2020. There were no objections and the motion passed unanimously. (31:01 on audio file).

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<b>A. Finance Commission Matters</b>		
1. Review and Approval of the Minutes of the December 13, 2019 Finance Commission Meeting	<b>On Consent Agenda – Item A1</b>	2:25 start of discussion
2. General Public Comment	No Action Required.	1:44 start of discussion
3. Consent Agenda – Item A1	Vince Puente made a motion to Approve Consent Agenda item A1. Lori McCool seconded and the motion passed.	2:25 start of discussion  2:55 vote
4. Finance Commission Operations	No Action Required.	3:23 start of discussion
5. Presentation from the Texas Treasury Safekeeping Trust Company	No Action Required.	2:01:01 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<b>6. Special Committee to Recommend Internal Auditor Report</b>		
A. Review and Approval of the Minutes of the January 30, 2020 Special Committee to Recommend Internal Auditor Meeting	No Action Required. Item removed from agenda.	3:50 start of discussion
B. 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	Coming upon Recommendation from the Special Committee to Recommend Internal Auditor, no second is required and the motion to approve Garza/Gonzalez & Associates as the Internal Auditor for the Finance Commission Agencies for Fiscal Year 2020 passed.	4:14 start of discussion  4:58 Vote
<b>7. Audit Committee Report</b>		
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	Coming upon Recommendation from the Audit Committee, no second is required and the motion to approve the Agencies' November 30, 2019 Investment Officer Reports passed.	5:30 start of discussion  5:34 Vote
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	Coming upon Recommendation from the Audit Committee, no second is required and the motion to approve the Agencies' 2020 First Quarter Financial Statements passed.	5:56 start of discussion  6:03 vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>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</p>	<p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to approve the Final Selection of Organizations to Receive Grant Funds in an Aggregate Amount of \$300,000 from the Texas Financial Education Endowment Fund passed.</p> <ul style="list-style-type: none"> <li>• Girl Scouts of Northeast Texas – \$35,000</li> <li>• Building Financial Capacity Coalition – \$27,000</li> <li>• First Light Community Foundation – \$13,000</li> <li>• Women’s Resource Center of Greater Houston – \$35,000</li> <li>• Family Services Association of San Antonio, Inc. – \$30,000</li> <li>• Foundation Communities – \$30,000</li> <li>• Family Eldercare – \$30,000</li> <li>• Easter Seals of Greater Houston – \$35,000</li> <li>• Center for Transforming Lives – \$35,000</li> <li>• Texas State Affordable Housing Corp. – \$30,000</li> </ul>	<p>6:15 start of discussion</p> <p>7:10 Vote</p>
<p>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</p>	<p>Deferred to Executive Session – no vote taken.</p>	<p>7:35 start of discussion</p>
<p>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</p>	<p>Deferred to Executive Session – no vote taken.</p>	<p>n/a</p>
<p>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</p>	<p>Deferred to Executive Session – no vote taken.</p>	<p>n/a</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
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	Deferred to Executive Session – no vote taken.	n/a
<b>B. Department of Savings and Mortgage Lending</b>		
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.	8:25 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.	10:00 start of discussion
3. Fiscal and Departmental Operations: a) Funding Status/Audits/Financial Reporting; and b) Staffing	No Action Required.	17:05 start of discussion
4. Legal Activity: a) Enforcement; b) Gift Reporting; and c) Legislative Activities	No Action Required.	19:26 start of discussion
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Action Required.	n/a
<b>C. Office of Consumer Credit Commissioner</b>		
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.	31:37 start of discussion
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	Deferred to Executive Session – no vote taken.	n/a

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
3. <b>Consent Agenda- Item C3</b>	Vince Puente made a motion to Approve Consent Agenda item C3. Lori McCool seconded and the motion passed.	2:25 start of discussion  2:55 vote
4. <b>Consent Agenda – Item C4</b>	Vince Puente made a motion to Approve Consent Agenda item C4. Lori McCool seconded and the motion passed.	2:25 start of discussion  2:55 vote
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	Molly Curl made a motion to Approve 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. Cliff McCauley seconded and the motion passed.	1:15:48 start of discussion  1:19:42 Vote
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	Will Lucas made a motion to Approve 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. Bob Borochoff seconded and the motion passed.	1:20:27 start of discussion  1:21:53 vote
7. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation  <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>  <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; Case No. 19-0999, in the Supreme Court of Texas</i>	Deferred to Executive Session – no vote taken.	n/a

Chairman Paul Plunket called for a break at 10:35 a.m. (1:22:25 on the audio file). The open meeting resumed at 10:50 a.m. (1:22:36 on the audio file).

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<b>D. Texas Department of Banking</b>		
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	No Action Required.	1:23:00 start of discussion
2. <b>Consent Agenda- Item D2</b>	Vince Puente made a motion to Approve Consent Agenda item D2. Lori McCool seconded and the motion passed.	2:25 start of discussion  2:55 vote
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	Vince Puente made a motion to Approve 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. Robin Armstrong seconded and the motion passed.	1:58:24 start of discussion  2:00:02 vote
4. 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 11:51 a.m. (2:23:43 on the audio file). The open meeting resumed at 12:09 p.m. (2:24:06 on the audio file).

There being no further business, Chairman Paul Plunket adjourned the meeting of the Finance Commission at 12:11 p.m. (2:25:47 on the audio file).

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Phillip A. Holt, Chairman  
Finance Commission of Texas

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Charles G. Cooper, Executive Director  
Finance Commission of Texas

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Brenda Medina, Executive Assistant  
Finance Commission of Texas

# Finance Commission of Texas

## Consent Agenda

April 17, 2020

### **A. Finance Commission Matters**

1. Review and Approval of the Minutes of the February 14, 2020 Finance Commission Meeting

### **B. Texas Department of Banking**

2. Discussion of and Possible Vote to Take Action on the Adoption 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
3. Discussion of and Possible Vote to Take Action on the Re-adoption of 7 TAC, Chapter 35 §§35.1–35.72 Concerning Check Verification Entities, Resulting from Rule Review

### **D. Office of Consumer Credit Commissioner**

2. Discussion of and Possible Vote to Take Action on the Adoption 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
3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to §86.201 in 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors, Resulting from Rule Review
4. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 1, Concerning Consumer Credit Regulation, Resulting from Rule Review
5. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 5, Chapter 90, Concerning Chapter 342, Plain Language Contract Provisions, Resulting from Rule Review

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## Status Report on Implementation of Finance Commission Directive on Efficiency Audit

### 1. Budget and Accounting

- a. **Accounts Payable:** The DOB, as performing agency, can perform reconciliation and review of all records required for a payment as well as the data entry of the completed vouchers. The receiving agency would retain final review and approval. The DOB can provide this service to one agency without additional staff.
  - Meeting postponed until after pandemic.
- b. **Alignment/Best Practices:** The Agencies will establish a workgroup to share best practices and align financial reporting to the Finance Commission as much as possible.
  - Final reporting format as approved by Commissioners was presented at Audit Committee in February 2020.

### 2. Complaint Intake

- a. The Agencies will establish a workgroup to explore opportunities to improve customer service, align performance measure reporting, review best practices, federal complaint issues, and emerging trends.
  - **Performance Measure:**
    - Operational efficiency measures were developed and aligned between the three agencies. This included aligning complaint measures and/or adding measures for complaints which were presented at the August 16, 2019, Finance Commission meeting.
  - **Best Practices/Federal Compliant Issue/Emerging Trends:**
    - Staff met to discuss aligning reporting to Finance Commission and aligning survey forms.

### 3. Financial Literacy Program

- a. DOB and the OCCC will work together to define a strategy and deliverables for an agreement to share financial education outreach services.
  - Meeting postponed until after pandemic.

### 4. Purchasing and Contracting

- a. The Agencies will expand the already shared central office supply purchasing and inventory. Currently the DOB performs office supply purchasing and inventory for OCCC. The SML will be included in this shared service.
  - **Purchasing and Contracting:**
    - Effective March 1, 2020, SML implemented on a trial basis. Status will be reevaluated in September 2020 after two billing cycles are complete.
  - **Explore Other Purchasing Options:**
    - A follow up meeting will be held in the fourth quarter to discuss other possible purchasing and contract opportunities. Interagency agreement modifications may be needed.

## 5. Human Resources

- a. The Agencies will establish a workgroup to share best practices and align performance measures in reporting to the Finance Commission to enhance consistency and alignment.
  - **Performance Measures:**
    - Operational efficiency measures were developed and aligned between the three agencies. The new measure(s) related to turnover were presented at the August 16, 2019, Finance Commission meeting.
  - **Best practices:**
    - Discussion on aligning human resource statistical information reported to Finance Commission.
- b. As the Agencies evaluate the impact and timing of CAPPs, the Agencies will explore the option of DOB offering the following HR services to the other Agencies: (1) benefits coordinator; (2) new employee orientation; (3) employee separation processing; and (4) possibly background checks, if appropriate clearance can be obtained.
  - **CAPPs:**
    - No details on implementation as of March 2020. Agencies are waiting on additional information from the Comptroller's Office.
  - **Shared Services:**
    - General discussion held regarding currently shared services – building security, badges, flu clinics, benefits presentations. Workgroup will reconvene in third quarter to discuss other possibilities further.

## 6. Information Technology

- a. The Agencies will create a workgroup to review possibilities for shared services, share best practices and strategic alignment, review emerging trends in cybersecurity, and review other ways to enhance IT services.
  - **IT exploration:**
    - Three technology areas that could potentially be shared were identified. Discussion was limited to sharing of resources related to Network and Communication Services.

## Finance Commission Agencies Tentative Strategic Planning Timeline\*

Date	Action
January – April 2020	<ul style="list-style-type: none"> <li>Review Goals and Performance Measures Prepare Workforce Analysis</li> <li>Customer Service Survey</li> <li>Survey of Employee Engagement Results</li> </ul>
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"> <li>Present strategic plans to Finance Commission for formal action</li> <li>Submission of final plan to state leadership</li> </ul>

*\*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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Charles G. Cooper  
Commissioner

## **TEXAS DEPARTMENT OF BANKING**

2601 North Lamar Blvd., Austin, Texas 78705

512-475-1300 / 877-276-5554

[www.dob.texas.gov](http://www.dob.texas.gov)

### **MEMORANDUM**

TO: The Finance Commission

FROM: Charles G. Cooper, Commissioner

DATE: April 1, 2020

RE: Department of Banking Priorities for Fiscal Year 2020

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This report is primarily based upon the activities of the agency through February 29, 2020. Subsequent to this date, the Department's operations, including staff resources, were redirected to address the evolving threats of the COVID-19 virus to Texas' financial service providers. This report includes comments about those redirected activities.

#### **I. LEGISLATIVE – *State and National Legislative Issues***

- I.1 Objective: Provide appropriate and comprehensive resource material as requested in a timely manner.

Measure: To the extent legally permissible, respond accurately and timely to all requests for resource information. Maintain contact with legislative committee chairs and staff. Testify at interim charge hearings as requested.

February Update:

- *The agency's staff maintained regular contact with state and federal legislative committees.*
- *Introductory meetings have been held with the members of legislature.*
- *COVID-19 Response: Commissioner Cooper worked with the Conference of State Bank Supervisors (CSBS) Legislative Committee to provide information to Congress concerning legislative actions.*

- I.2 Objective: Maintain accurate, timely, and complete communication with Finance Commission members regarding conditions, trends and significant events in the industries the agency supervises.

Measure: Keep members informed of significant federal laws and policy statements and how supervised entities are affected. Provide sufficient information and materials to give Commission members an overall assessment of our regulated industries.

February Update:

- *Important material and updates are provided to members at each Finance Commission meeting and by email.*
- *Members received information on the Texas Treasury Safekeeping Trust Company at the February meeting.*
- *COVID-19 Response: Finance Commission members received copies of Department press releases, industry notices, and the proclamation.*

- I.3 Objective: Monitor legislative interim charges that may affect the Department or its regulated entities. Implement legislative changes from the 86<sup>th</sup> legislative session that affect the agency.

Measure: Aid legislative committees with interim charges, if requested. Provide technical assistance and comprehensive resource materials when requested. Implement legislation that directly affects the Department or the industries we regulate by updating or creating rules, policies or procedures.

February Update:

- *Staff monitored interim charges of the Texas House of Representatives and Texas Senate and tracked the topics of relevant committee hearings.*
- *Information on potential interim charges was provided to the Texas House of Representatives and Texas Senate.*

- I.4 Objective: Implement Sunset “Management Actions” approved by the Sunset Commission.

Measure: Implement Sunset “Management Actions” by updating or creating rules, policies, performance measures or procedures. Begin implementation of the Finance Commission’s Plan to minimize duplication of agency functions and promote more cost-efficient administration of the finance agencies. Coordinate these efforts with the other Finance Commission agencies.

February Update:

- *Management Action 2.6, the Finance Commission voted on the agencies’ recommendation and Efficiency Audit at the October 18, 2019 meeting. The Sunset Advisory Commission was provided copies of the Efficiency Audit, the Finance Commission Plan, and combined agency response on December 31, 2019.*
- *Management Action 7.1, a consolidated Training Manual was presented to the members of the Finance Commission of Texas at the October 2019 meeting.*
- *Meetings were held with representatives of OCCC and SML regarding the possible sharing of information technology resources, human resources, accounting, procurement, and consumer complaints.*

## II. REGULATORY ACTIVITIES – *Examination Activity and Enforcement Actions*

- II.1 Objective: Efficiently structure the agency to meet performance measures. Ensure performance goals are a true evaluation of major functions of the Department (See Attachment A for all performance measures)

Measure: Evaluate and update the Department's performance measures. Continue to meet or exceed the strategic planning goals for performance measures. Maintain accreditation from CSBS for the Bank and Trust Division. Quarterly, report results to the Finance Commission.

February Update:

- *Through February 29, 2020, all key performance measures were met or exceeded.*
- *The Bank and Trust Division continued to sustain the CSBS requirements to maintain accreditation.*
- *COVID-19 Response: Bank and Trust examinations of supervised entities have been temporarily suspended and are being evaluated on a two-week rolling period. Exams in-process have continued with work being conducted off-site. As a supportive measure, senior examiners have been assigned to each bank and have provided their contact information to bankers in the event they need immediate contact with the Department.*
- *COVID-19 Response: In coordination with license holders, previously scheduled Non-Depository examinations, including coordinated multi-state MSB examinations, were converted to off-site to the extent possible.*

- II.2 Objective: Remain active and involved at the national level in supervisory issues affecting banking, money services business activities, trust services and other areas of direct supervisory oversight in Texas.

Measure: Maintain active contact with other states individually and through regulatory associations (CSBS and MTRA), trade associations (IBAT and TBA) and frequent contact with federal regulators to be aware of events, decisions, other state and federal policies and other areas of actual or potential impact to the Department's regulatory functions or the industry. Take proactive steps to respond as issues arise affecting the industries or our supervisory duties.

February Update:

- *The Department participated in the first Large Bank Peer Review Pilot meeting held in Jackson, Mississippi, on September 4 and 5, 2019. This CSBS led program was initiated to provide state regulators with the ability to achieve a horizontal perspective for supervising banks with total assets greater than \$10 billion. The program provides participating state regulatory agencies with access to compiled data and other examination information common to these larger institutions. This state regulator initiative is similar to a federal agency only program that typically does not share information with state regulators.*
- *Department management met with the leadership of the Texas Bankers Association (TBA) in Austin on September 13, 2019. TBA management shared*

*their strategic vision and priorities, and discussions were held about common concerns.*

- *The Department attended the 2019 Community Banking in the 21<sup>st</sup> Century Research and Policy Conference in St. Louis, Missouri, beginning September 30, 2019. This conference, which is hosted by CSBS, the Federal Reserve Bank of St. Louis, and the FDIC, focused on community banking related research on a wide variety of topics affecting banks including regulation, technology, and funding.*
- *Commissioner Cooper participated in the Financial Stability Oversight Council (FSOC) meeting held in Washington, D.C. on November 7, 2019. FSOC was created as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act to identify risks to the financial system and coordinate responses to any threats. Commissioner Cooper was named the State Banking Representative to FSOC in November of 2018.*
- *The Department hosted a training session at the Austin Headquarters Office on Current Expected Credit Loss (CECL). This training session was attended by approximately 30 staff from the Department of Banking, Department of Savings and Mortgage Lending and the FDIC. This in-person training session, which was led by FDIC instructors, provided six hours of instruction for regulators concerning CECL.*
- *The Department hosted a live Ask the Fed webinar at the Austin Headquarters Office on November 8, 2019. The topic of the webinar was "Basics of Fintech: Artificial Intelligence and Machine Learning."*
- *Department staff participated in the FDIC and State Leadership Meeting held in Dallas on November 12, 2019. Issues discussed included banking industry risks, the economy, examination processes, and examiner training.*
- *Department staff members participated in the CSBS Board Meeting and Supervisors Symposium held in Scottsdale, Arizona, beginning December 2, 2019.*
- *The agency is an active member of the Multi-State MSB Examination Taskforce (MMET). Commissioner Cooper continues to serve as Chairman of MMET.*
- *Commissioner Cooper and Non-Depository Supervision (NDS) Director Saucillo attended the annual MMET meeting in New Orleans, Louisiana the week of January 13, 2020.*
- *On February 19, 2020, Commissioner Cooper was named to the FDIC Advisory Committee of State Regulators. The purpose of the committee is to provide a mechanism for state and FDIC regulators to discuss a variety of current and emerging issues that have potential implications for state-chartered banks.*
- *Department staff attended the 2020 NMLS Annual Conference and Training event held in San Francisco beginning February 18, 2020.*
- *Staff members participated in the IBAT Regional Meetings held in various cities across Texas beginning February 24, 2020.*
- *Commissioner Cooper accompanied a delegation of Conference of State Bank Supervisors (CSBS) representatives to the United Kingdom (UK) beginning February 29, 2020. The delegation of state financial services regulators from the United States and representatives met with their counterparts in the UK, including Her Majesty's Treasury, to understand our different regulatory*



*structures, explore areas of commonality, share best supervisory practices and lay the foundation for transatlantic collaboration.*

- *COVID-19 Response: On March 20, 2020, Commissioner Cooper participated in a TBA podcast titled COVID-19 Update for State-Chartered Banks with Commissioner Charles G. Cooper. The podcast covered a range of topics related to the Department's actions taken in response to the COVID-19 epidemic.*
- *COVID-19 Response: On March 24, 2020, Commissioner Cooper participated in an IBAT webinar titled IBAT Industry Update Webinar which was designed to answer pertinent questions related to the COVID-19 epidemic impact on banks and bank operations.*
- *COVID-19 Response: Commissioner Cooper is a member of the Financial and Banking Information Infrastructure Committee (FBIIC) Coronavirus workgroup which is meeting continuously to review the nations response to COVID-19.*
- *COVID-19 Response: Agency staff has been involved in multiple conference calls with federal and state bank regulatory agencies, CSBS, IBAT, and TBA. Information gathered through contact with supervised institutions and industry developments have been shared with federal agencies.*

II.3 Objective: Maintain an ongoing awareness of our bank and trust entities' risk profiles and the condition of the economy in which they operate. Continue ongoing monitoring of individual or systemic conditions, including cybersecurity threats and high-risk activities, which present risks to their financial stability. Monitor and take necessary actions against institutions exhibiting unacceptable risk profiles.

Measure: Perform research, maintain ongoing dialogue with other regulators, and attend training to maintain an understanding of conditions in which our entities operate. Maintain a leading role in the effort to combat cybersecurity threats. Maintain an off-site monitoring program of bank and trust industries while initiating appropriate regulatory responses and actions when applicable. Research and take required actions against institutions with unacceptable risk profiles to minimize the adverse impact on depositors, shareholders and the banking system in general.

February Update:

- *Agency staff members closely monitor the risk profiles of the institutions we regulate through on-site examinations. BSA examiners monitor Suspicious Activity Reports from large institutions, and IT examiners participate in multi-state examinations for large service providers. The agency's Director of IT Security Examinations continues to participate in Cybersecurity and Critical Infrastructure Working Group meetings to maintain an awareness of current cybersecurity threats to our institutions. Finally, on-going monitoring through our quarterly off-site monitoring program helps to identify increased risks in between examination cycles.*
- *COVID-19 Response: Agency personnel have been continuously monitoring industry developments and actions taken to effectively meet customers' financial needs.*

- II.4 Objective: Monitor emerging issues in our areas of regulation and determine and communicate the impact to the regulated entities.

Measure: Report on emerging issues to the Finance Commission and regulated entities. Provide publications that address topics of interest. Participate in industry meetings and seminars. Continue to be involved in speaking opportunities with regulated industries to provide updates relating to ongoing supervisory issues.

February Update:

- *For banks, trust companies and foreign bank agencies that have financial instruments tied to London Interbank Offered Rate (LIBOR), Department staff are evaluating their readiness for the transition away from LIBOR. Our goal is to ensure that bank 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.*
- *Bank examination staff continues to evaluate the banking industry's transition to a new accounting requirement related to the calculation of the allowance for loan and lease losses or CECL.*
- *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 contributed to the development of the Networked Supervision plan to assist all states in accessing the networked MSB examination system. NDS staff also continues to participate in quarterly scheduling calls to coordinate multi-state joint MSB examinations.*
- *Assistant Deputy Commissioner Reese continues to attend the Suspicious Activity Report (SAR) review team meetings. The SAR review team consists of local, state and federal investigators, analysts and prosecutors that review locally filed SARs every other month.*
- *An agency staff member serves on the executive committee and is President of the North American Death Care Regulators Association, which strives to promote a forum for death care regulators to discuss problems affecting the public and death care industry.*
- *The Prepaid Funeral Guaranty Fund Advisory Council held a telephonic meeting to discuss and approve the proposed amendments to the Investment Policy made during the 86th Texas Legislature on November 13, 2019.*
- *COVID-19 Response: Information about COVID-19 is distributed to regulated entities through press releases, industry notices and a proclamation. Critical information is available on a dedicated section of the Department's website. On March 16, 2020, Commissioner Cooper issued a proclamation authorizing banks to close all or part of their offices to protect the public health and the most vulnerable population, while ensuring that they can still meet the financial needs of their customers. The Department is monitoring how banks are responding to COVID-19 in regard to modifying branch hours, branch activity, as banks continue to provide services to their customers.*

II.5 Objective: Monitor areas/industries we regulate for illegal activity.

Measure: Monitor for and investigate illegal activity, and when necessary, initiate appropriate regulatory enforcement actions against licensed and/or unlicensed entities to ensure compliance with applicable statutes and rules to protect the rights and interests of consumers. Refer cases as needed to local, state or federal law enforcement agencies or the Texas Attorney General.

February Update:

- *Agency staff continues to monitor regulated industries and initiate enforcement actions against both licensed and unlicensed entities that are engaging in apparent illegal practices. Through the second fiscal quarter, ten actions were taken against individuals and entities:*
  - *Issued two prohibition orders against former bank officers or employees.*
  - *Issued one consent order against a bank employee.*
  - *Issued one cease and desist order against an unauthorized money transmitter.*
  - *Issued three consent orders against unauthorized money transmitters.*
  - *Issued three consent orders against prepaid funeral contract sellers.*
  - *Notified nine MSB entities that may be engaged in money transmission without a license; information is under review by the Legal Division.*

II.6 Objective: Process consumer complaints/inquiries professionally, appropriately and timely.

Measure: Periodically report to the Finance Commission on the complaints/inquiries received and processed.

February Update:

- *Consumer assistance activity is reported at each Finance Commission meeting. The report includes the percentage of written complaints resolved in 90 days and the number of written complaints resolved.*
- *Performance measures relating to complaint activity were met in the first and second quarter.*
- *COVID-19 Response: The agency's consumer assistance staff are closely monitoring consumer activity as it relates to the pandemic. To date, no complaints have been received.*

II.7 Objective: Continue to develop and refine examination procedures, reference materials, and internal guidance to enhance the examination process.

Measure: Monitor regulatory changes and update examination materials and guidance in a timely manner. Perform internal reviews of work procedures to ensure proper intent and applicability. Timely and regularly communicate updates/changes to examiners.

February Update:

- *Revised Examiner Bulletins (XB) for Bank & Trust examination staff and provided timely communication of the changes to staff.*
  - *XB 2019-06 – Guidelines for Procedures and Work Paper Documentation for Commercial Exams (September)*
  - *XB 2019-05 – Guidelines for Procedures and Work Paper Documentation for IT Exams (September)*
  - *XB 2019-04 – Guidelines for Procedures and Work Paper Documentation for Trust Exams (September)*
  - *XB 2019-07 – Guidelines for Imaging Examination Work Papers (October)*
- *Administrative Memorandum (AM) updates related to Bank & Trust and MSB examinations were communicated to staff in a timely manner.*
  - *AM 2043 – Visitations and Interim Risk Examination Assessment Programs (September)*
  - *AM 2015 – Work Paper Organization, Retention and Review (October)*
  - *AM 2009 – Examination Report Submission and Processing (November and January)*
  - *AM 2034 – Examination Due Date Calculation for MSB, PCC, and PFC License Holders (New AM issued in December)*
  - *AM 2028 – Background Checks Conducted in Accordance with Statutory Authority (February)*
- *Reviewed and revised content for seven commercial procedures: Audit, Allowance for Loan and Lease Losses, Capital Accounts and Dividends, Loans & Leases, Overdrafts, Premises and Equipment, and Borrowed Funds/Liquidity. (November-February) Provided timely notification of all changes to staff.*
- *Began field testing the IT Nonbank Cyber Exam Program (October) at Trust Company examinations.*
- *Updated examination reference materials for commercial, trust and IT examiners and provided timely notification to staff.*
- *Added the “Violation Station,” which is a new resource for commercial examiners that provides examples of previously cited violations.*
- *Reviewed and revised existing corporate-related filing procedures.*

**III. POLICY AND RULE DEVELOPMENT – Policies, Rules and Financial Education Activities**

- III.1 Objective: Issue formal communications to regulated entities to clarify and/or promote best practices to assist in complying with laws and policy statements.

Measure: Issue Supervisory Memorandums, Regulatory Guidance and Legal Opinions in a timely manner as needed.

February Update:

- *Supervisory Memorandum (SM) updates issued and communicated to regulated entities and staff in a timely manner.*
  - *SM 1003 – Examination Frequency for State-Chartered Banks (September)*
  - *SM 1029 – Risk Management of Account Takeovers and related Best Practices (September)*
  - *SM 1025 – Level II Full Scope Examinations (November)*

III.2 Objective: Monitor and suggest amendments to the Texas Administrative Code as necessary to reflect changes in state and federal laws, clarify existing laws, and address the dynamics of the changing industries. Perform periodic reviews of fee rules to ensure each regulated area covers its cost of regulation.

Measure: Draft amendments and new rules for potential adoption by the Finance Commission as necessary to timely effect necessary changes. Conduct reviews of all rules every four years to evaluate their continued necessity and applicability.

February Update:

- *Rules regarding Private Child Support Enforcement Agencies were repealed as part of the implementation of the Sunset bill.*
- *Rules were amended and repealed to remove references to depository agents in implementing HB 2458, which was passed in the 86<sup>th</sup> Legislative Session.*
- *New rules were adopted requiring banks, trust companies, and money services businesses to file cybersecurity incident reports with the Department.*
- *A rule exempting registered broker-dealers from licensure as money transmitters was adopted.*

III.3 Objective: Maintain participation in financial education and outreach efforts.

Measure: Maintain and periodically update the Department's financial education web pages and brochure. Highlight financial institutions with active programs in agency publications. Continue participation in financial education groups and events.

February Update:

- *On January 31, 2020, staff participated the 2020 Financial Fitness Greater Austin (FFGA) meeting.*
- *In the [October edition](#) of the Texas Bank Report, the Department featured two state-chartered banks with financial education programs. A separate featured article was written on elder financial exploitation.*
- *Modified the financial education [brochure](#) at the beginning of the fiscal year.*

**IV. AGENCY MANAGEMENT – *Staffing, Recruiting, Fiscal Responsibility, and Technology***

- IV.1 Objective: Actively recruit qualified personnel while strengthening the diversity of the workforce whenever possible. Maintain compliance with all state and federal employment laws.

Measure: Actively recruit entry level positions at state universities and colleges by attending no less than six job fair events and supporting banking programs at Texas universities. Promptly post vacancies. Periodically review and update personnel policies and procedures.

February Update:

- *Twenty jobs were posted from September 1, 2019 through February 29, 2020.*
- *Successfully filled key positions in the agency through internal promotion: Assistant Deputy Commissioner; Chief Operating Officer; Director, Non-Depository Supervision; Review Examiner, Non-Depository Supervision; Director, Division of Strategic Support; Regional Director, Houston; Central Point of Contact Large Bank Specialist, Houston.*
- *Promoted five internal applicants to Financial Examiner VII positions through competitive posting.*
- *Filled an Administrative Assistant position in Executive.*
- *Filled one Financial Examiner I position in Non-Depository Supervision.*
- *Filled one Financial Examiner VI position in Corporate Activities.*
- *Filled four Financial Examiner positions in Bank and Trust Regional Offices.*
- *Filled one Financial Examiner position in Bank and Trust IT.*
- *Filled one Director position for Information Technology.*
- *Filled one Financial Examiner Large Bank Specialist position in Bank and Trust.*
- *Agency representatives attended four recruiting fairs around the state.*
- *Reviewed and updated AM 2002 – Equal Employment Opportunity, Discrimination and Sexual Harassment Policy (September).*
- *Reviewed and updated Section 4 – Employee Actions (September).*
- *Reviewed and updated Section 6 – Performance Management System (January).*

- IV.2 Objective: Strive to attain full staffing, with an emphasis on employee retention and staff diversity. Promote junior staff involvement in new responsibilities to better enable seamless transition into senior staff positions as vacancies occur. Continue efforts to maintain a competitive salary structure. Obtain feedback from employees and the Employee Advisory Council and implement changes where feasible.

Measure: Continue to improve examination staff retention by addressing major issues that contribute to non-retirement resignations, with a goal to have the agency turnover rate (excluding retirements and intern separations) not exceed 9% for the fiscal year. Given the significant percentage of Department employees that are retirement-eligible, be proactive with succession planning development by providing leadership training. Maintain a competitive examiner salary program compared to the FDIC by striving to



be at a 95% equivalency. Implement, when feasible, recommendations of the Employee Advisory Council.

February Update:

- *Agency fiscal year 2020 turnover rate through February 29, 2020 was 6.36%; Agency turnover excluding retirements was 5.20%. Financial Examiner fiscal year 2020 turnover rate through February 29, 2020 was 6.61%; Financial Examiner turnover excluding retirements was 4.96%.*
- *Ten Financial Examiners are attending the DOB leadership development program.*
- *Through February 29, 2020, the agency has hired ten new employees and lost eleven employees.*
- *Salaries remain competitive with the FDIC.*
- *Completed the performance appraisal process for all employees through NEOGOV.*
- *Vendors solicited to provide information and estimates related to a compensation analysis project. Vendor selected to analyze current Department compensation strategies and recommend solutions to challenges.*
- *Administered UT Survey of Employee Engagement. Received results in February 2020 which are available on the Department's website.*
- *Management response to Employee Advisory Council recommendations include: Creation of user guides for internal applications; revisions to AM 2009; and the rescheduling of supervisor evaluations for fourth quarter FY 20.*
- *Evaluating staffing needs predicated upon conversion applications in process.*

IV.3 Objective: Have up-to-date computer hardware and software to enhance the effectiveness, speed and quality of the work products that are compatible with our federal counterparts. Provide timely technical support to staff.

Measure: Provide technology tools necessary for staff to efficiently and effectively perform their job functions. Ensure network, website, and proprietary databases function appropriately and without prolonged downtimes. Maintain technology help desk and timely train staff on any new software applications.

February Update:

- *The Chief Information Officer met with a technology provider to discuss circuit services and reliability. Requested a dedicated circuit for Nob Hill to correct issues with Access Point that are causing intermittent network outages.*
- *Staff met with representatives from the Department of Information Resources and Data Center Services (DCS) to discuss the options of using DCS provided cloud services for website hosting, to improve availability and security posture. Processed a Request for Service (RFS) for a cost-to-value analysis with DCS for cloud hosting services.*
- *Posted and conducted interviews for a Systems Administrator and posted a Network Security Systems Administrator position.*
- *Drafted a MIS Roadmap, MIS Strategic approach to modernization and support the agency, and Governance procedures. The agency's leadership team has reviewed and approved the artifacts.*

- *COVID-19 Response: Due to measures employed to limit direct social contact, most of the agency's staff were required to work from home. MIS Division personnel deployed a variety of solutions to allow remote access to employees who are working remotely.*

IV.4 Objective: Safeguard the integrity of data and information technology networks and systems from unauthorized access or use and ensure that access to critical systems by employees are available during an emergency.

Measure: Perform an annual external information security risk assessment and initiate corrective actions to maintain data integrity and minimize the risk of unauthorized access or use. Continue periodic intrusion testing by the Department of Information Resources for both the network and external facing web resources. Conduct an annual test of the Department's disaster recovery plan and initiate corrective actions to ensure operations will function appropriately.

February Update:

- *Released required Information Security Training for all staff and appointed officials. Created a purchase order change notice to require third-party contracted services to comply with HB3834 requirements.*
- *Approved the Web Application Vulnerability Scan.*
- *Disaster recovery plan will be updated; the back-up and restore validation is underway.*
- *COVID-19 Response: Due to social distancing requirements, portions of the Department's disaster recovery plan were implemented. In addition, employees were warned about new cybersecurity threats relating to the pandemic.*

IV.5 Objective: Ensure financial examiners receive adequate and proper training to perform their duties and progress within the financial examiner series.

Measure: Provide core required training courses to financial examiners in the FE I – FE III series so they can progress in the financial examiner series. Adequately prepare assistant examiners to pass the commissioning test. Continue agency efforts to provide continuing education to Bank and Trust Supervision commissioned examiners as well as Special Audits examiners.

February Update:

- *Forty-one examiners in the Financial Examiner I–III series attended 17 different training courses in the first six months of fiscal year 2020.*
- *In the first half of fiscal year 2020, four examiners received their commission.*

IV.6 Objective: Ensure agency expenditures are necessary and prudent and within budgetary constraints; revenues collected are adequate to cover expenditures; and provide a cash reserve or fund balance that complies with Finance Commission policies.



Measure: Review expenditure and revenue patterns monthly. Prepare quarterly financial statements to substantiate the agency's financial position and cash reserve.

February Update:

- *Monthly financial statements are provided to all divisions for review and to the Finance Commission each quarter.*
- *Budget variances are analyzed quarterly.*
- *For the first six months of fiscal year 2020, revenues were 100.5% of budget and expenditures were 94.4% of budget.*
- *Cash reserves are within policy guidelines.*

IV.7 Objective: Periodically review internal controls and processes to improve the efficiency and effectiveness of the agency.

Measure: Report on improvements identified and implemented.

February Update:

- *Administrative Memorandums (AM) revisions related to internal processes or procedures*
  - *AM 2002 – Equal Employment Opportunity, Discrimination and Sexual Harassment Policy (September)*
  - *AM 2012 – Policy on Utilization of Historically Underutilized Businesses (September)*
  - *AM 2011 – Subpoenas (October)*
  - *AM 2016 – Investment Policy for Funds Under the Oversight of the Guaranty Fund Advisory Council (November)*
  - *AM 2023 – Website (Internet) and DOBIE (Intranet) Maintenance Policy (November)*
  - *AM 2048 – External Website Accessibility Standards (November)*
  - *AM 2013 – Authorization for Release of Confidential Information to Governmental Entity (December)*
  - *AM 2031 – Delegation of Authority (December)*
  - *AM 2003 – Suspicious Activity Reports Filed by the Department (January)*
  - *AM 2025 – Internal Purchasing Procedures (February)*
- *Personnel Manual revision related to internal processes*
  - *Section 4 – Employee Actions (September)*
  - *Section 3 – Training (October)*
  - *Section 14 – Information Technology Standards and Procedures (November)*
  - *Section 6 – Performance Management System (January)*
- *Other mandated publications*
  - *Condition of the Texas State Banking System (September)*
  - *Contract Management Guide and Handbook (February)*

- IV.8 Objective: Continue to explore options for physical relocation of the Finance Commission agencies that meets the needs of all three agencies.

Measure: Report on activities related to the relocation of the Finance Commission agencies.

February Update:

- *The Agencies continue to work with Texas Department of Transportation and Texas Department of Motor Vehicles to determine if: (1) excess land is available, (2) the size of the parcel, (3) financial terms, and (4) scheduling.*
- *The Agencies continue to work with the broker to look for a suitable alternative building location.*

- IV.9 Objective: Comply with the directives of the State Office of Risk Management and the Department of Public Safety regarding the Business Continuity Plan.

Measure: Ensure yearly update and exercise of the Plan.

February Update:

- *An exercise related to the Plan was conducted in January 2020. An after-action report and a corrective action plan will be produced to mitigate issues encountered during the exercise.*

As Commissioner, my overriding objective continues to be for the Banking Department to be considered the top financial regulator by the industries we regulate, as well as our regulatory peers and counterparts, and the top employer by our personnel. The culmination and achievement of these goals will help achieve this objective.



# DEPARTMENT of SAVINGS & MORTGAGE LENDING

Caroline C. Jones, Commissioner

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## Memorandum

**To:** The Finance Commission

**From:** Caroline C. Jones

**Date:** April 1, 2020

**Re:** Agency Priorities for Fiscal Year 2020 - As of February 29, 2020

### I. Legislative Items

**I.1 Objective:** Monitor Interim Charges that may affect the Department or its regulated industries.

**Measure:** Provide regular updates to the Finance Commission regarding interim legislative activities.

**Status:** *The Department is monitoring Interim Charges and has reported on same to the Finance Commission.*

**I.2 Objective:** Monitor federal legislation and regulations that may affect the Department or its regulated entities.

**Measure:** Communicate relevant information with the Finance Commission and industries, as necessary.

**Status:** *Commissioner Jones and Director O'Shields attended the Mortgage Bankers Association's (MBA) national conference in Austin October 26-30, 2019 and the AARMR/CSBS Mortgage Policy Summit on November 13, 2019 in Washington DC.*

*The MBA national conference and the Mortgage Policy Summit provided opportunities to hear from national leaders in the mortgage space about issues facing the mortgage industry and to have conversations with national leaders, industry representatives, and other nonbank mortgage regulators.*

### **I.3 Objective:** Implement recommendations from Sunset Review Process. -

#### **Measure:**

- a. At Finance Commission direction, collaborate on implementing plan for enhanced sharing between the three Finance Commission agencies.
- b. Implement all rules recommended by Sunset.

**Status:** *In response to Sunset's Management Action 2.6, the Finance Commission voted on the agencies' recommendation and Efficiency Audit at the October 18, 2019 meeting. The Sunset Advisory Commission was provided copies of the Efficiency Audit, the Finance Commission Plan, and the combined agencies response on December 31, 2019.*

*Representatives from the three agencies, (DOB, OCCC, and the Department), have held meetings regarding the possible sharing of information technology resources, human resources, accounting, procurement, and consumer complaints.*

*A consolidated Training Manual was presented to the members of the Finance Commission at its October 2019 meeting. This was responsive to Sunset's Management Action 7.1.*

*The rules recommended by Sunset have been presented to and adopted by the Finance Commission.*

## **II. Regulatory Items**

**II.1 Objective:** Continue to closely monitor the Department's savings banks' risk profiles and the economic conditions in which they operate. Continue ongoing monitoring of both individual and systemic conditions that present risks to their financial security through the Department's off-site financial information software and onsite presence.

**Measure:** Maintain off-site monitoring program of savings banks while initiating appropriate regulatory responses and enforcement actions when applicable. Maintain state savings bank examination schedule as set by Department policy.

**Status:** *The Department monitors the thrift industry's risk profiles and reports information to the Finance Commission on a regular basis on items such as Liquidity, Profit Margin, and Non-Performing Assets. The Department actively engaged in on-site and off-site monitoring to determine whether supervisory action was necessary. During the first half of FY20, no enforcement actions were issued. Compliance with existing enforcement actions are monitored through quarterly reports from the thrifts and/or on-site visitations and examinations. The Department has maintained the state savings bank examination schedule as set by Department policy.*

**II.2 Objective:** Continue compliance examinations of mortgage companies and Residential Mortgage Loan Originators, licensed under Finance Code, Chapters 156 and 157, respectively; to ensure that licensees are in compliance with applicable laws and regulations when

conducting business with Texas consumers. Analyze recurring examination findings and take steps to communicate best practices to the mortgage industry.

**Measure:** Maintain mortgage examination schedule, as set by Department policy, and as needed initiate appropriate regulatory responses and enforcement actions for violations found.

**Status:** *As of February 28, 2020, the Department conducted 273 examinations of mortgage entities covering 2,576 mortgage loan originators. The Department maintained the mortgage examination schedule as set by Department policy. The Department provides the top violations to industry at various opportunities, including presentations to statewide and local associations and at the Department's Mortgage Industry Seminar. The Department issued formal and informal enforcement actions as deemed necessary.*

**II.3 Objective:** Initiate appropriate regulatory enforcement to ensure compliance with federal and state laws and regulations.

**Measure:** Report on enforcement actions.

**Status:** *As of February 29, 2020, the Department had issued 104 orders related to either examinations or complaints.*

**II.4 Objective:** Retain prompt resolution times on consumer complaints.

**Measure:**

- a. Provide updates to the Finance Commission on the aging of complaints.
- b. Conduct management review of any complaints open over 120 days to identify issues preventing the timely closing of such complaints.

**Status:** *The Department reports to the Finance Commission the aging of complaints on a quarterly basis. As of February 29, 2020, 95% of the open consumer complaints were aged less than 90 days.*

**II.5 Objective:** Participate in the development and implementation of home equity interpretations.

**Measure:**

- a. Continued involvement in meetings of the Home Equity Lending Working Group as it develops recommended home equity rules and interpretations.
- b. Implement any rule and interpretations adopted by the Finance Commission and the Credit Union Commission.

**Status:** *No applications for interpretation pursuant to 7 Tex. Admin. Code §151.1 were received in the first half of FY20. The Department did not otherwise receive a petition for rulemaking concerning the Joint Financial Regulatory Agencies' rules regarding home equity lending interpretations.*

**II.6 Objective:** Remain active and involved at the national level on supervisory issues affecting savings banks and the mortgage industry.

**Measure:**

- a. Maintain contact with state regulators from other states, regulatory associations (e.g. ACSSS, CSBS, AARMR, and NACCA), trade associations, (e.g. TBA, IBAT, TMBA, ATMP, and TAR), and federal regulators (e.g. CFPB, FDIC, FRB), in order to be aware of events, decisions, other state and federal policies and other areas of actual and potential impact on the Department's regulatory functions or the industries. Take proactive steps to respond as issues arise affecting the industries or supervisory duties.
- b. Continue working with the FDIC and FRB, and other federal agencies as appropriate, on examinations, supervision, and consumer complaint resolution issues. Monitor federal rule writing activity and interpretations of existing statutes.
- c. Report to the Finance Commission on interaction with federal agencies in all of the above listed activities.

**Status:** *Members of the Department's management team serve in leadership positions on several national associations and committees. These include: the American Council of State Savings Supervisors, (Board), the American Association of Residential Mortgage Regulators, (Board), and the State Regulatory Registry (Board). Several staff members serve on Conference of State Bank Supervisors working groups.*

*During the first half of FY20, the Department participated in the FDIC's Dallas Region State and Federal Regulators Leadership meeting, the CSBS/AARMR National Mortgage Policy Summit, MBA's Annual Convention, and other events and interactions as previously reported to the Finance Commission.*

*The Department has continued its joint Safety & Soundness examination program with the FDIC and FRB, as well as its Compliance examination program.*

### **III. Policy and Rule Development**

**III.1 Objective:** Conduct rule review of all rules related to the savings and loan, state savings banks, and mortgage lending. Propose necessary amendments to the rules as necessary.

**Measure:** Have final action taken, either re-adoption or repeal, on the rule reviews and proposal of any amendments needed to these rules.

**Status:** *On October 25, 2019, the Department published notice of its intent to conduct periodic review of its rules related to savings and loans, state savings banks, and mortgage lending. No comments were received in response to such notice. Subsequently, the Department has been conducting a thorough review of such rules internally, and has identified numerous potential amendments. The Department tentatively anticipates presenting proposed amendments relating to mortgage lending for consideration by the Finance Commission meeting scheduled for June, 2020, unless another date is requested to allow for review of such amendments by Office of the Governor. Proposed amendments to the Department's rules regarding savings*

*and loans and savings banks are anticipated for proposal thereafter. At such time as proposed amendments are published for comment in the Texas Register, the Department will simultaneously readopt its rules related to savings and loans, state savings banks, and mortgage lending, as applicable. The Department is on track to meet this objective by fiscal year end.*

**III.2 Objective:** Monitor and modify Texas Administrative Code rules as necessary to reflect changes in state and federal laws and address the dynamics of the changing industries.

**Measure:** Amend rules and adopt new rules as necessary to timely effect necessary changes.

**Status:** *The following rules have been proposed and/or adopted during the first half of FY20:*

*Adopted:*

*7 TAC Chapter 79, §79.20, and §79.30; 7 TAC Chapter 80, §80.201, §80.301, and §80.302; 7 TAC Chapter 81, §81.110, and §81.201*

*Proposed and Adopted:*

*7 TAC Chapter 52*

#### **IV. Industry Outreach and Communication**

**IV.1 Objective:** Communicate with regulated industries on matters of supervisory and industry interest, including emerging issues, through a variety of means both electronic and face to face as deemed appropriate and efficient.

**Measure:** Provide regular updates to the Finance Commission regarding activities conducted in these areas by reporting the number of communications sent and events participated in.

**Status:** *The Department stays in contact with the relevant state trade associations. During the first half of FY20, the Department served on panels or presented to eight statewide or local chapters of trade associations, including, but not limited to, Texas Mortgage Round Up, Department's Mortgage Industry Seminar, Department's Thrift Industry Day, and IBAT's Annual Convention.*

*Various Department representatives discuss issues related to the industry via individual face to face meetings and electronic means as deemed necessary and appropriate. The Commissioner and Deputy Commissioner hold a monthly "Emerging Issues" call for State Savings Banks Presidents/CEOs and other staff members from their institutions. The Commissioner has held six outreach meetings with state savings banks.*

#### **V. Agency Management**

**V.1 Objective:** Recruit well qualified personnel, while seeking to broaden the Department's workforce diversity. Train and cross-train employees as needed to minimize knowledge loss

due to employees' retirement or separation and to prepare for workload shifts due to changes in regulated industries and/or technology. Provide and promote opportunities for professional development.

**Measure:** Report on staffing activity, actions to retain staff, and turnover ratios to the Finance Commission.

**Status:** *During the first half of FY20, over 63% of personnel received training or professional development. Additionally, in the first half of FY20 the Department filled one position and had two separations of employment which resulted in a turnover ratio of 3.9%.*

*The Department has launched a project, related to an in-depth review of job competencies, training and development plan, and competitive pay for each position.*

**V.2 Objective:** Meet or exceed 90% of the key performance measures, within the Department's control. Strive to reduce deficiencies, if any, in the performance measures outside the Department's control. (See Attachment A for all Performance Measures)

**Measure:** Provide regular updates to the Finance Commission regarding performance measures.

**Status:** *The Department has reported on its four key output measures to the Finance Commission on a quarterly basis. As of the end of the second quarter of FY20, the Department had met or exceeded three of these key measures. The Department expects to meet or exceed all the output measures for the fiscal year.*

**V.3 Objective:** Implement improvements in business processes and internal controls in response to evolving business needs, audit recommendations, and/or internal reviews.

**Measure:** Report on implementation progress and outcome of audits to Finance Commission Audit Committee.

**Status:** *During the first half of FY20, the Department has not had any audits. There are no outstanding items to report from any prior year audits.*

**V.4 Objective:** Monitor the Department's budget and reserve balances as approved by the Finance Commission to maximize the responsiveness and flexibility allowed by the Self-Directed Semi-Independent status. Make decisions relating to finances in a fiscally prudent manner. Review expenditures and revenues monthly.

**Measure:** Report to the Finance Commission Audit Committee at least quarterly on both revenue and expenditure variances to the budget.

**Status:** *Reports have been submitted quarterly to the Finance Commission as required, with detailed explanations of variance and cash reserves. Internally, the budget is monitored and analyzed on an ongoing basis.*



**V.5 Objective:** Ensure information technology is kept current to maintain effectiveness and quality of work product of the Department. Safeguard the integrity of data and information technology networks and systems.

**Measure:** Report to the Finance Commission activities in this area.

**Status:** *As deemed appropriate, the Department has implemented critical patches to the network and staff computers.*

**V.6 Objective:** Continue to work towards a long term solution to address headquarters space and parking needs in collaboration with the other Finance Commission agencies.

**Measure:** Report to the Finance Commission activities related to the relocation of the agencies.

**Status:** *The Department, along with the Department of Banking and Office of Consumer Credit Commissioner, continue to search for potential properties and review information relating to the relocation of the agencies' headquarters. Information has been reported to the Finance Commission as available.*

*The Agencies continue to work with Texas Department of Transportation and Texas Department of Motor Vehicles to determine if excess land is available, the size of the parcel, financial terms, and scheduling. Additionally, the Agencies continue to work with the broker to look for a suitable alternative building location.*

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# Office of Consumer Credit Commissioner

## Agency Priorities – Mid-Year Status Report

FY 2020

### 1. LEGISLATIVE

#### 1.1. Mandated Studies.

**1.1.1. Objective: Legislative Interim Studies.** Participate in legislative interim studies and provide resource information and research.

**Measure:** Response to requested resource information. Regular communication with the Finance Commission regarding interim legislative activity.

**Status:** *On March 9, 2020, the House Pensions, Investments & Financial Services Committee held a hearing on online lending and the implementation of the OCCC's Sunset legislation. Commissioner Pettijohn provided written and verbal testimony explaining how the OCCC has implemented the Sunset legislation, and explaining the Sunset legislation's clarifications on online lending.*

#### 1.2. Sunset Review

**1.2.1. Objective:** Implement changes resulting from Sunset legislation and review.

**Measure:** Regular reports communicated to the Finance Commission.

**Status:** *The OCCC updated its key performance measures and will be reporting on them for fiscal year 2020. Several updates allow the Finance Commission to monitor and compare performance across all three finance agencies, as recommended in the Sunset report.*

*The agency updated its online portal, ALECS, to accommodate the statutory change that allows pawnshops to opt into licensure for their employees. The updates were made in time for the September 1, 2019, effective date of the statute.*

*In response to a Sunset-recommended efficiency audit, the OCCC is participating in workgroups with the other Finance Commission agencies to share best practices and discuss potential efficiencies that can be achieved among the agencies.*

*New rules relating to the OCCC's complaint process were adopted by the Finance Commission at the end of fiscal year 2019, and became effective on September 5, 2019.*

*In December 2019, the Finance Commission adopted a rule action to implement provisions from the OCCC's Sunset legislation (HB 1442) relating to alternative dispute resolution, negotiated rulemaking, and appeals to the Finance Commission.*

### 2. REGULATORY ACTIVITIES

## 2.1. Regulated Entities.

**2.1.1. Objective:** Supervise and monitor the jurisdictionally appropriate industry segments for compliance with state and federal law. Investigate illegal activity. Initiate appropriate regulatory enforcement to ensure compliance with federal and state guidelines to protect the rights of consumers.

**Measure:** Reporting on compliance by regulated industry segment and enforcement actions.

**Status as of 2/29/2020:**

License Type	Examination Compliance	Enforcement Activity
<i>Pawnshop</i>	<i>98.1% acceptable level of compliance.</i>	<i>42 injunctive actions 27 administrative penalty actions</i>
<i>Regulated Lender</i>	<i>98% acceptable level of compliance.</i>	<i>48 injunctive actions 18 administrative penalty actions 1 license revocation</i>
<i>Property Tax Lender</i>	<i>100% acceptable level of compliance.</i>	<i>1 administrative penalty action</i>
<i>Credit Access Business</i>	<i>98.7% acceptable level of compliance.</i>	<i>21 injunctive actions 7 administrative penalty actions</i>
<i>Motor Vehicle Sales Finance</i>	<i>90.4% acceptable level of compliance.</i>	<i>36 injunctive actions 9 administrative penalty actions 3 application denials</i>

**2.1.2. Objective:** Achieve overall weighted average acceptable level of compliance of 85% through examinations and industry education efforts. Monitor follow-up and restitution orders for licensees with outstanding examination issues.

**Measure:** Number of examinations completed. Report the rate of satisfactory compliance. Report the amount of restitution returned to consumers as a result of examinations.

**Status:** *The agency has completed 1,617 examinations at mid-year which is 80.9% of the pro rata goal and 40.4% of the annual goal for fiscal year 2020. The overall compliance rate is 94.1% for all five examination areas combined. Restitution from examinations conducted is \$976,262.24 as of February 29, 2020. During this period, the agency closed 213 enforcement actions concerning the five examination areas. The 213 closed cases include 147 injunctive actions, 62 administrative penalty actions, one license revocation, and three application denials.*

**2.1.3. Objective:** Identify improvements and refinements for the Annual Report, Complaint, Examination (ACE) Tool to provide improved efficiency and consistency of licensee data reporting.

**Measure:** Reporting on improvements to the ACE Examination Tool.

**Status:** *The Annual Report Build that allows for webform submission in all five industries required to file an annual report has been released and licensees have been using the system to submit reports since Jan. 1. 2020.*

## **2.2. Licensing.**

**2.2.1. Objective:** Process 90% of license applications within 60 days from received date to completion date. Provide professional development and training opportunities to licensing staff once per quarter.

**Measure:** Report on license activities, benchmarks, application processing status, and departmental professional development.

**Status:** *The licensing department processed 77% of business license applications in 60 days or less. This is likely due to training new hires that began in the licensing department in the beginning of the second quarter. The department anticipates that performance will improve in the second half of FY 2020. With regard to training, the department continues to have monthly process trainings and round table discussions to encourage professional development. Additionally a member of the department attended leadership training and will contribute applied lessons to the department as a whole.*

**2.2.2 Objective:** Implement modifications to the pawn employee licensing program to allow pawnshops to opt in to pawn employee licensing as directed in the sunset legislation.

**Measure:** Report on implementation of modifications to online system, industry communications and data on pawnshop employee licensing.

**Status:** *Approximately 36% of active pawn shops have opted to license their pawn employees, which is in line with projections. The department attended the Texas Association of Pawnbrokers conference in February to communicate with members about optional pawn employee licensing and continues to educate the industry on the implications of opting in or out of the program. ALECS has been fully developed to allow pawn shops to opt in or out during the renewal period or at any time the commissioner mandates.*

## **3. POLICY AND RULE DEVELOPMENT**

### **3.1. Agency Rules.**

**3.1.1. Objective:** Rule Review. Complete rule reviews of 7 TAC, Part 1, Chapter 2, Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner (last reviewed FY 2015); 7 TAC Chapter 86, Retail Creditors (last reviewed FY 2015); and 7 TAC Chapter 90, Plain Language Contract Provisions (last review published FY 2015, adopted FY 2016). The preceding three rule reviews were deferred from FY 2019 due to legislation affecting these chapters. In addition, complete rule reviews of 7 TAC, Part 1,

§1.201, Interpretations and Advisory Letters (last reviewed FY 2016); 7 TAC Chapter 82, Administration (last reviewed FY 2016); and 7 TAC Chapter 87, Tax Refund Anticipation Loans (last reviewed FY 2016).

**Measure:** Adoption of rules according to schedule and proposal of modifications to existing rules.

**Status:** *The OCCC anticipates that it will complete these six rule reviews by the end of the fiscal year 2020. In February 2020, the Finance Commission completed the rule reviews of 7 TAC Chapters 2 and 86 by readopting these chapters, with amendments proposed in separate rule actions. At the April 2020 meeting, the OCCC is presenting readoptions of 7 TAC Chapters 1 and 90, as well as proposed amendments to Chapter 90. In August 2020, the OCCC intends to present readoptions of Chapters 82 and 87, as well as any proposed amendments to these chapters.*

- 3.1.2. Objective:** Rule Development. Work with interested stakeholders from all stakeholder groups to clarify and improve rules as issues arise during licensing, complaints, investigations, examinations, enforcement actions, or from other sources. Continue to hold and refine stakeholder webinars to increase stakeholder engagement in rule development process. Continue to work with interested stakeholders regarding rule provisions necessary to implement 2019 legislation and recommendations from the Sunset Commission. Draft rule amendments as appropriate.

**Measure:** Reporting on stakeholder engagement and rule development. Adoption of rules according to schedule.

**Status:** *The Finance Commission has completed the adoption of rules implementing 2019 legislation. In October 2019, the Finance Commission adopted four rule actions to implement 2019 legislation, relating to the single equivalent daily rate for regulated loans (implementing HB 3855), the documentary fee for motor-driven cycles (implementing HB 3171), and military licensing for residential mortgage loan originators and pawnshop employees (implementing SB 1200). In December 2019, the Finance Commission adopted a rule action to implement provisions from the OCCC's Sunset legislation (HB 1442) relating to alternative dispute resolution, negotiated rulemaking, and appeals to the Finance Commission. Before presenting these rules to the Finance Commission, OCCC staff held stakeholder meetings and online webinars to obtain input from stakeholders.*

#### **4. CONSUMER ISSUES / COMMUNICATION & OUTREACH STRATEGIES**

##### **4.1 Texas Financial Education Endowment Fund (TFEE).**

- 4.1.1. Objective:** Manage grant solicitation, application review and selection for FY 2020-2021 grant cycle, reporting and funding for the FY 2020-2021 grant cycle.

**Measure:** Reporting on fund activities, investment earnings, grant request submissions, grants awarded and grantee reporting highlights. Also, identify and implement ways in which to improve the grant program based on report findings and program needs.

**Status:** *Agency staff is working on completing the 2018-2019 TFEF grant cycle final reimbursements. The Grant Advisory Committee recommended ten 2020-2021 TFEF grant cycle award recipients that were approved by the Finance Commission in February 2020.*

## **4.2 Financial Literacy**

**4.2.1. Objective:** Identify underserved populations in need of financial literacy and provide financial literacy education to new demographics of consumers by collaborating with local agencies. Collaborate with other agencies in the promotion and delivery of financial education as feasible and efficient.

**Measure:** Report on number of people and programs reached.

**Status:** *The Financial Education Coordinator has delivered nine presentations to a total of 231 people, achieving 71% of the yearly goal. Moving forward the Financial Education Coordinator will continue to meet both online and in-person to deliver presentations across the state of Texas.*

## **4.3. Industry and Stakeholder Outreach**

**4.3.1. Objective:** Continue to build relationships with industry and interested stakeholders to ensure clear communications on education or regulatory compliance. Monitor emerging issues in agency's areas of regulation and communicate the impact to regulated and licensed entities. Develop publications that address topics of interest and share with regulated and licensed entities. Participate in or attend industry meetings or seminars.

**Measure:** Report to the Finance Commission on the content and frequency of communications.

**Status:** *The Financial Education Coordinator meets bi-monthly with Texas Jump\$tart and serves as a Director on the Texas Jump\$tart board. Agency staff continue to provide useful industry information to stakeholders in the form of in-store and online brochures. During this fiscal year, agency staff updated both the English and Spanish versions of the Consumer Credit Facts brochures. To further assist stakeholders the agency published several advisory bulletins regarding COVID-19.*

## **5. AGENCY MANAGEMENT**

### **5.1. Performance Measures.**

**5.1.1. Objective:** Performance Targets. Meet or exceed 80% of key performance targets within  $\pm 5\%$  of the projected target.

**Measure:** Continue to meet or exceed the strategic planning goals for key performance measures, including attainment of at least 9 out of 11 key performance targets. Report results to Finance Commission on a quarterly basis.

**Status:** *The OCCC implemented revisions to the performance measures in response to the Sunset recommendations and to seek more consistency with the other FC agencies. Several of the performance measures will be negatively impacted by the necessary change in activities due to COVID-19. At the end of the second quarter, the OCCC met or exceeded 3 out of 4 key output measures, 2 out of 5 outcome measures, and 1 out of 2 efficiency measures.*

## **5.2. Human Resources.**

- 5.2.1. Objective:** Recruit and retain qualified personnel with the appropriate skill set necessary to meet short and long-term needs. Continue efforts to right size staffing, based on performance requirements, with an emphasis on employee retention and diversity. Ensure staff receives adequate cross-training to minimize institutional knowledge loss due to work separation or retirement. Maintain competitive compensation schedules. Continue efforts to be proactive in competitive salary administration.

**Measure:** Report on turnover ratio, cross-training initiatives and retention efforts. Maintain competitive financial examiners career development and progression path.

**Status:** *At the beginning of August 2019, the agency had 80 FTEs out of a possible 91 allowed. Several merits and promotions were awarded to staff based on performance. As of February 2020, turnover rate is 10.1%. In addition, staff continues to thoroughly review exit interviews comments and the overall general statistics provided from the State Auditor's Office. The agency provides internal employment opportunities for current employees. OCCC developed a new Cross-Training Program that began November 2019. This is a pilot program designed to provide employees with a new development opportunity to enhance knowledge, skills and abilities. Several cross-trained employees have been involved in providing assistance in different departments to ensure that the agency has no loss of productivity. Employees have improved awareness of the agency rules and functions. This has also reduced the costs in the hiring and training of temporary workers or new employees. OCCC's implementation of the Cross-Training Program has been successful and is a valuable asset.*

- 5.2.2. Objective:** Promote opportunities for staff professional development. Ensure that examiners and investigators receive a minimum of 40 hours of continuing education. Ensure that at least 40% of administrative staff receives additional professional or job-related training.

**Measure:** Reporting on training opportunities and attainment of minimum exam staff training and administrative staff training.



**Status:** *Examiners attended annual training September 2019 where an in-depth curriculum was presented, providing 32 of the 40 minimum required hours, including training on rule changes from the state and federal government. Other training opportunities include: National Association of Consumer Credit Administrators (NACCA) Examiner's School, State Auditor Classes, Pawn and F Training, Credit Access Business (CAB), Mortgage Training, Property Tax Lending Training, Examiner-in-Charge School, as well as OCCC-led classroom training for several examiners on Mortgage and Property Tax Lending. Further, extended virtual training has been initiated during the suspension of onsite examinations due to COVID-19. Also, staff improved the communication methods to ensure training opportunities for non-examination staff. Administrative staff attended professional or job related training including webinars. Several employees attended the Governor's Center for Management Development training. All agency employees continue to participate in the SANS/Cyber Security Training. Also, State Office of Risk Management provided "Safe Way of Lifting Boxes" training.*

- 5.2.3. Objective:** Conduct review of Human Resources policies and update as appropriate. Enhance supervisory resources and training.

**Measure:** Report on completion of review and progress on supervisor resources.

**Status:** *The Employee Policies & Procedures Manual Version 2.03 was updated September 2019, with the inclusion of best practice recommendations from TWC Audit review. The agency updated the Compensation and Timekeeping policy. The Information Technology Policies and Procedures Manual was updated to incorporate IT security procedures and protocols. Policies are regularly monitored to ensure compliance with local, state and federal law.*

### **5.3. Financial and Self-Directed, Semi-Independent Status.**

- 5.3.1. Objective:** Ensure that the agency's revenues and expenditures are appropriate and balanced and maintain a cash reserve or fund balance in compliance with Finance Commission policies. Provide greater data reliability, more efficient transactional processing, and enhanced reporting.

**Measure:** Review internal financial statements and variances on a monthly basis. Submit quarterly financial data relating to the agency's financial position and fund balance for review by the Finance Commission.

**Status:** *The agency monitors and timely reviews the financial status through monthly Operating Statements and Budget Analysis reports. These reports are also reviewed on a quarterly basis by the Finance Commission. Financial performance in the year was within the budgeted levels as established by the Finance Commission.*

- 5.3.2 Objective:** Continue to work towards a long term solution, in collaboration with the other Commission agencies, to address headquarter facilities space and parking needs.

**Measure:** Report on activities related to the relocation of the Finance Commission agencies.

**Status:** *The Finance Commission agencies have continued to actively work on options towards a long term solution for headquarters facilities. The Finance Commission has been regularly briefed on these activities at Finance Commission meetings.*

#### 5.4. Information Technology.

- 5.4.1. Objective: Software Modernization and Continuous Improvement.** Ongoing enhancements to the Application, Licensing, Examination, Compliance System (ALECS), improving functionality and security.

**Measure:** Reporting on development and milestones.

**Status:** *A number of change requests have been processed through the emerging change management committee process and forwarded to the external vendor for development and integration.*

- 5.4.2 Objective: Hardware Modernization.** Updating and maintaining the OCCC endpoint computer asset deployment and the shared network equipment.

**Measure:** Reporting on milestones and distribution.

**Status:** *OCCC has phased out all Windows 7 endpoints and is now fully a Windows 10 environment. OCCC has two network servers running Windows Server 2019. A new virtual server is being configured to capture and internally distribute Windows updates.*

- 5.4.3 Objective: Increase Agency Security Posture.** Using the recommendations provided in the FY19 cybersecurity assessment, OCCC will increase security maturity for objectives in the Texas Cybersecurity Framework.

**Measure:** Activity reporting on the roadmap with timelines for implementation of recommendations.

**Status:** *OCCC IT updated the agency security roadmap and work continues on implementation of recommendations. Annual cybersecurity training saw 97.5% completion.*

- 5.4.4 Objective: Formal Change Management Procedure.** OCCC IT has recently introduced a change management procedure which generates consistent, collected documentation.

**Measure:** Reporting of change request documentation metrics and summaries.

**Status:** *Change management procedures were audited during FY19. At the time of the audit, a more formalized change management program with a cohesive documentation trail was in the process of transition. The process has continued to be documented and refined during the first half of FY'20. IT expects the change management procedure to reach stride during FY'20.*

**B.**

**Texas Department of Banking**

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Charles G. Cooper  
Commissioner

## TEXAS DEPARTMENT OF BANKING

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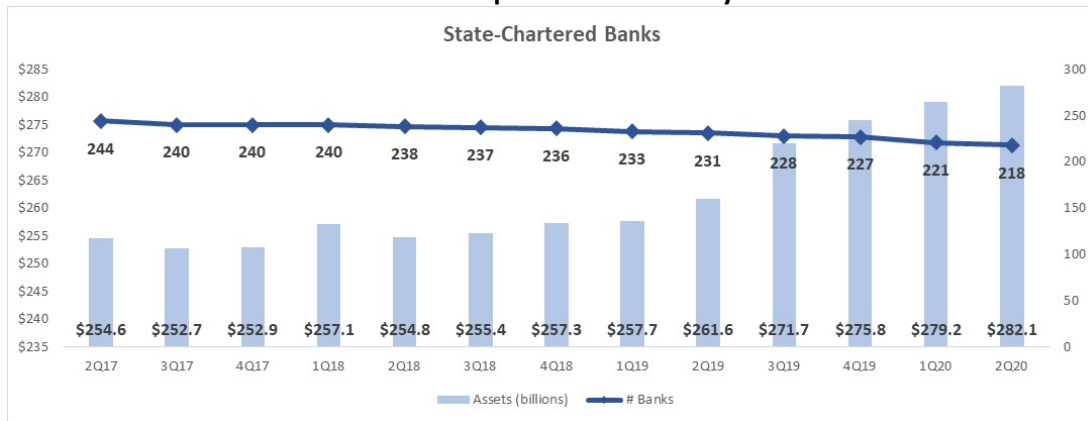
To: Finance Commission Members

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

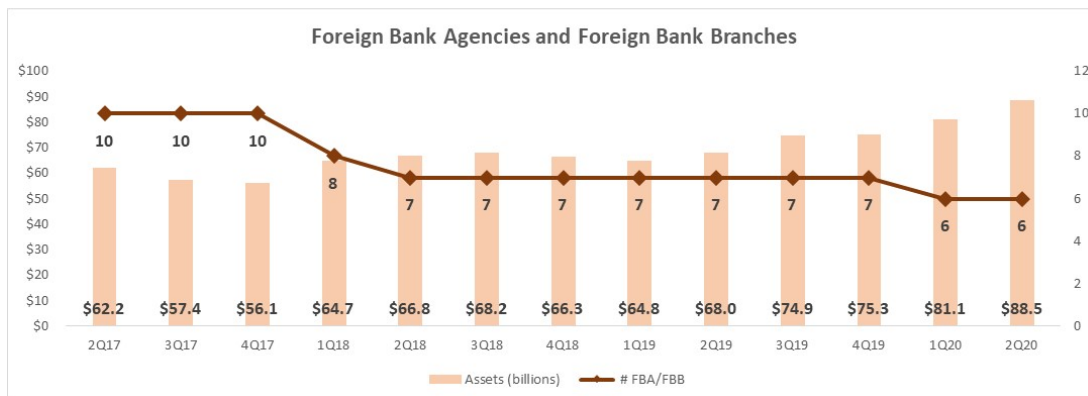
Date: April 2, 2020

Subject: Summary of the Bank & Trust Supervision Division Activities

### Bank and Trust Supervision – Industry Profiles

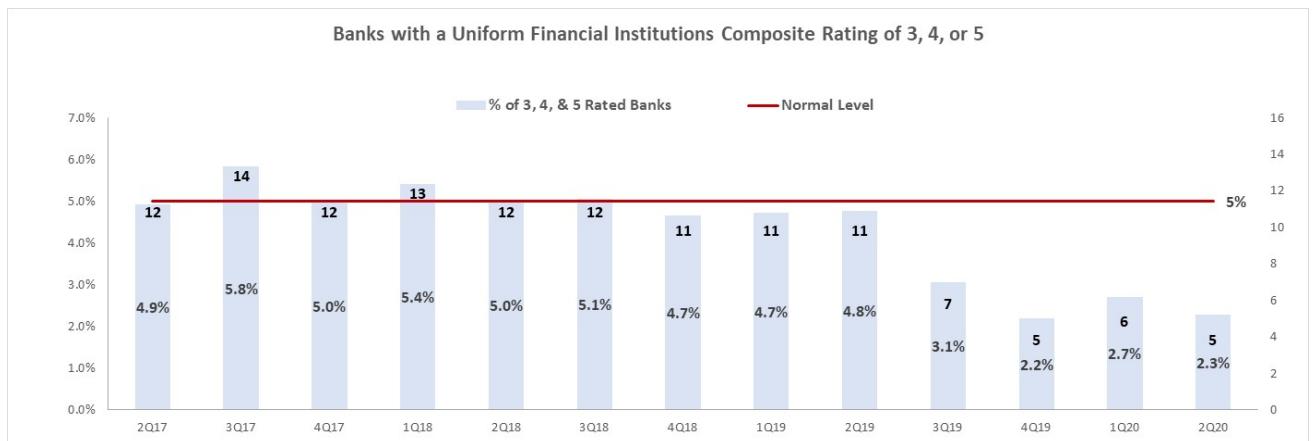
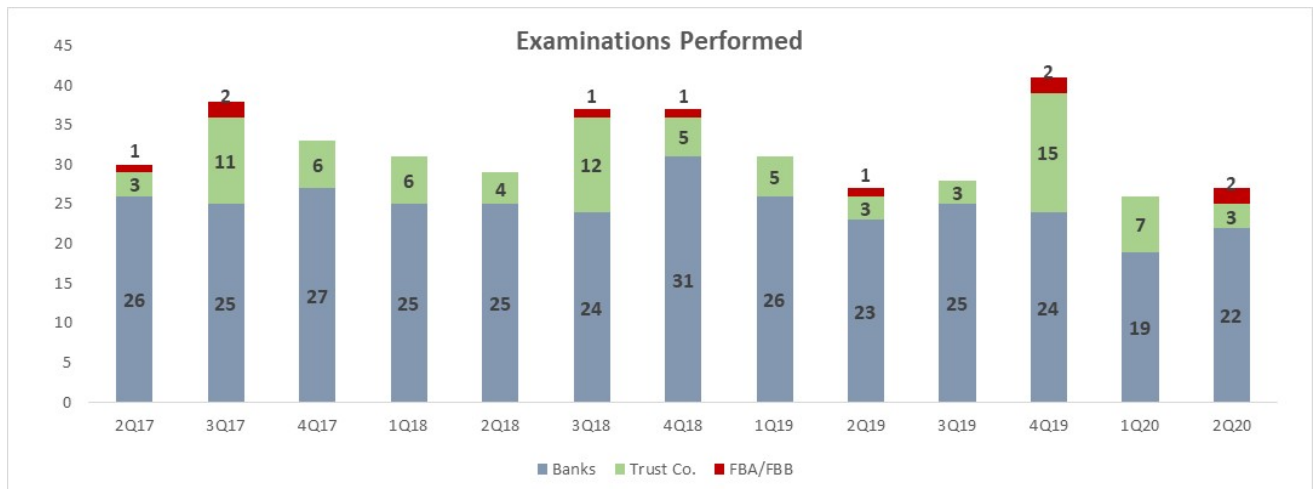


<sup>1</sup>Fiduciary assets for public trust companies (non-exempt) only.



## Summary of the Bank &amp; Trust Supervision Division Activities

Page 2



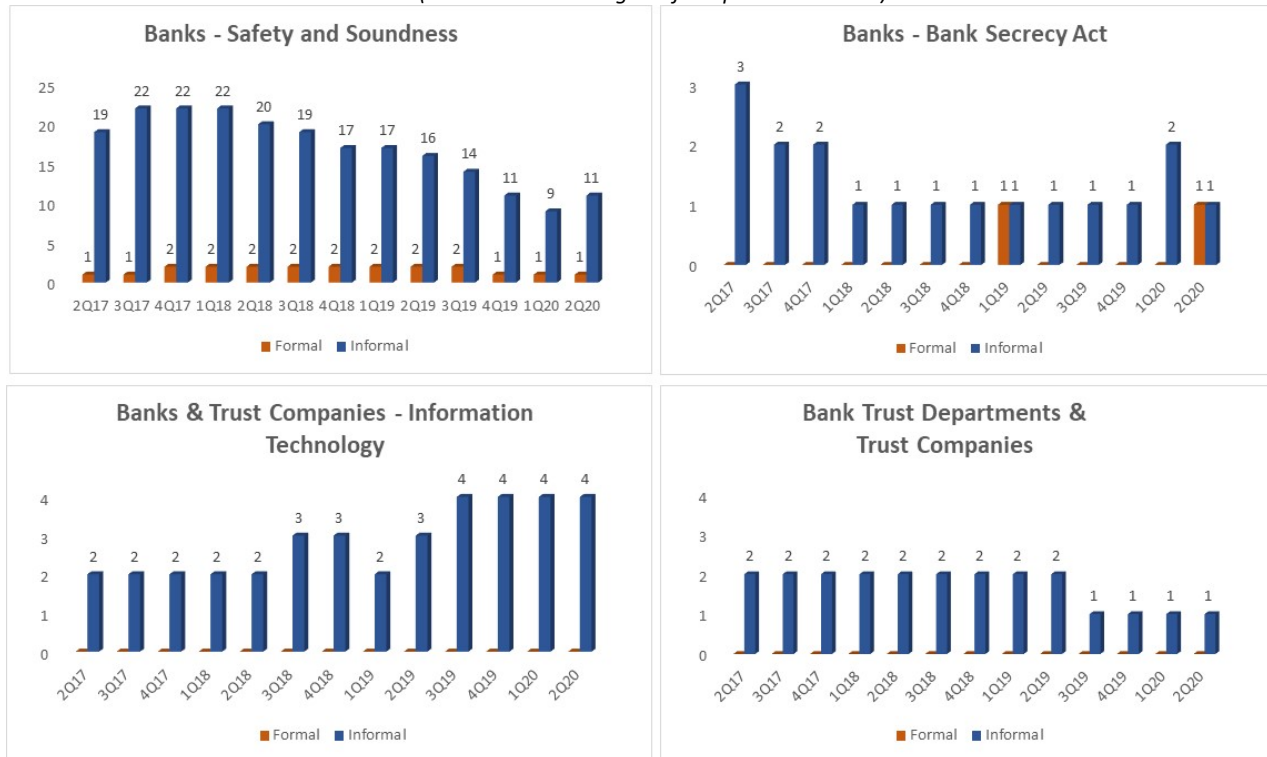
The Department considers any bank with a Uniform Financial Institutions Composite Rating of 3, 4, or 5, to be a problem bank. The number of problem banks continues to remain below what we consider to be a normal range of between 3% and 5% of the total number of institutions. However, the number of problem banks is expected to increase as banks deal with the economic fallout from the COVID-19 pandemic.

## Summary of the Bank &amp; 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 – Feb. 2020)
<b>Commercial Banks</b> (All / DOB Only)	93% / 92%	100% / 100%
<b>IT</b>	96% / 96%	98% / 97%
<b>Trust</b>	93% / 94%	100% / 100%
<b>Foreign Banks (FRB)</b>	100%	100%
<b>Trust Companies (DOB)</b>	48%	70%
<b>IT</b>	92%	100%

Through February 2020, the agency met all examination priorities except for examinations of trust companies, which dropped off due to a combination of staff retirements, time spent on de novo charter investigations, and the timing of several exempt trust company examinations.

Compliance with examination priorities will be challenging through at least the remainder of this fiscal year. Examination activities have been largely halted as we allow financial institutions to focus on providing critical

financial services to their customers and not preoccupy management with examinations during the onset of the COVID-19 pandemic. Additionally, we will take a measured approach restarting our examination processes while the pandemic persists. As a result, achieving full compliance with examination priorities is expected to be protracted.

### Division Highlights

- **COVID-19 Monitoring and Response:** The Department has been actively monitoring and responding to the unfolding events related to the COVID-19 pandemic. Actions taken in response to the pandemic include:
  - Completing in-process examination activities but halting all new examination activities while the pandemic persists. The decision to resume examination activities will be made on a rolling two-week basis;
  - Instructing personnel to work from home to minimize contact with bankers and trust personnel;
  - Waiving progress reports due April 30, 2020, for the quarter ending March 31, 2020;
  - Extending Report of Condition and Income submission timeframes for trust companies;
  - Initiating workstreams focusing on improving off-site bank monitoring capabilities and streamlining the examination processes when examination activities are resumed; and
  - Performing additional offsite monitoring of banks most susceptible to the precipitous drop in oil and gas commodity prices.
- **COVID-19 Communications:** The following is a list of COVID-19 related communications by the Department since Governor Greg Abbott declared a state of disaster in Texas due to COVID-19 on March 13, 2020.
  - Commissioner Charles Cooper issued a [proclamation](#) dated March 16, 2020, allowing Texas state-chartered banks with offices in Texas to temporarily close all or part of their offices under Section 37.003 of the Texas Finance Code.
  - The Department issued Industry Notice [2020-03](#), Texas Department of Banking Provides Support and Guidance for Coronavirus Disease 2019 (COVID – 19), dated March 16, 2020. The notice provides guidance to our institutions regarding customer support, pandemic preparedness including tips on emergency closures, and future examinations.
  - On March 20, 2020, Commissioner Charles Cooper participated in a Texas Bankers Association (TBA) podcast titled *COVID-19 Update for State Chartered Banks with Commissioner Charles G. Cooper*. The podcast covered a range of topics related to the Department's actions being taken in response to the COVID-19 epidemic.
  - The Department issued Industry Notice [2020-04](#), Treasury Memo Designates Financial Services Sector Essential Critical Infrastructure Workers, dated March 23, 2020. This notice highlights federal agency



communications which state that the financial services sector is a critical infrastructure sector and financial service workers are essential to maintaining the financial services sector.

- On March 24, 2020, Commissioner Cooper participated in Independent Bankers Association of Texas (IBAT) webinar titled [IBAT Industry Update Webinar](#). In the webinar, Commissioner Cooper offered the support of the Department and answered pertinent questions related to the COVID-19 epidemic's impact on banks and bank operations.
- The Department issued Industry Notice [2020-05](#), Business Continuity Planning Considerations dated March 30, 2020, in conjunction with IBAT and TBA. This notice provides guidance to banks for evaluating their operational preparedness in response to COVID-19.
- The Department issued Industry Notice [2020-06](#), Trust Company Call Report and Certification of Exempt Status dated April 1, 2020. The notice provides Department regulated trust companies with a 31-day extension for filing reports due to the Department on April 30, 2020. Further, the notice authorizes trust companies to file the reports using electronic signatures.
- **2019 Rate the Department Survey:** Results of the [2019 Rate the Department Survey](#) showed that 84 banks and trust companies responded, and the feedback is mostly positive. This Survey provides feedback on the communication and general working relationship between the agency personnel and supervised entities.
- **Special Operations and Conferences:**
  - Commissioner Cooper attended the IBAT 2020 Winter Summit in Avon, Colorado, beginning January 26, 2020.
  - Chief IT Examiner Ruth Norris participated in a panel discussion at an IBAT event entitled Cybersecurity from a Regulatory Perspective, held in Dallas on February 3, 2020.
  - Review Examiner Travis Graham represented the Department on a Regulatory Panel at the TBA's Lending School in Austin on February 12, 2020.
  - Commissioner Cooper participated in the Nationwide Multistate Licensing System (NMLS) Conference in San Francisco, California, beginning February 18, 2020.
  - Chief IT Examiner Norris participated in the Department of Treasury's Houston Regional Cyber Tabletop Exercise held in Houston on February 20, 2020.
  - Deputy Commissioner Kurt Purdom along with Headquarters and regional office personnel participated in the IBAT Regional Meetings held in various Texas cities from on February 25 and 26, 2020.
  - Commissioner Cooper accompanied a delegation of Conference of State Bank Supervisors (CSBS) representatives to the United Kingdom (UK) beginning February 29, 2020. The delegation of state financial services regulators from the United States and representatives met with counterparts in the UK, including Her Majesty's Treasury, to understand our different regulatory structures, explore areas

of commonality, share best supervisory practices and lay the foundation for transatlantic collaboration.

- Deputy Commissioner Kurt Purdom and Director Dan Frasier gave a presentation at the TBA Regulator Forum held in Dallas on March 4, 2020.



Charles G. Cooper  
Commissioner

## TEXAS DEPARTMENT OF BANKING

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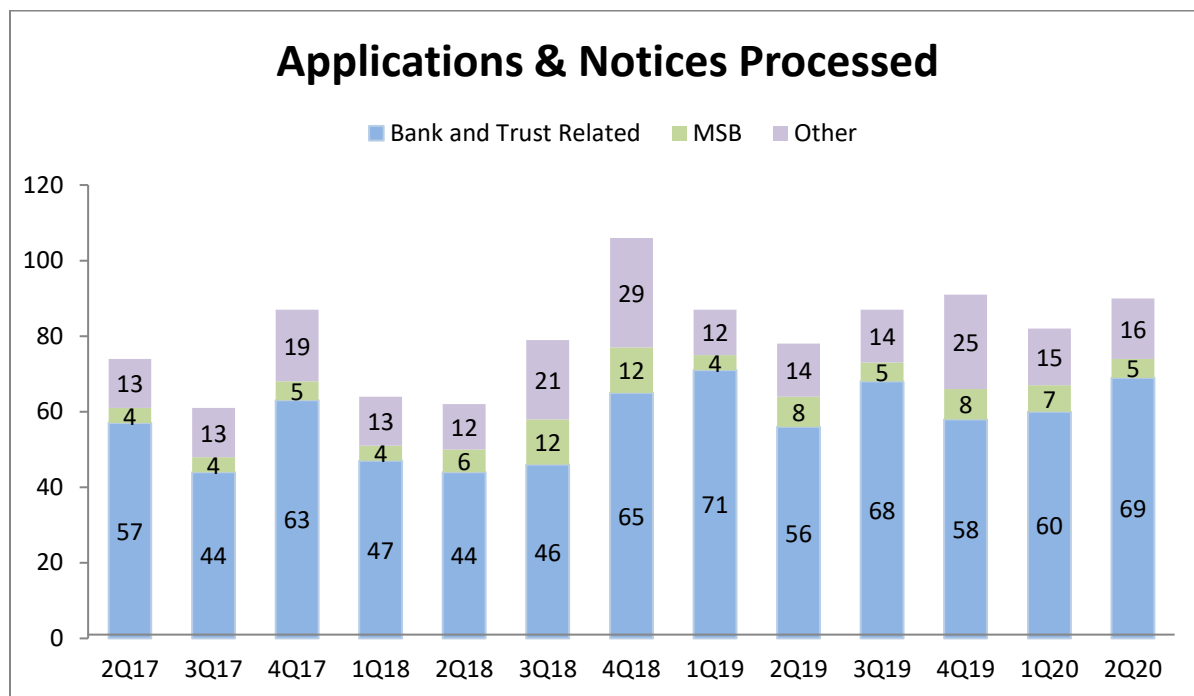
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To: Finance Commission Members

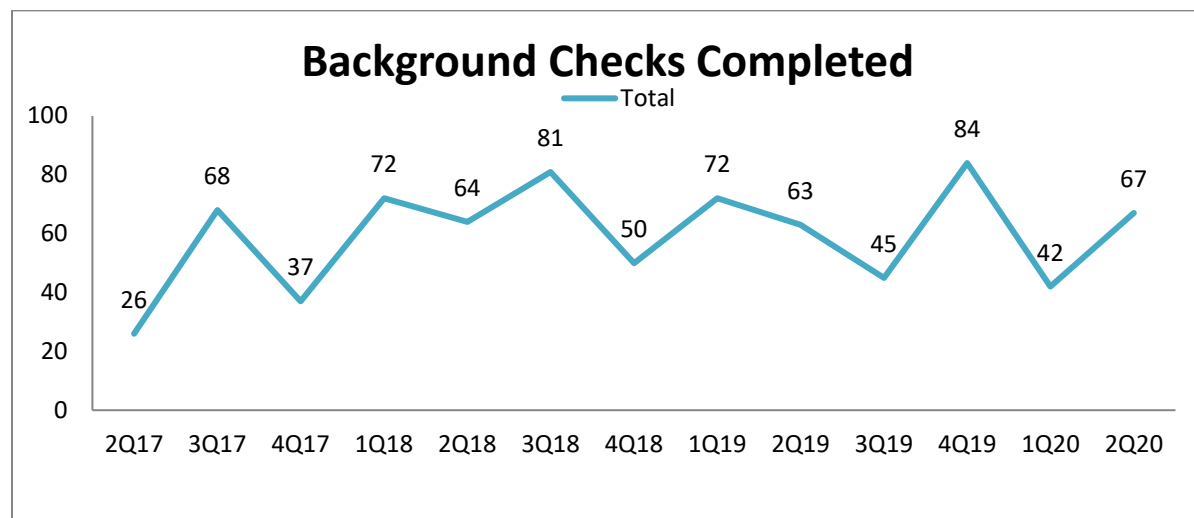
From: Mark Largent, Director of Corporate Activities

Date: April 3, 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 April 2, 2020)
Bank Related	31
Trust Companies	5
Money Services Business (MSB)	17
Others	2
<b>Totals</b>	<b>55</b>

#### Division Highlights

- Application volume remains significant and moderately above 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 increased 9 (41%)
  - Trust company decreased 1 (17%)
  - MSB related increased 1 (6%)
  - Other decreased 1 (33%)
- **Pandemic Response**
  - In light of the increased difficulties the COVID-19 pandemic has placed on financial institutions, applicants with pending filings relating to a merger, conversion, or de novo bank charter were given the option to temporarily suspend processing of their application or proceeding with off-site processing to the extent possible. Most of the applicants have elected to move forward with off-site processing.
- **Charter, Conversion, and Merger Activity** – Since the last report to the Finance Commission, the following transactions have consummated:
  - *Banks*
    - American Momentum Bank, College Station, Texas completed its acquisition merger of Security Bank, Midland, Texas [no change in state banking assets].
  - *Trust Companies*
    - N/A.
- **Conferences, Conventions, and Committee Meetings** – Since the last report to the Finance Commission, Corporate Division personnel have participated in the following:
  - Director Mark Largent participated in the 2020 Nationwide Multi-State Licensing System Annual Conference in San Francisco, California on February 18-21.



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Commissioner

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To: Finance Commission Members

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

Date: April 1, 2020

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

			FY 2020							
Entity	FY 2019		1 <sup>st</sup>		2 <sup>nd</sup>		3 <sup>rd</sup>		4 <sup>th</sup>	
Industry Profile (# / Assets (billions))										
Money Services Businesses (MSB)	171	\$140.5	170	\$140.3	172	\$140.3				
Prepaid Funeral Contract (PFC)	359	\$4.2	357	\$4.2	355	\$4.2				
Perpetual Care Cemeteries (PCC)	241	\$365.3 *	241	\$369.4*	241	\$370.6*				
Check Verification Entities (CVE)	2	n/a	2	n/a	2	n/a				
Examinations Performed										
MSB	101		19		24					
MSB Limited Scope	2		2		0					
MSB Accepted other State	13		4		3					
PFC	260		53		73					
PFC Limited Scope	5		0		0					
PCC	184		68		35					
PCC Limited Scope	2		0		0					
Ratings (# / %) Assigned to All Regulated Entities										
1	276	36.56%	281	37.42%	283	37.78%				
2	409	54.17%	409	54.46%	410	54.74%				
3	60	7.95%	50	6.66%	50	6.68%				
4 & 5	10	1.32%	11	1.46%	6	0.8%				
Noncompliance with Examination Priorities (Past Due)										
MSB	14		23		18					
PFC	3		2		0					
PCC	1		2		0					

### 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 two months past due.
- Nine of the past due MSB examinations were completed in March 2020. The examination schedule reflects that three examinations will be completed in April and May 2020. The remaining past due examinations are scheduled to be completed in June 2020, of which two are to be completed as part of multi-state joint examinations. Also, two of the past due MSB examinations were delayed due to ongoing enforcement proceedings.
- As of February 2020, no PFC or PCC examinations were past due.
- NDS met or exceeded all performance measures for the second quarter of FY 2020.

### **Division Activities**

During the week of February 17<sup>th</sup>, Commissioner Cooper, Director of Corporate Activities Largent and NDS Director Saucillo attended the 2020 Nationwide Multistate Licensing System (NMLS) Annual Conference & Training in San Francisco, California. The NMLS conference included various discussions and presentations impacting the MSB industry and the coordination of multi-state joint examinations.

PFC/PCC Financial Examiners met in Round Rock, Texas the week of February 24<sup>th</sup> to discuss current trends and events in the industry. The meeting provided an opportunity for additional training on performing examinations and the submission of compliant examination reports. Examination procedures were also reviewed and revised to increase the effectiveness and efficiency of our supervisory efforts.

Effective March 2<sup>nd</sup>, the MSB Financial Examiner I vacancy was filled, and the division is now fully staffed.

The [2019 NDS Rate the Department](#) survey was recently completed. Only 82 survey responses were received from the industry, or approximately 11% of the total number of NDS license holders. The majority of the survey responses and comments were positive. The low number of survey responses received is generally a good indicator that the majority of NDS license holders are satisfied with the division's supervisory activities. The survey results are discussed at NDS staff meetings.

Division staff continues to monitor for and investigate non-compliant activity, primarily in the MSB area. During this reporting period, NDS initiated regulatory enforcement actions against licensed entities to ensure compliance with applicable rules and regulations to protect the rights and interests of Texas consumers.



## **TEXAS DEPARTMENT OF BANKING**

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### **Memorandum**

**To:** Finance Commission Members

**From:** Lori Wright, Director Human Resources

**Date:** April 1, 2020

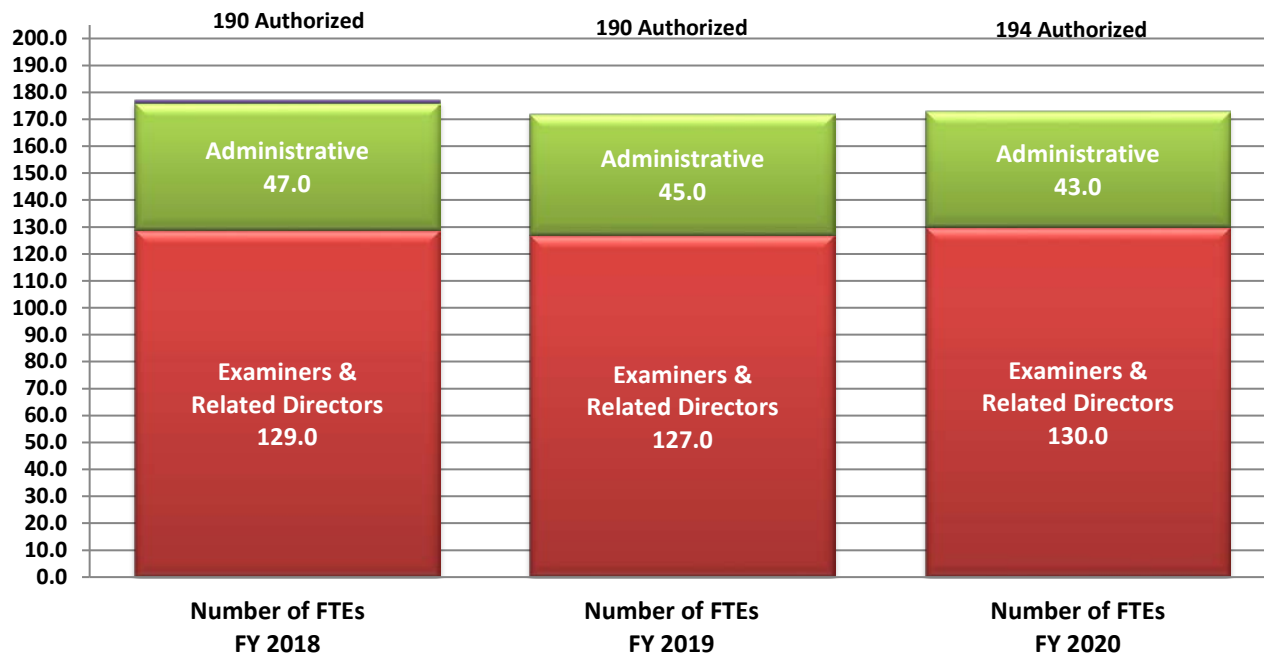
**Subject:** Summary of the Human Resources Division Activities

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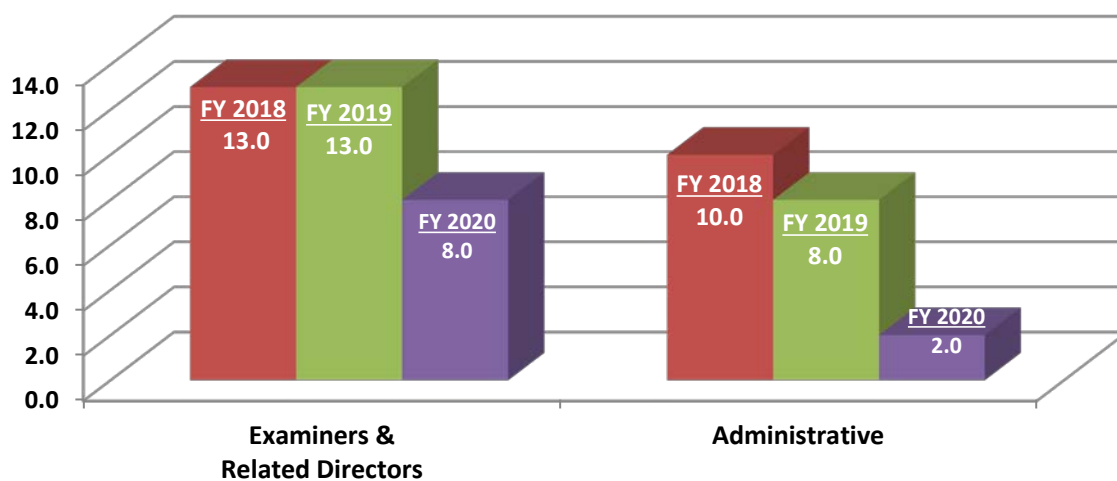
### **Human Resources Fiscal Year 2020 Activities**

<b>Active Postings</b>			
<b>Number of Positions</b>	<b>Position</b>	<b>Status</b>	<b>Activities</b>
1	Financial Examiner VI-VII Review Examiner - HQ	Close 4/20/2020	Open
1	Financial Examiner VI-VII Large Bank Operations	Closed 4/8/2020	Screening Applications
1	Financial Examiner IV-VI IT Security Examiner	Closed 4/3/2020	Screening Applications
1	Financial Examiner I-III Assistant IT Security Examiner	Closed 4/3/2020	Screening Applications
1	Program Specialist II (DSS)	Open Until Filled	Open
NA	Financial Examiner IV-V	Open Until Filled	Perpetual Posting
NA	Financial Examiner VI-VII	Open Until Filled	Perpetual Posting

## Texas Department of Banking Employee Data for Fiscal Years 2018, 2019 and 2020 as of 02/29/2020

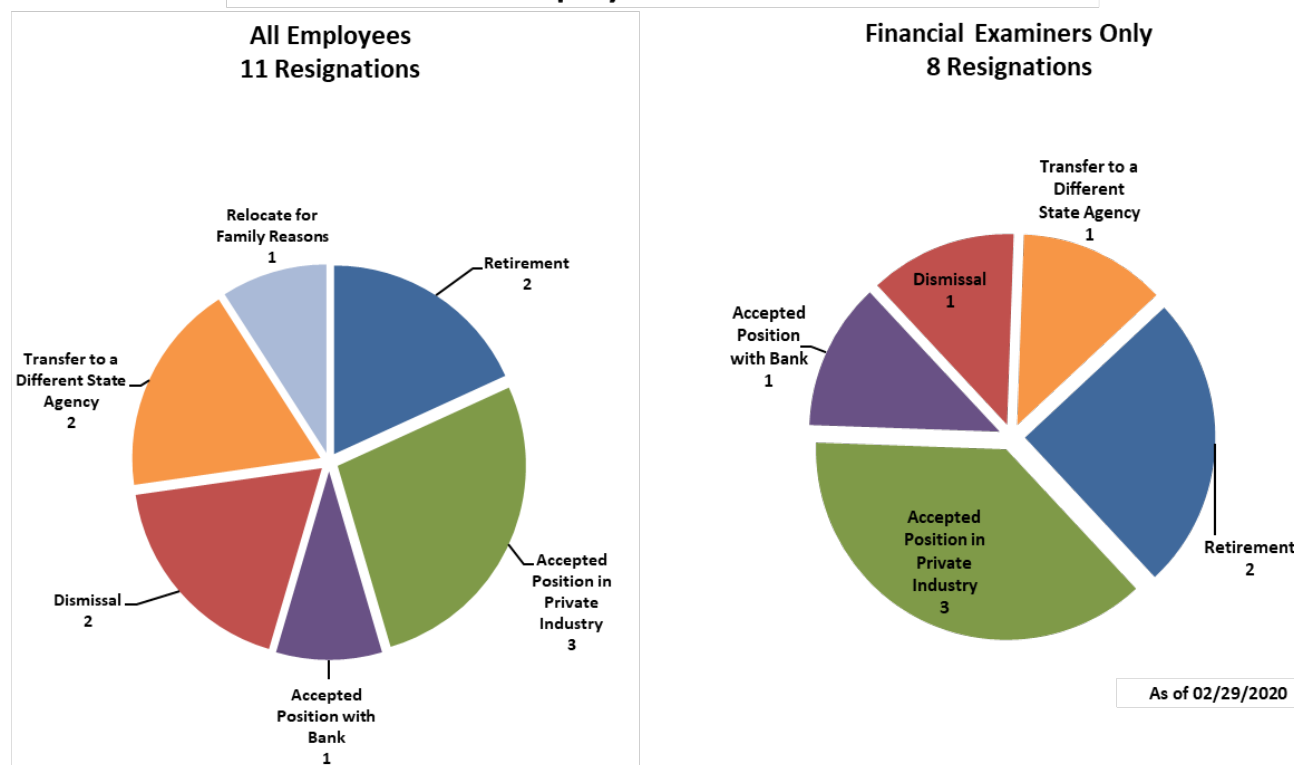


## New Hire Data for Fiscal Years 2018, 2019 and 2020





### FY 2020 Employee Turnover Reasons



### Other Agency Items:

#### *New Director, Division of Strategic Support*

Ms. Michelle Hodge was named Director, Division of Strategic Support effective February 1, 2020. Ms. Hodge began her Department of Banking career as an Assistant Financial Examiner in May 2008. She received her commission in March 2013 and has most recently served as a Review Examiner at headquarters for the past two years.

#### *Compensation Project*

The Executive and Human Resources team held a kickoff meeting on March 18, 2020, with Austin Alliance Group, who will assist the Department with developing a comprehensive compensation strategy. The project will encompass market salary data analysis, compensation system design, internal and external alignment solutions, identification of career paths, and an effective total compensation program communication plan.

#### *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 were received and shared with the Employee Advisory Council, discussed with directors, and will be used for agency strategic planning.

**Department of Banking**  
**Actual Performance for Output Measures**  
**Fiscal Year 2020**

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target
<b>Output Measures-Key</b>				
<b>1-1-1 Bank Examination</b>				
<b>1. # Bank Examinations Performed</b>				
<b>Quarter 1</b>	90	19	19	21.11%
<b>Quarter 2</b>	90	26	45	50.00%
<b>2. # Foreign/Trust/IT Examinations Performed</b>				
<b>Quarter 1</b>	185	42	42	22.70%
<b>Quarter 2</b>	185	52	94	50.81%
<b>1-2-1 Non-Bank Examination</b>				
<b>1. # NDS Licensees Examined</b>				
<b>Quarter 1</b>	550	146	146	26.55%
<b>Quarter 2</b>	550	135	281	51.09%
<b>1-3-1 Application Processing</b>				
<b>1. # License Applications Completed</b>				
<b>Quarter 1</b>	311	81	81	26.05%
<b>Quarter 2</b>	311	97	178	57.23%
The number of filings, especially those relating to conversions, mergers, and subsidiaries, exceeded expectations.				

\*Varies by 5% or more from target.



Charles G. Cooper  
Commissioner

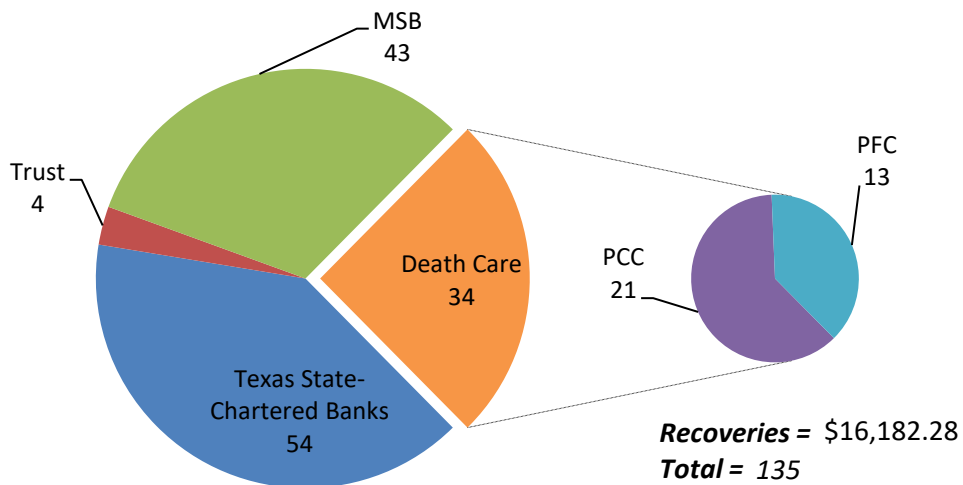
## TEXAS DEPARTMENT OF BANKING

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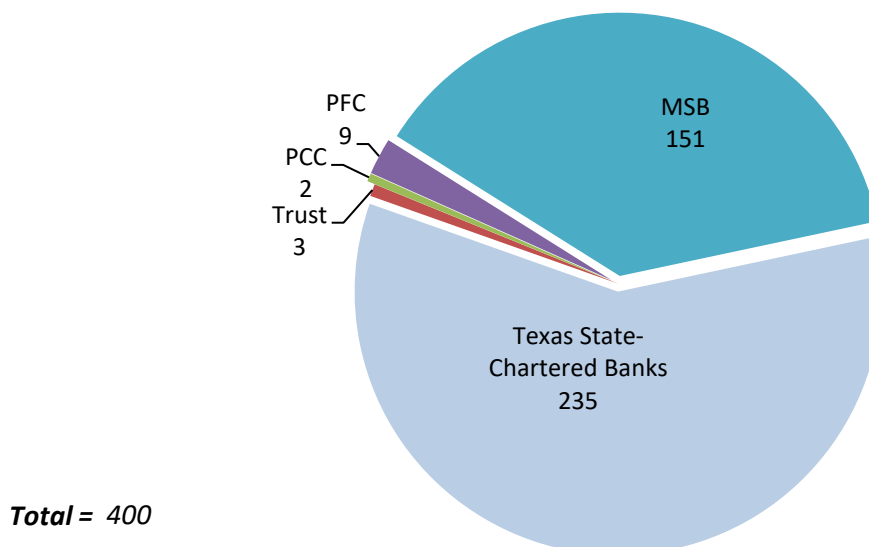
**To:** Finance Commission Members  
**From:** Michelle Hodge, Director of Strategic Support  
**Date:** April 3, 2020  
**Subject:** Summary of the Strategic Support Division Activities

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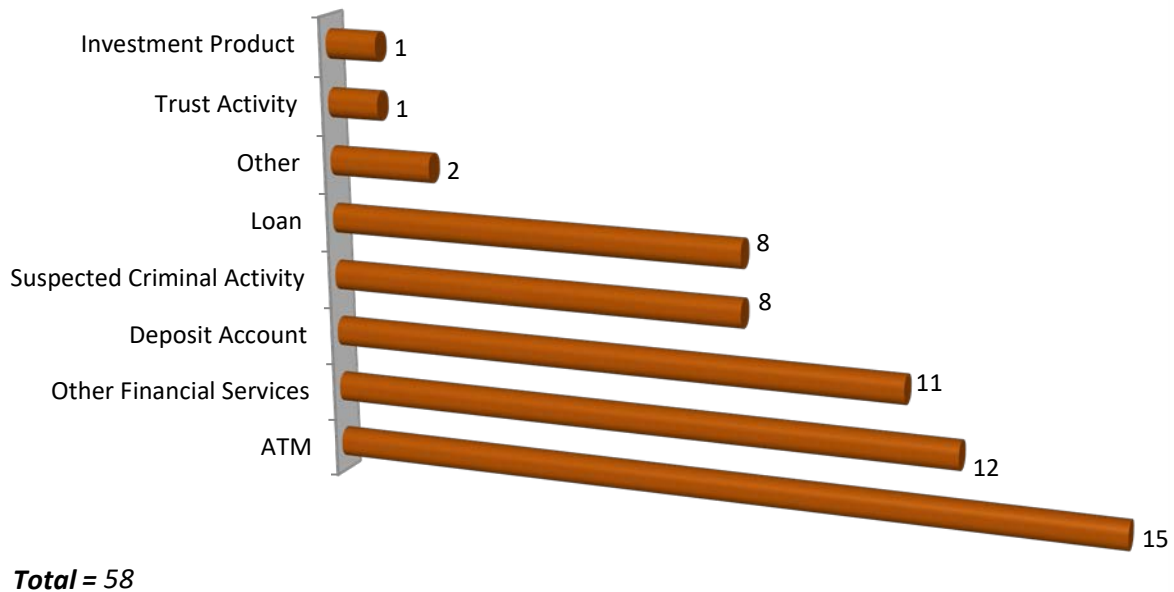
### Jurisdictional Written Complaints September 2019 - February 2020



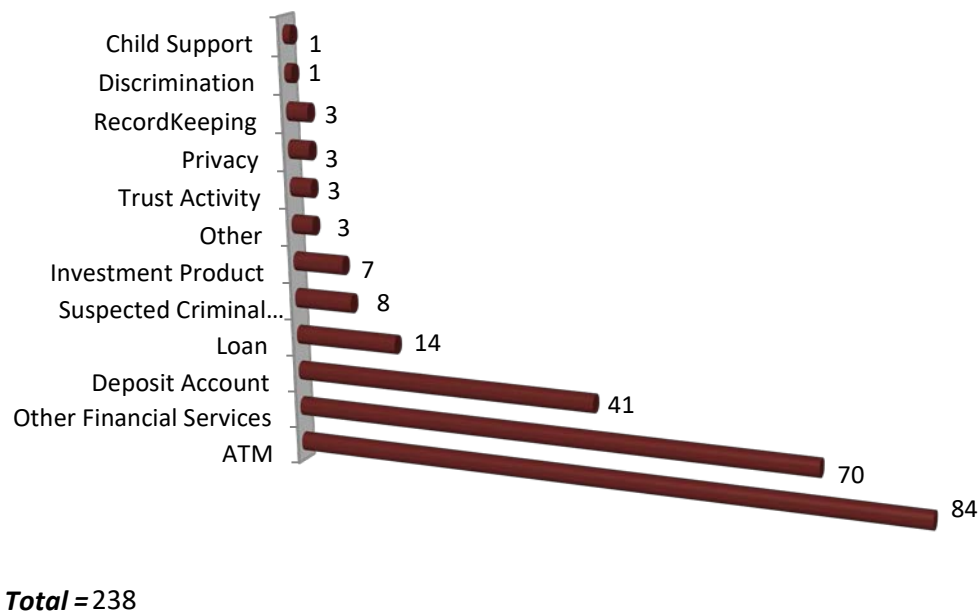
### Inquiries on Jurisdictional Entities September 2019 - February 2020



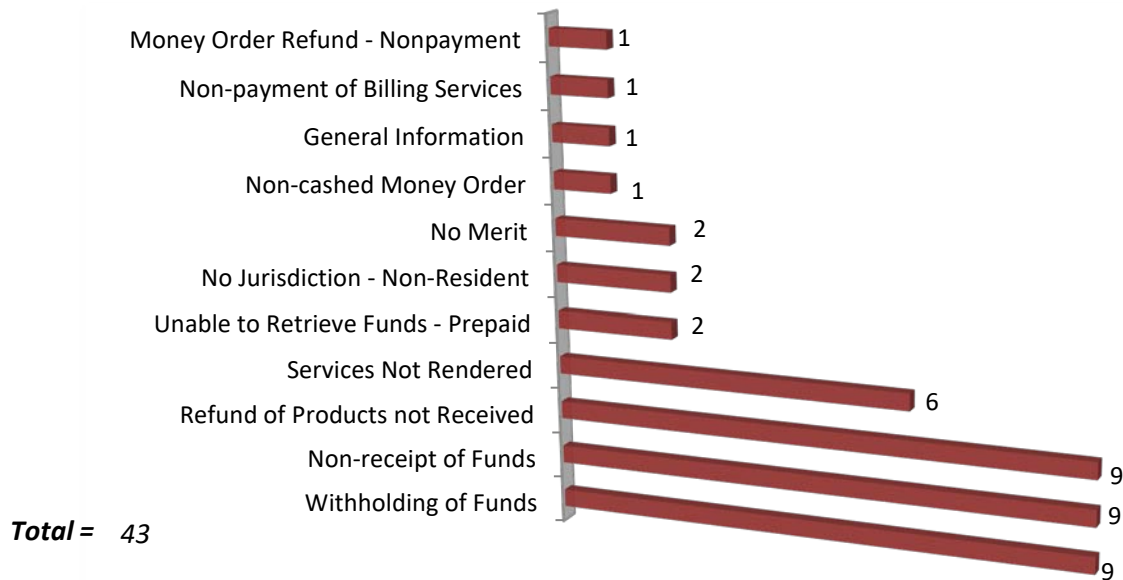
**State-Chartered Banks and Trust Companies  
Written Complaints by Type  
September 2019 - February 2020**



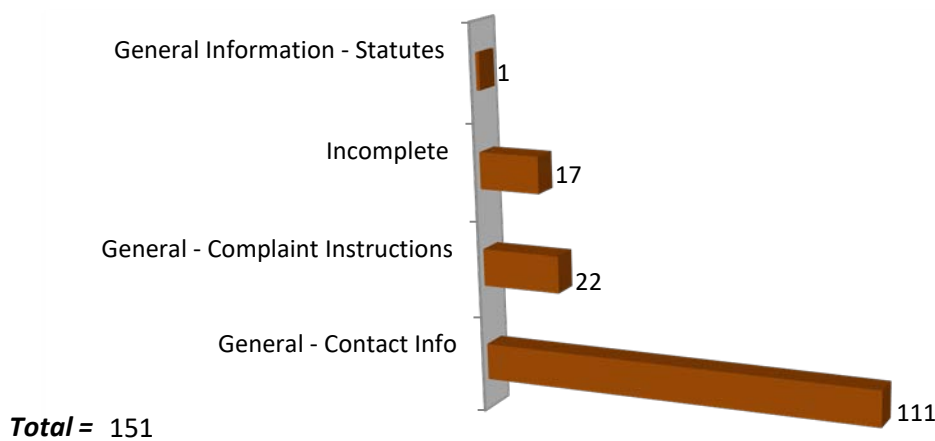
**State-Chartered Banks and Trust Companies  
Inquiries by Type  
September 2019 - February 2020**



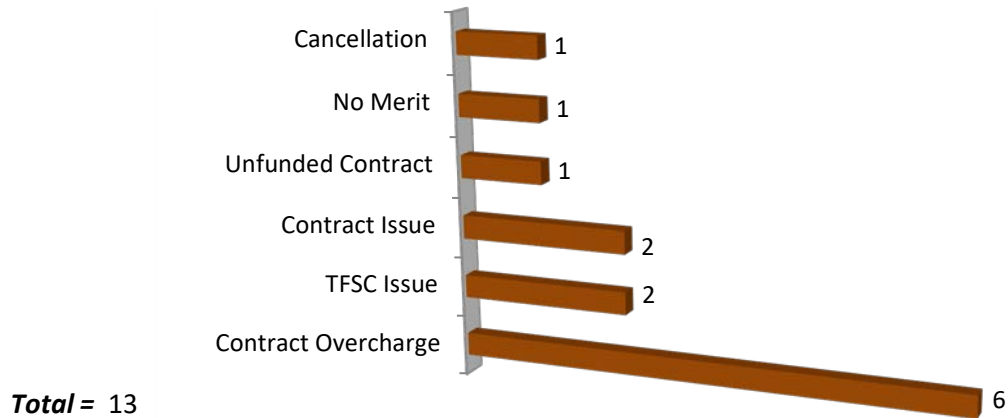
**Money Services Businesses  
Written Complaints by Type  
September 2019 - February 2020**



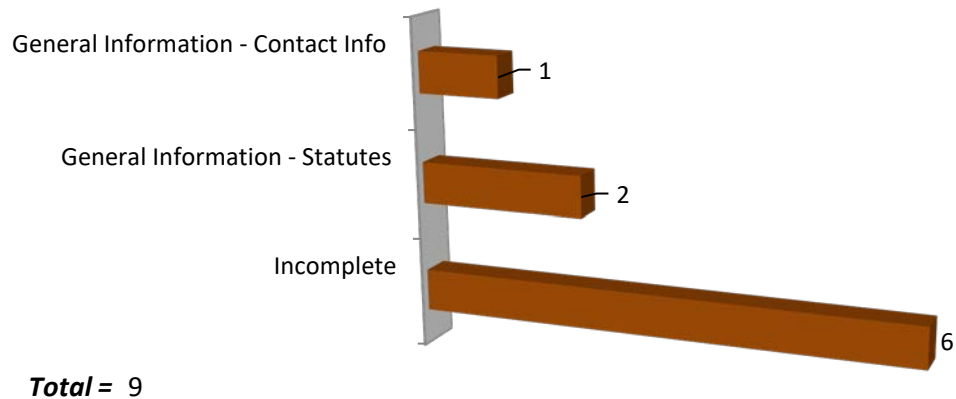
**Money Services Businesses  
Inquiries by Type  
September 2019 - February 2020**



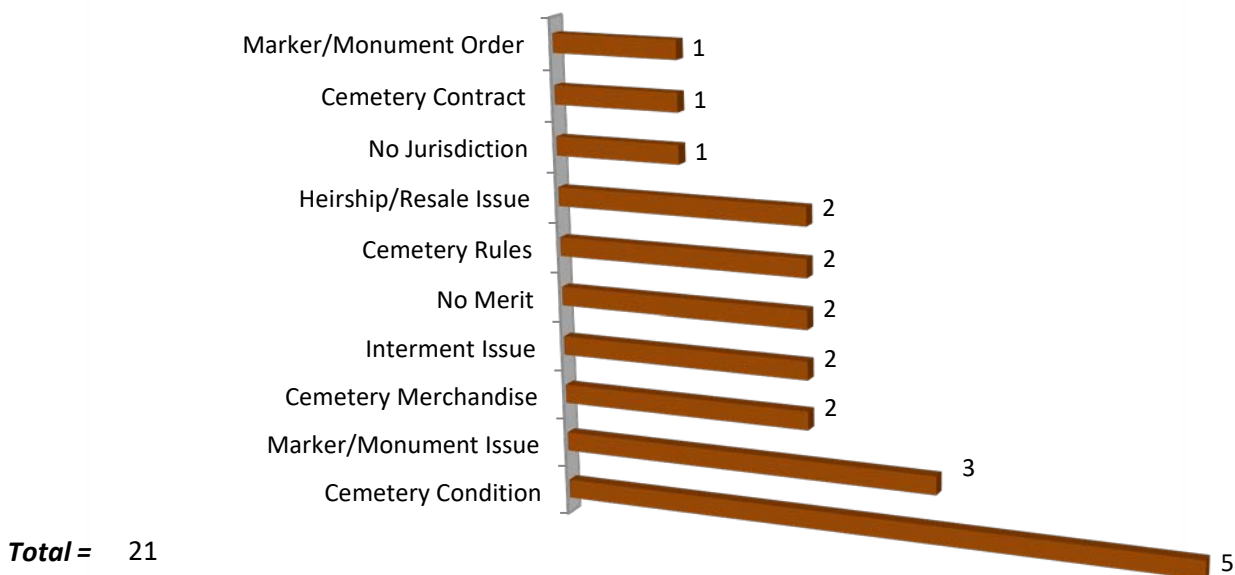
**Prepaid Funeral Contract Sellers  
Written Complaints by Type  
September 2019 - February 2020**



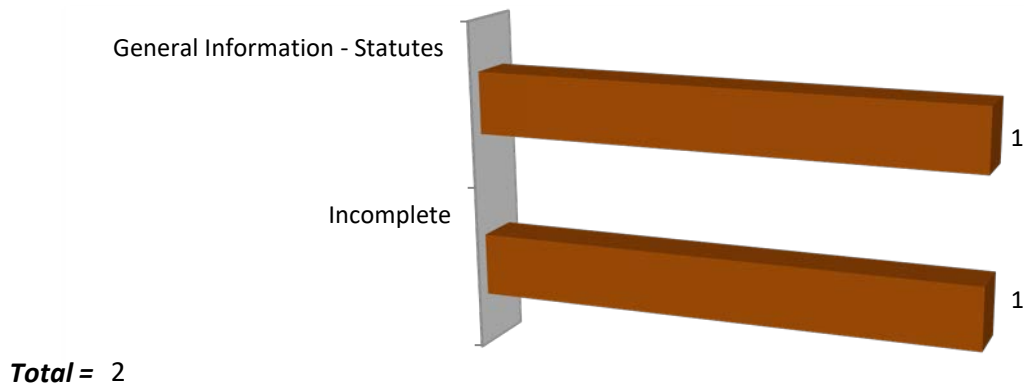
**Prepaid Funeral Contract Sellers  
Inquiries by Type  
September 2019 - February 2020**



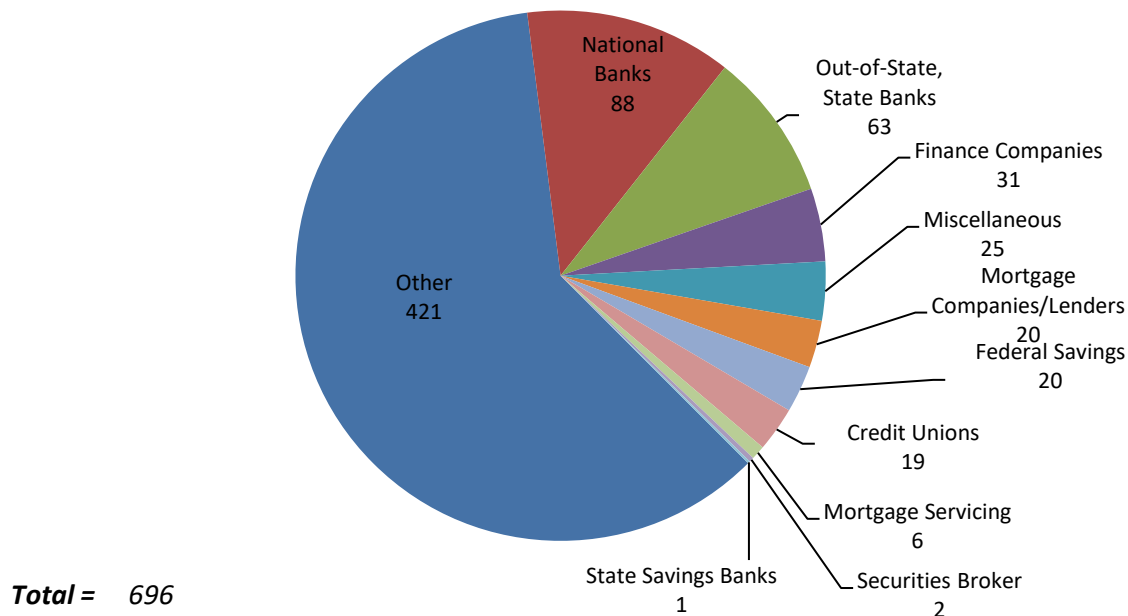
**Perpetual Care Cemeteries  
Written Complaints by Type  
September 2019 - February 2020**



**Perpetual Care Cemeteries  
Inquiries by Type  
September 2019 - February 2020**



### Complaints and Inquiries Against Non-Jurisdictional Entities September 2019 - February 2020



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.

### Complaint Activities Information by Quarter

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
<b>State-Chartered Banks</b>				
Avg. Number of Days to Close a Written Complaint	12	9	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	100%	N/A	N/A
Number of Written Complaints Resolved	23	36	N/A	N/A
<b>Trust</b>				
Avg. Number of Days to Close a Written Complaint	12	6	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	100%	N/A	N/A
Number of Written Complaints Resolved	1	3	N/A	N/A
<b>PFC/PCC</b>				
Avg. Number of Days to Close a Written Complaint	39	28	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	100%	N/A	N/A
Number of Written Complaints Resolved	25	32	N/A	N/A
<b>MSB</b>				
Avg. Number of Days to Close a Written Complaint	18	28	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	100%	N/A	N/A
Number of Written Complaints Resolved	16	37	N/A	N/A



### Closed Account Notification System (CANS) ACTIVITY

January 1, 2017 – March 27, 2020

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	195	425
Texas State-Chartered Savings Banks	23	50
Federal Savings Banks	10	1
State Credit Unions	132	722
Federal Credit Unions	229	374
National Banks	170	131
Out-of-State State-Chartered Banks	12	154
Out-of-State National Banks	6	1
<b>Total</b>	<b>777</b>	<b>1,858</b>

### Bank Examination Testing System (BETS) Activity

Number of Candidates Passing Each Phase

	FY 2017	FY 2018	FY 2019	FY 2020 As of 03/31/20
I. General Knowledge	8	6	3	2
II. Loan Analysis	3	3	5	3
III. Panel	2	2	5	4
IV. Test Bank	3	3	4	7
<b>Total FE3</b>	<b>24</b>	<b>22</b>	<b>19</b>	<b>16</b>

### Promotions

<b>Commissioned Examiners</b>	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 results for [Bank and Trust Companies](#), [Prepaid Funeral Benefit Contracts & Perpetual Care Cemetery](#), and [Money Services Businesses](#) have been posted on the Department's website.
- *Internal and External COVID – 19 Updates*
  - A COVID – 19 webpage was created for the intranet and the [Department website](#). All employees and regulated entities are being kept abreast of any COVID – 19 developments.
- *Internal Credit School*
  - An internal credit school was held the week of March 2, 2020 in Dallas, Texas. The Department had nine assistant examiners attend this five-day training. Training Coordinator Phil Lena, Director of Examinations Chris Robinson, Review Examiner

Melissa Dvoracek and Credit Specialist John Thomas taught this year's internal credit school to ensure attendees are prepared for the loan panel portion of the commissioning process.

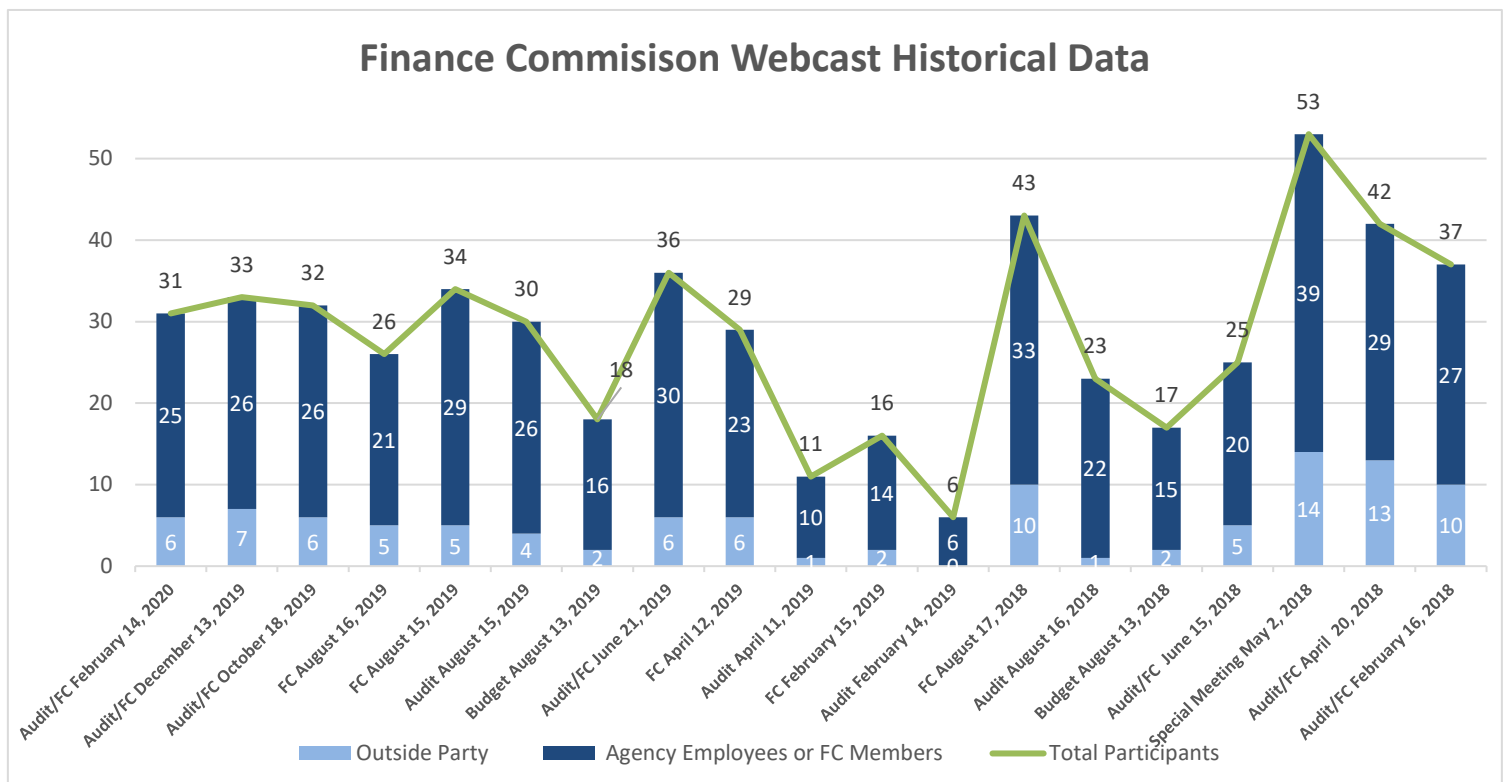
- *Publications*
  - The Strategic Plan for fiscal years 2021-2025
    - The Strategic Plan is due June 1, 2020. The agency is currently working on the plan and will provide a draft to the Finance Commission members on May 15, 2020.
  - The March 2020 edition of the [Condition of the Texas State Banking System](#) report is available with financial data as of December 31, 2019.
  - Various agency publications were updated in March 2020, including the [Agency Profile](#), [Top 100 Banks in Texas](#), and the [Overall Texas Banking Activity](#).
- *Personnel and Policies Manual Updates*
  - Personnel Manual
    - Section 2 – Fraud Prevention Policy (March)
    - Section 6 – Performance Management System (January)
    - Section 14 – Information Technology Standards and Procedures (November)
  - Revised Administrative Memorandums (AM)
    - AM 2028 – Background Checks Conducted in Accordance with Statutory Authority (February)
    - AM 2025 – Internal Purchasing Procedures (February)
    - 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)
  - Examiner Bulletins (XB)
    - XB 2020-01 – Guidelines for Procedures and Work Paper Documentation for Commercial Exams (March)
    - XB 2020-02 - Guidelines for Procedures and Work Paper Documentation for Trust Exams (March)
    - XB 2020-03 - Guidelines for Procedures and Work Paper Documentation for IT Exams (March)

- **Examiners' Council**

- Trust Examiners met virtually the week of March 23, 2020 to work on revisions and updates to procedures.
- 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 from the Examiners' Council.

- **Website Statistics between September 1, 2019 through February 28, 2020**

- The Texas Department of Banking website had 392,738-page views of the homepage. The top three pages were the Entity Search (13,271-page views), Applications and Forms (8,457-page views) and Job Vacancies (8,177-page views). The financial education webpage had 905-page views during the same period. Users are accessing the site via desktop (89,745), mobile (40,618), and tablet devices (2,159).
- The Finance Commission website had 20,591-page views. The top three visited pages were the Home Page (6,897-page views), Finance Commission Meetings (2,985-page views), and 2019 Meetings Archive (1,047-page views). Users are accessing the site via desktop (3,737), mobile (1,757), and tablet devices (180).
- The Texas Prepaid Funeral Contracts website had 41,418-page views of the homepage. The top three pages after the home page were Our Purpose (7,517-page views), General Information (2,934-page views), and Prepaid Planning Brochure (2,250-page views). Users are accessing the site via mobile (7,661), desktop (6,410), and tablet devices (2,908).



\* 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**

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### **Memorandum**

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

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#### **Pending Contested Cases**

*In the Matter of Avalon Financial Corp., Westlake, Ohio;* Docket No. BM-2001-19-231. Hearing was held March 5, 2020 before Administrative Law Judge Donald Walker to consider an order and penalty against this entity alleged to have engaged in unauthorized money transmission activity in Texas. Staff, represented by Alice Geyer, provided evidence and testimony to support the Department's jurisdiction and the allegations contained in the notice of hearing, and recommended a penalty of \$300,000. No representative of the company appeared at the hearing. We expect a proposal for decision in the coming weeks.

#### **Gifts**

The Department received complimentary registration valued at \$1,790 from the Conference of State Bank Supervisors (CSBS) for Director of Corporate Activities Mark Largent and Director of Non-Depository Supervision Jesse Saucillo to attend the NMLS annual conference in San Francisco, California in February 2020. The Department also received from CSBS reimbursement of travel and lodging expenses for that conference valued at \$1,782.09 for Mr. Largent and \$1,763.53 for Mr. Saucillo.

The Department received reimbursement of travel expenses valued at \$3,536.04 for Commissioner Cooper to attend the CSBS Delegation to the United Kingdom (UK) in March 2020. The expenses were paid by the UK Foreign & Commonwealth Office.

#### **Orders Issued 2/1/20 – 4/1/20**

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

##### ***Bank and Trust***

- Consent Order dated February 5, 2020; Justin L. Holt, Tyler, TX
- Consent Order Prohibiting Further Participation dated March 26, 2020; Roberto Andres Salinas, Roma, TX

##### ***Non-Depository Supervision***

- Consent Order dated February 3, 2020; R & I Hawkins Enterprises, Inc. dba Hawkins Funeral Home, Weslaco, TX
- Consent Order dated February 4, 2020; Karlilu, LLC, Charlotte NC

- Consent Order dated March 10, 2020; S & W Payroll Services, LLC dba Netchex, Covington, LA
- Order to Cease and Desist Activity and to Revoke License dated March 31, 2020; Hashi Money Wiring, LLC, Sea Tac, Washington\*

*\*This is not a final order; the company has until April 21 to request a hearing.*

**FY 2020 To Date Quarterly Order Activity**

<b>BANK</b>				
<b>Type of Action</b>	<b>1st</b>	<b>2nd</b>	<b>3rd</b>	<b>4th</b>
Consent Order	0	1	0	0
Cease & Desist	0	0	0	0
Supervision	0	0	0	0
Prohibition	2	0	0	0
Total	2	1	0	0
<b>TRUST COMPANY</b>				
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
<b>MONEY SERVICES BUSINESS</b>				
Consent Order	0	3	0	0
Cease & Desist	1	0	0	0
Total	1	3	0	0
<b>PERPETUAL CARE CEMETERY</b>				
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
<b>PREPAID FUNERAL CONTRACT</b>				
Consent Order	1	2	0	0
Cease & Desist	0	0	0	0
Conversion	0	0	0	0
Total	1	2	0	0

2. Discussion of and Possible Vote to Take Action on the Adoption 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 adopted 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 adopted to update citations, correct typographical errors and eliminate outdated language.

**RECOMMENDED ACTION:** No comments were received regarding proposed amendments to 7 TAC §§25.7, 25.10, 25.11, 25.13, 25.17, 25.19, 25.24, 25.25, and 25.31. The Department recommends that the Commission approve adoption of the amended rules without changes to the proposal as previously published in the *Texas Register*.

**RECOMMENDED MOTION:** I move that we adopt the amendments to 7 TAC §§25.7, 25.10, 25.11, 25.13, 25.17, 25.19, 25.24, 25.25, and 25.31 without changes to the proposal as previously published 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), adopts amendments to §§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, without changes to the proposed text as published in the February 28, 2020, issue of the *Texas Register* (45 TexReg 1286). The amended rules will not be republished.

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 these sections are now adopted.

These amendments eliminate all remaining references to the requirement that these permits be renewed.

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

The department received no comments regarding the proposed amendments.

The amendments are adopted pursuant to 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 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 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, 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, 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, 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:



**ADOPTION OF AMENDMENTS TO 7 TAC, CHAPTER 25**

**Page 3 of 5**

(1) – (4) (No change.)

(5) an explanation for any material variances between the ending balances in the recapitulation described in subsection (c)(3) of this section, and those in the in-force policy run or control ledger described in subsection (c)(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 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 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 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 permit, 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 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. 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 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 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 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 may request a hearing. A hearing on

an order of suspension or cancellation 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 because of the criminal conviction of an official may appeal a final order as set forth in Government Code, Chapter 2001, Subchapter G.

3. Discussion of and Possible Vote to Take Action on the Re-adoption of 7 TAC, Chapter 35 §§35.1–35.72 Concerning Check Verification Entities, Resulting from Rule Review

**PURPOSE:** Texas Government Code §2001.039 requires a state agency to review each of its rules every four years and readopt, readopt with amendments, or repeal a rule based upon the agency’s rule review and its determination as to whether the reasons for initially adopting the rules continue to exist.

Notice of the proposed review of 7 TAC Chapter 35 was published in the *Texas Register* as required on February 7, 2020 (45 TexReg 921). The Department received no comments regarding the review.

The Department believes the reasons for initially adopting the rules in Chapter 35 continue to exist and those rules should be readopted.

**RECOMMENDED ACTION:** The Department requests that the Commission find that the reasons for initially adopting the rules in 7 TAC Chapter 35 continue to exist and that the Commission readopt these rules.

**RECOMMENDED MOTION:** I move that the rules in 7 TAC Chapter 35 be readopted.

### **Adopted Rule Review**

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking has completed its review of Texas Administrative Code, Title 7, Chapter 35 (Check Verification Entities) §§35.1 – 35.72, in its entirety.

Notice of the review of Chapter 35 was published in the February 7, 2020, issue of the *Texas Register* (45 TexReg 921). No comments were received in response to the notice.

The commission finds that the reasons for initially adopting these rules continue to exist and readopts Chapter 35 in accordance with the requirements of the Government Code, §2001.039.

4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendment to 7 TAC §33.27 Concerning Fees for Money Services Businesses Licenses

**PURPOSE:** The amendment to §33.27 is proposed to correct an error by replacing language that was inadvertently deleted in a previous rule action.

House Bill 2458, which was passed in the 86<sup>th</sup> Regular Session of the Texas Legislature, removed all statutory references to licensed depository agents of the Texas Bullion Depository. In August 2019, the department recommended amendments to multiple rules within Title 7, Texas Administrative Code Chapter 33 to implement HB 2458 by deleting all references to depository agents. The language proposed and approved for deletion in §33.27 inadvertently included all of subsection (g), concerning fees that are required for change of control applications submitted by all money services businesses, not just for applications submitted by depository agents. The Finance Commission approved the amendments for publication in the *Texas Register*, and the amendments were published August 30, 2019. No comments were received during the 30-day comment period. The amendments were adopted on the consent agenda at the Finance Commission meeting on October 18, 2019, and became effective on November 7, 2019. This action is necessary to reinstate the portion of §33.27 that was inadvertently deleted in that prior rule action.

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

**RECOMMENDED MOTION:** I move that we publish the proposed amendment to 7 TAC §33.27 in the *Texas Register*.

***Title 7. Banking and Securities***  
***Part 2. Texas Department of Banking***  
***Chapter 33. Money Services Businesses***  
***7 TAC §33.27***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend §33.27, concerning fees that must be paid in connection with a proposed change of control of a money transmission or currency exchange business. The amended rule is proposed to correct an error by replacing language that was inadvertently deleted in a previous rule action.

House Bill 2458, which was passed in the 86<sup>th</sup> Regular Session of the Texas Legislature, removed all statutory references to licensed depository agents of the Texas Bullion Depository. In August 2019, the department recommended amendments to multiple rules within Title 7, Texas Administrative Code Chapter 33 to implement HB 2458 by deleting all references to depository agents. The language proposed and approved for deletion in §33.27 inadvertently included all of subsection (g), concerning fees that are required for change of control applications submitted by all money services businesses, not just for applications submitted by depository agents. The Finance Commission approved the amendments for publication in the *Texas Register*, and the amendments were published August 30, 2019. No comments were received during the 30-day comment period. The amendments were adopted on the consent agenda at the Finance Commission meeting on October 18, 2019, and became effective on November 7, 2019. This action is necessary to reinstate the

portion of §33.27 that was inadvertently deleted in that prior rule action.

Mark Largent, Director of Corporate Activities, Texas Department of Banking, has determined that for the first five-year period the proposed rule amendment is in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the rule.

Mr. Largent also has determined that, for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule is that the department will be able to appropriately allocate resources necessary to process change of control applications for money services businesses.

For each year of the first five years that the rule will be in effect, there will be minimal economic costs to persons required to comply with the rule as proposed; these costs will be the same as before the rule was inadvertently deleted.

For each year of the first five years that the rule will be in effect, the rule 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; and
- 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 amended section must be submitted no later than 5:00 p.m. on June 1, 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.

The amendment is proposed under Texas Finance Code (Finance Code), §151.102, which provides that the commission may adopt rules to administer and enforce Chapter 151, including rules necessary or appropriate to recover the cost of maintaining and operating the department and the cost of administering and enforcing this chapter and other applicable law by imposing and collecting proportionate and equitable fees and costs for notices, applications, examinations, investigations, and other actions required to achieve the purposes of the chapter.

Finance Code, §151.605, is affected by the proposed amended section.

***§33.27. What Fees Must I Pay to Get and Maintain a License?***

(a) – (f) (No change.)

(g) What fees must I pay in connection with a proposed change of control of my money transmission or currency exchange business?

(1) You must pay a non-refundable \$1,000 fee at the time you file an application requesting approval of your proposed change of control.

(2) You must pay a non-refundable \$500 fee to obtain the department's prior determination of whether a person would be considered a person in control and whether a change of control application must be filed. If the department determines that a change of control application is required, the prior determination fee will be applied to the fee required under paragraph (1) of this subsection.

(3) If the department's review of your change of control application or prior determination request requires more than eight employee hours, you must pay an additional review fee of \$75 per employee hour for every hour in excess of eight hours.

(4) The commissioner may reduce the filing fees described in paragraph (1) or (2) of this subsection, if the commissioner determines that a lesser amount than would otherwise be collected is necessary to administer and enforce Finance Code, Chapter 151, and this chapter.



**PROPOSED AMENDMENT TO 7 TAC §33.27**  
**Page 3 of 3**

(h) [~~(g)~~] What other fees must I pay?

(1) – (4) (No change.)

(i) [~~(h)~~] How and when do I need to pay for the fees required by this section?

(1) – (3) (No change.)

(4) You must pay the filing fees required by subsection (g) of this section at the time you file your proposed change of control or prior determination request. You must pay any required additional fees within 10 days of receipt of the department's written invoice.

(5) [~~(4)~~] You or another person must pay the investigation fee required under subsection (f) of this section within 10 days of receipt of the department's written invoice.

(6) [~~(5)~~] If you owe a late fee as provided by subsection (h)(1) [~~(g)(1)~~] of this section, you must pay this fee immediately upon receipt of the department's written invoice.

(7) [~~(6)~~] The department will bill you for any additional examination fees required under subsection (h)(2), (3) or (4) [~~(g)(2), (3) or (4)~~] of this section by written invoice. You must pay this additional examination fee within 10 days of receipt of the department's written invoice.

(8) [~~(7)~~] A fee is considered paid as of the date the department receives payment.

(j) [~~(i)~~] What if I cannot afford the annual assessment?

(1) – (2) (No change.)

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**C.**

**Department of Savings and  
Mortgage Lending**

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## C. Texas Department of Savings and Mortgage Lending

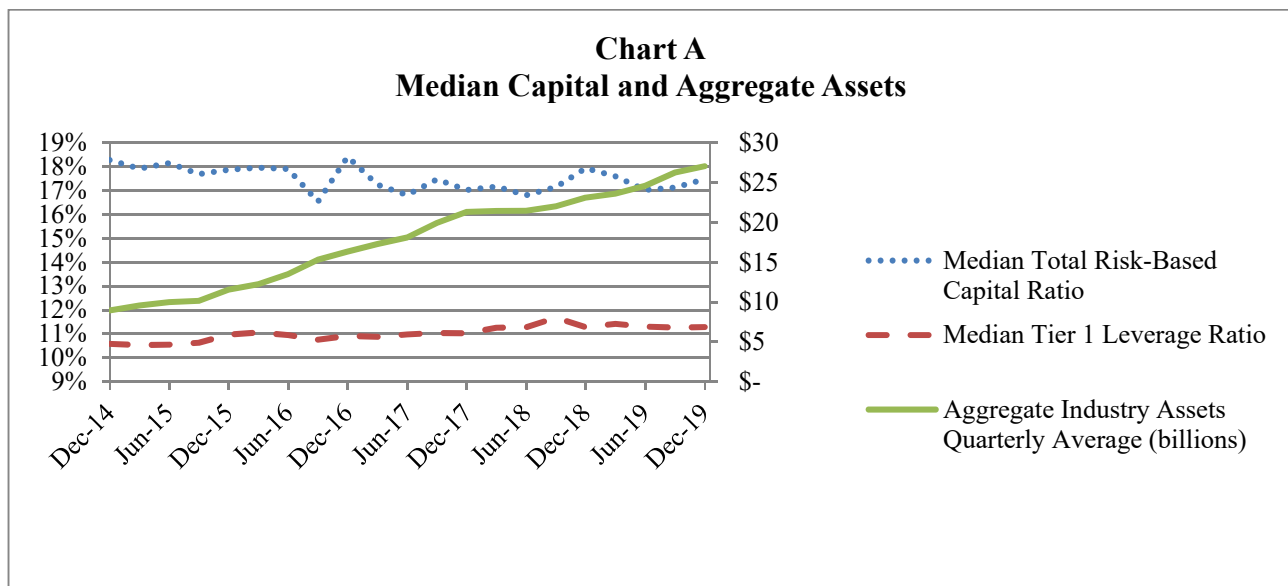
1. **Industry Status and Departmental Operations:** a) State Savings Bank Examinations and Supervision Division Activities; b) Mortgage Licensing Division Activities; c) Mortgage Examinations Division Activities; d) Consumer Complaints Division Activities; e) Administration and Finance Division Activities; f) Legal Division Activities, including Gift Reporting; and g) Legislative Activities

### a) State Savings Bank Examinations and Supervision Division Activities

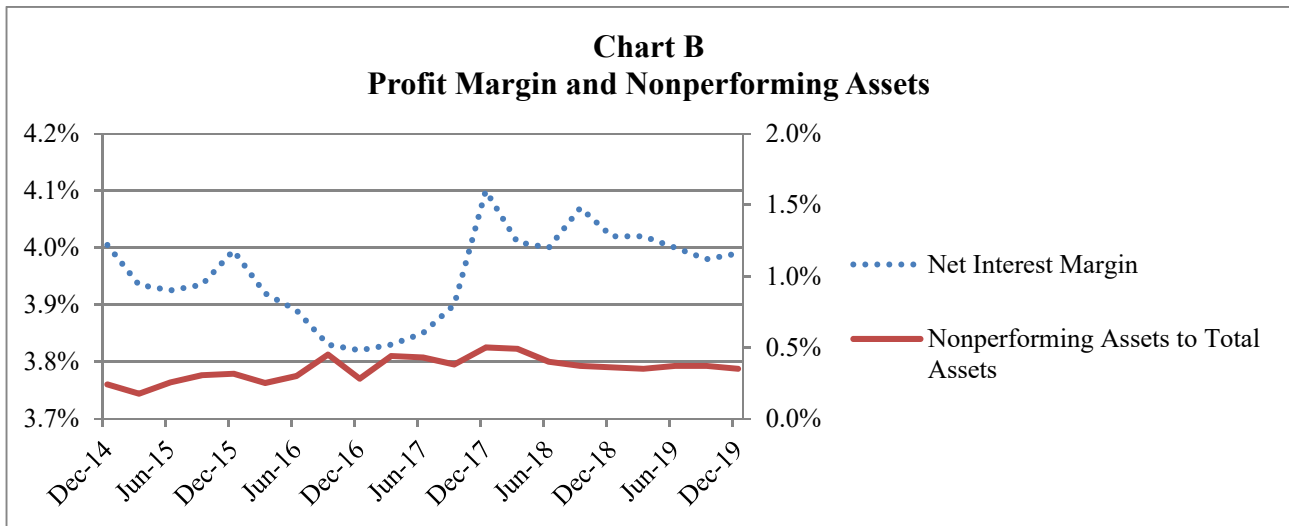
#### State Savings Bank Industry Status:

The Department continues to monitor various local, state, and national data sources to best understand the risks facing the industry and individual savings banks. Below is a state savings bank industry status to highlight specific areas that the Department monitors in relation to changes in the state and national economic environment.

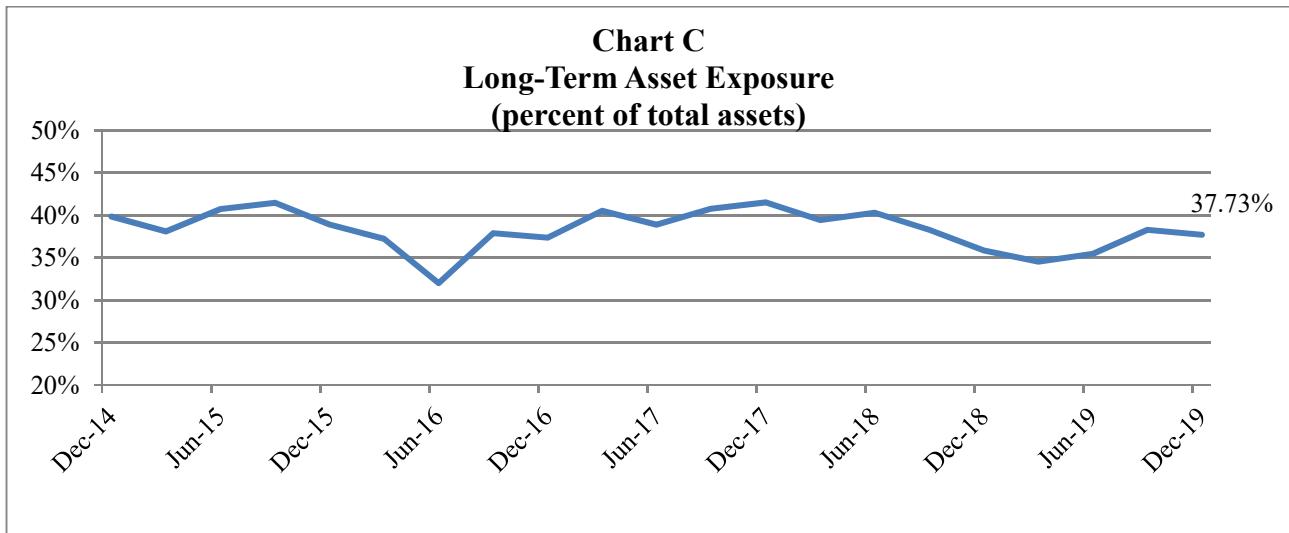
There were 23 state savings banks totaling \$27.5 billion in total assets, as of December 31, 2019. The average asset size of the median state savings bank (“SSB”) grew by 3.03% in the last four quarters to \$343.74 million. The median total risk-based capital ratio and median leverage capital protection have remained generally consistent and are now 17.47% and 11.29%, respectively (Chart A).



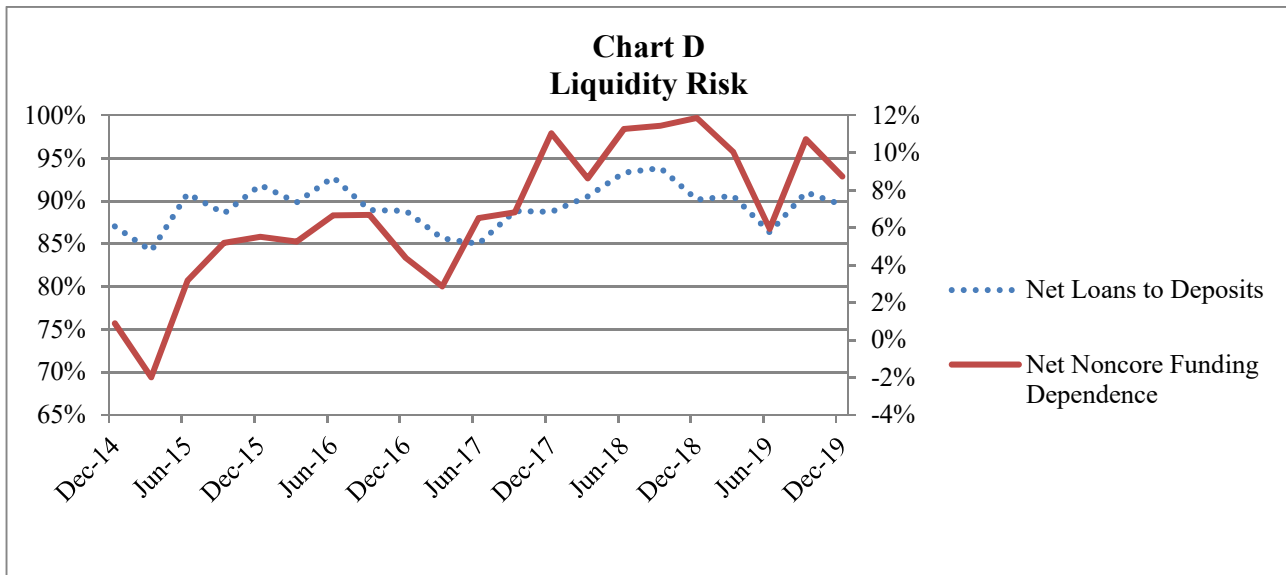
The net interest or profit margin (Chart B) remains consistent with December 2018 at 3.99%. Nonperforming asset levels remain low at 0.35% of total assets, compared to the December 2018 at 0.36%.



Market risk, as evidenced by long-term asset exposure (Chart C), was noticeably elevated from early 2017 through mid-2018, when levels began to decrease. In mid-2019, the exposure again began to rise, however levels indicate a decreasing trend in long-term asset exposure in the quarter ending December 31, 2019. There remain a small number of outlier institutions with high long-term asset exposure; however, these are generally operating within historical norms of ten years or more.

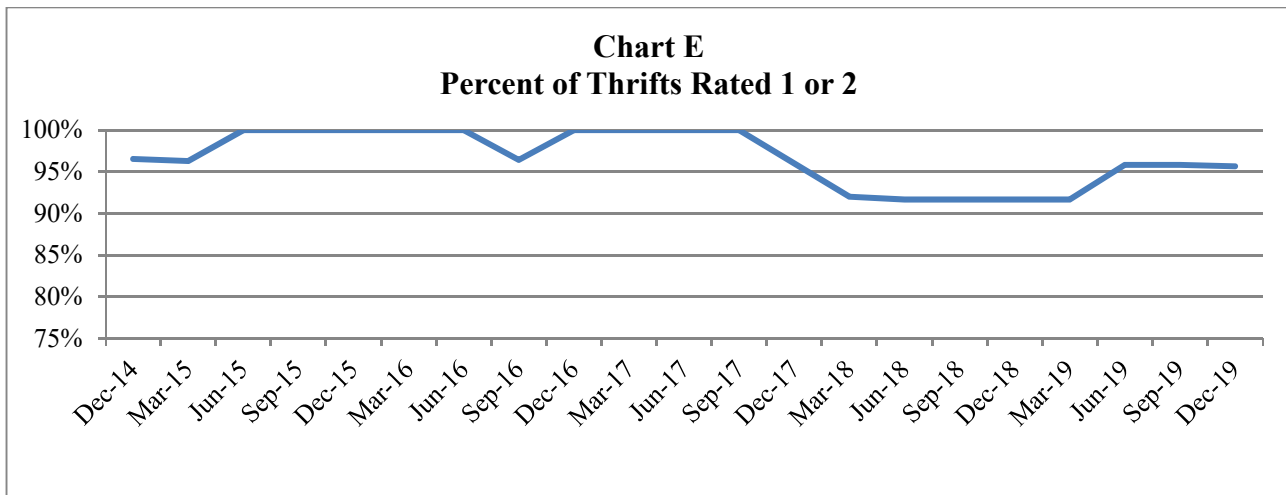


Liquidity risk remains elevated in Texas thrifts (Chart D), as indicated by the Net Noncore Funding Dependence (NNCFD) Ratio, a measure of the funding of long-term assets using short-term funding strategies. The median NNCFD Ratio has decreased from 11.87% to 8.74% in the last four quarters. The loan-to-deposit ratio; a measure of the use of deposits to fund lending activities also remains elevated at 89.54%.



All SSBs are subject to quarterly offsite reviews. Those with the highest risk profiles receive enhanced scrutiny, as warranted, with targeted visitations, accelerated examinations, and/or corrective actions.

Ninety-six percent of SSBs at December 31, 2019, were rated a Composite 1 or 2 (Chart E). There is one formal and three informal outstanding enforcement actions.



#### Savings Bank Charter and Merger Activities:

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 transaction was consummated March 2, 2020.

On February 14, 2020, applications for conversion to state chartered savings banks were received from Charles Schwab Bank and Charles Schwab Premier Bank. The conversions were effective March 20, 2020.

The Department continues to receive and process various other applications.

#### State Savings Banks and COVID-19:

- Commissioner Jones and Deputy Commissioner Trotti are holding weekly Emerging Issues calls with the thrift industry with the sole agenda item being COVID-19.
- Commissioner Jones participated in a podcast with TBA President Chris Furlow, providing guidance and resources for the thrift industry.
- Thrift staff are in close communication with individual state savings banks as needed and appropriate.
- Commissioner Jones and Deputy Commissioner Trotti participate in regularly scheduled COVID conference calls hosted by the FDIC and CSBS.
- The Department is maintaining close communication with IBAT and TBA.

#### **b) Mortgage Licensing Division Activities**

##### Current Licensing Population:

License Type As of 03/31/2020	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>	175	n/a	
<i>Mortgage Company</i>	1,521	759	
<i>Mortgage Banker</i>	405	3,084	
<i>Mortgage Servicer</i>	197	n/a	
<b>Totals</b>	<b>2,306</b>	<b>3,845</b>	<b>28,531</b>

The license renewal and reinstatement period ended February 29, 2020; any license that had not requested renewal or reinstatement expired. There were 86 company, 107 branch, and 4,104 individual licenses that expired. Through the end of the second quarter of FY20, 4,429 applications were processed by staff. For the first half of FY20, the Department received 5,706 applications and 59,814 other related filings – record amendments, sponsorship changes, as well as other forms of filings.

#### **c) Mortgage Examinations Division Activities**

During the first half of FY20, a total of 273 examinations were conducted covering 2,576 individual licensees. The number of examinations is slightly higher when compared to the same period in FY19 and the number of individual licensees covered increased by 8%.

Below is a breakdown of mortgage examination results by compliance rating for the first half of FY20. As shown in the chart below, the stratification of examination ratings during the past six months reflects a slight improving trend in the combined 1 & 2 rating categories when compared to FY19. There was one 5 rated examination issued during the first half of FY20.



Mortgage Examination Compliance Ratings											
	# Mortgage Exams	Rated "1"	%	Rated "2"	%	Rated "3"	%	Rated "4"	%	Rated "5"	%
Fiscal Year 2020											
As of 02/29/2020	273	52	19%	121	45%	77	28%	22	8%	1	>1%
Fiscal Year 2019	511	73	14%	243	48%	154	30%	41	8%	0	0%
Fiscal Year 2018	431	53	12%	213	50%	120	28%	44	10%	1	>1%

#### Department Outreach and Communications – Mortgage Industry

Commissioner Jones spoke at Texas Mortgage Round Up on February 11, 2020. Director O'Shields attended and staffed an exhibit booth along with Commissioner Jones.

Justin Accola, Supervisory Compliance Examiner, was appointed Chairman of the CSBS Mortgage Testing and Education Board (MTEB).

#### Mortgage Industry and COVID-19:

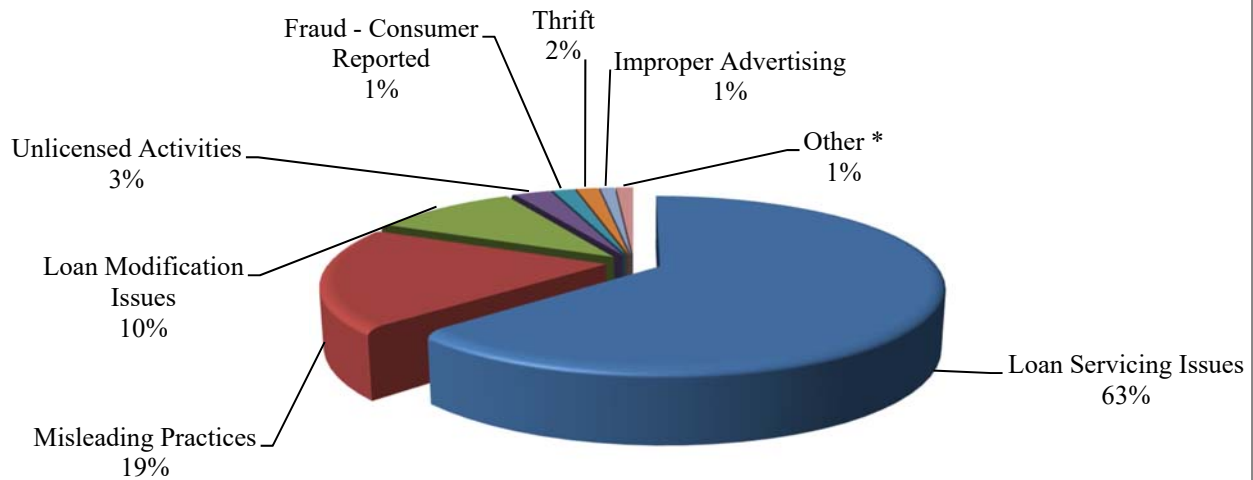
- The Department, as authorized by Governor Abbott, issued guidance relating to:
  - The temporary suspension of mortgage entities maintaining physical offices open to the public.
  - The temporary allowance of licensed mortgage loan originators to work from home or another remote location, even if the remote location is not a licensed branch.
- The Department is conducting examinations off-site.
- The Department has provided resources on its website and through email blasts.
- The Department is maintaining close communication with TMBA.
- The Department staff have participated in all states calls with CSBS and AARMR.

#### **d) Consumer Complaints Division Activities**

During the first half of FY20, a total of 591 consumer complaints were received. This represents a 28% increase when compared to the same period in FY19. Loan servicing complaints accounted for 63% of the total number of complaints received. As of February 29, 2020, there were a total of 82 open consumer complaints with 95% of the complaints being aged less than 90 days. The following charts reflect consumer complaint activity through the end of the second quarter of FY20.

Complaint Activities Information by Quarter - FY20				
	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
<b>Servicing Complaints</b>				
Average Number of Days to Close a Complaint	25.9	19.8	-	-
Percentage of Complaints Closed Within 90 Days	92.0%	96.3%	-	-
Number of Servicing Complaints Closed	199	187	-	-
<b>Non-Servicing Complaints</b>				
Average Number of Days to Close a Complaint	26.9	16.8	-	-
Percentage of Complaints Closed Within 90 Days	90.7%	94.5%	-	-
Number of Non-Servicing Complaints Closed	107	109	-	-
<b>All Complaints</b>				
Total Complaints Closed	306	296	-	-

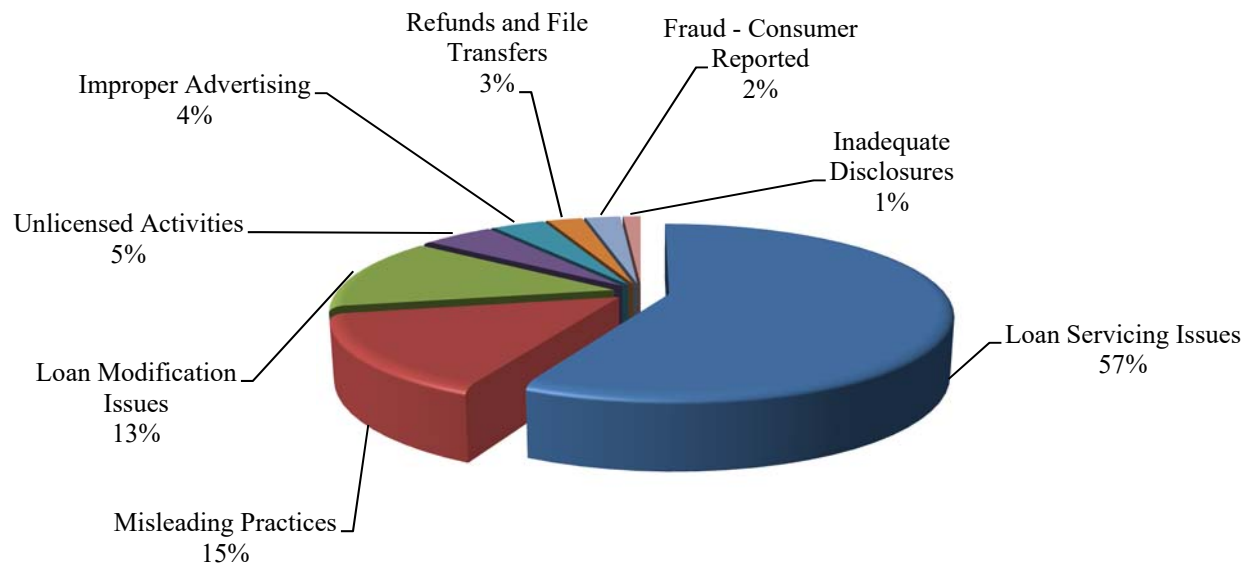
### Nature of Complaints Received through 2nd Qtr FY20



Total complaints received through 2nd Qtr FY20 = 591

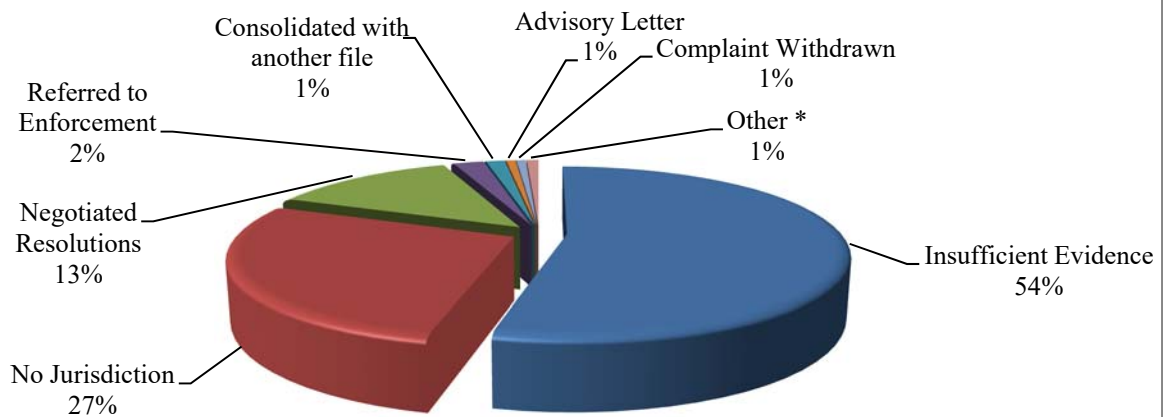
\* The "Other" category includes: Refunds and File Transfers, Fraud-Industry Referral, Bait and Switch, Failure to Pay Appraisers/Vendors, Permissible Charges/Fees, Inadequate Disclosures.

### Nature of Open Complaints as of 02-29-2020



Total open complaints as of 02-29-2020 = 82

### Disposition of Closed Complaints through 2<sup>nd</sup> Qtr FY20



Total complaints closed through 2nd Qtr FY20 = 602

^ The "No Jurisdiction" category includes: complaint against exempt entities/individuals (No Jurisdiction-Exempt), complaints regarding issues outside the Department's authority (No Jurisdiction Over Issue), and complaints against entities/individuals with expired licenses (No Jurisdiction-License Expired).

\* The "Other" category includes: Information Only, Referred to Attorney General, and No Investigation

### Consumer Complaints and COVID-19:

The Department has provided links, on its website, for consumer related to COVID-19 resources.

### **e) Administration and Finance Division Activities**

#### Risk Management:

Under the guidance of Commissioner Jones, Directors Antov and O'Shields, serving as the Risk Manager and the COOP Coordinator, respectively, led the effort of preparing the Department's operation and staff to deal with possible disruption of operations and, subsequently, implementing Governor Abbott's and Mayor Steve Adler's executive orders, requirements, and guidelines.

After closely monitoring the coronavirus outbreak development in January and February, on March 2, 2020, the Department's management team began its formal pandemic planning activities, including:

- review of the Department's business continuity plan and pandemic guidance documents, issued by federal and state financial and health agencies;
- participation in multiple conference calls led by state and federal agencies and other entities, as appropriate;
- evaluation of all business processes critical to the Department's mission, possible changes to those processes and the potential impact to the Department's stakeholders and staff;
- assessment of information technology resources availability and needs in preparation for implementing a teleworking program for Austin Office staff and transitioning to offsite activities for field staff;
- frequent communication with staff, including updates, reminders for taking precautions, additional health and safety resources.

On March 12, 2020, Commissioner Jones decided to minimize on-site activities for mortgage and thrift examinations, and decided to implement a teleworking program in the Austin Office.

According to the Government Code, Section 658.010, prior to launching the Teleworking program, Human Resources Staff prepared and issued Teleworking Policy, adapted to the COVID-19 situation, and ensured that all necessary approvals were in place.

With the assistance of the Department's information technology staff, the majority of office staff began teleworking on March 13, 2020. The rest of the office staff received the necessary teleworking equipment on March 16, 2020. Director O'Shields and Xerxes Pascua, Systems Analyst, worked with Department of Information Resources to increase the available bandwidth and to enable the Department's call center phone lines to be answered remotely. Additionally, the front desk lines were set-up to allow them to be answered and calls routed to the appropriate agency remotely.

In compliance with Governor Abbott's letter to state agencies dated March 13, 2020, requiring that all non-essential travel be cancelled and state agency related conferences postponed, the Department cancelled its agency wide training, originally scheduled for April 28-30, 2020, and is now in the process of rescheduling it. Purchasing and administrative staff assisted Department employees in cancelling multiple training registrations and existing travel reservations.

Currently, there is only minimal coverage in the Austin Office of one or two people on any day, whom adhere to all necessary coronavirus precautions.

The management team continues to maintain regular communication with staff and to stay informed, and prepares for further development of the situation.

Accounting, Budget, and Financial Reporting:

The 2<sup>nd</sup> quarter of FY20 has been closed out.

Staff is monitoring the operating budget closely and analyzing the impact of the COVID-19 pandemic and the addition of two new thrift charters.

In accordance with Texas Government Code, Section 2161.122, the FY2020 Semi-Annual HUB Expenditure Report was filled out and submitted, as required, to the Comptroller of Public Accounts, Statewide Procurement Division.

In accordance with Texas Government Code, Chapter 2106, the Statewide Cost Allocation Worksheet was filled out and submitted, as required to the Comptroller of Public Accounts.

Purchasing and Procurement:

As part of the implementation of the Efficiency Audit, staff participated in multiple meetings and discussions with OCCC and DOB, as related to participating in DOB's Office Supply Store. Effective March 1, 2020, the process was implemented on a trial basis.

Human Resources:

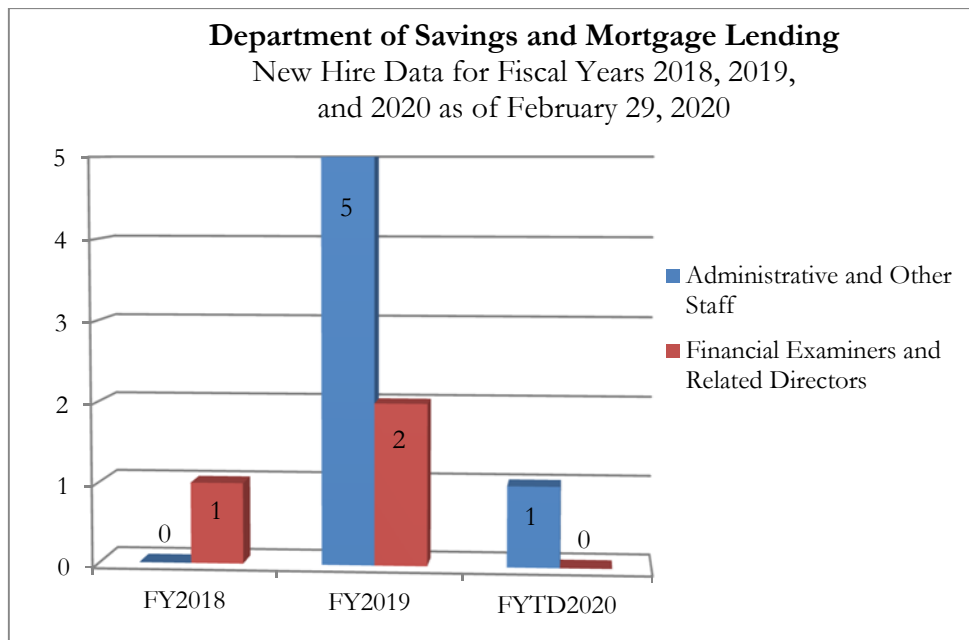
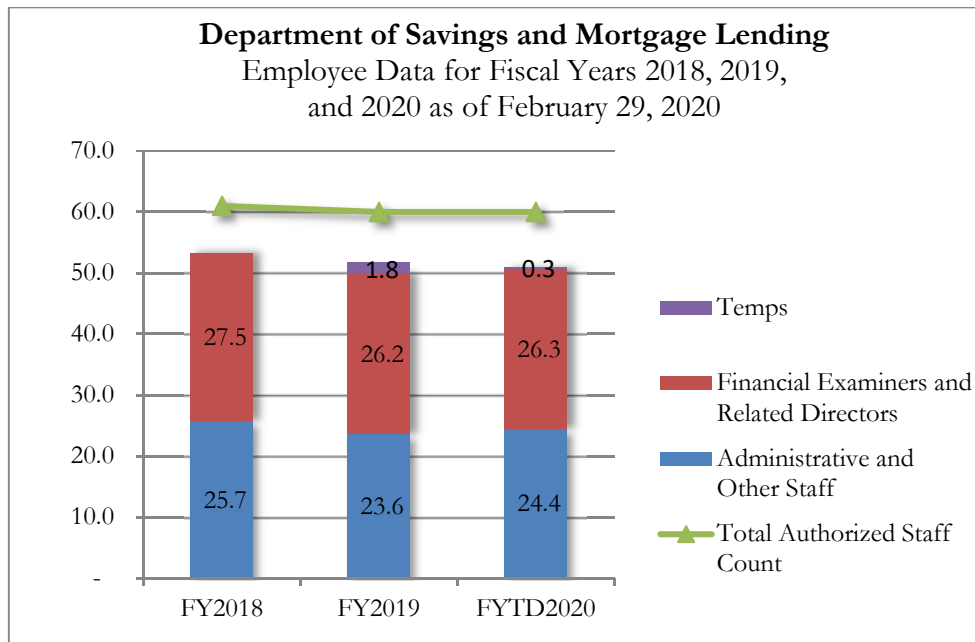
As part of the implementation of the Efficiency Audit, staff participated in a meeting with DOB and OCCC, related to Human Resources, and discussed possible shared services and best practices.

As of April 1, 2020, the Department was staffed at 48.5 regular full-time and 1 part-time employees. During the month of March, the Department had two Financial Examiner separations.

Below is the status of the Department's vacancies:

Vacancy Status	
Financial Examiner I/II – Mortgage	Scheduled interviews - Postponed
Financial Examiner IV – Thrift – 2	Collecting and Reviewing Applications
Financial Examiner V – Thrift – 6	Collecting and Reviewing Applications
Financial Examiner VI – Thrift – 3	Collecting and Reviewing Applications
Investigator II/III – Licensing	Collecting and Reviewing Applications
Administrative Assistant II/III - Complaints	Collecting and Reviewing Applications

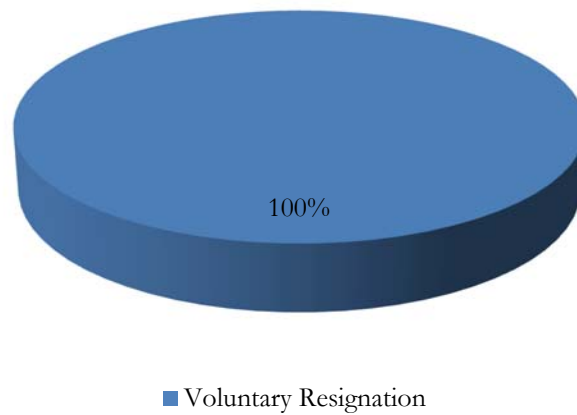
## Staffing Charts as of February 29, 2020



**Department of Savings and Mortgage Lending**  
Turnover Agencywide FY2020 as of February 29, 2020  
2 total - 1 involuntary separation and 1 voluntary resignation



**Department of Savings and Mortgage Lending**  
Turnover Financial Examiners FY2020 as of February 29, 2020  
1 total - 1 voluntary resignation



**Department of Savings and Mortgage Lending**  
**Actual Performance for Output Measures**

Type/Strategy/Measure	2020 Target	2020 Actual	2020 YTD	Percent of Annual Target	
<b>Output Measures-Key</b>					
<b>1-1-1 Thrift Safety and Soundness</b>					
<b>1. Number of State Chartered Savings Institution Examinations Performed</b>					
<b>Quarter 1</b>	21	6	6	28.57%	<sup>1</sup>
<b>Quarter 2</b>	21	4	10	47.62%	
<b>2-1-1 Mortgage Regulation</b>					
<b>1. Number of Applications Processed</b>					
<b>Quarter 1</b>	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.					
<b>Quarter 2</b>	7,600	2,090	4,429	58.28%	*
The number of applications submitted is outside the Department's control; therefore, the number of applications processed is ultimately affected in the same manner.					
<b>2. Number of Licensees Examined</b>					
<b>Quarter 1</b>	6,600	1,525	1,525	23.11%	
<b>Quarter 2</b>	6,600	1,051	2,576	39.03%	*
During the quarter, 68% of the examinations conducted were of smaller entities, most having fewer than 5 originators being sponsored by the entity. The Department anticipates meeting this target by year end.					
<b>3-1-1 Consumer Responsiveness</b>					
<b>1. Number of Complaints Closed</b>					
<b>Quarter 1</b>	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.					
<b>Quarter 2</b>	1,000	296	602	60.20%	*
Complaint dispositions with a resolution of no jurisdiction accounted for 32.7% 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.

<sup>1</sup> The first quarter number has been restated from what was previously reported. The original number reported was 5.



## **f) Legal Division Activities, including Gift Reporting**

### SOAH Cases:

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

Lynda Varnell (“Claimant”) submitted a recovery fund application on February 19, 2019, naming PNC Bank/Mortgage/PNC Financial Services Group. After an investigation to the allegations, it was determined that the claimant was not eligible for reimbursement from the recovery fund, as the Department has no jurisdiction over a National Bank. The claimant filed a timely appeal to the Department’s determination. On January 10, 2020, the Department filed a Motion for Summary Disposition in this matter, and on February 4, 2020, the Administrative Law Judge issued her Order No. 1 Granting Motion for Summary Disposition and Canceling Hearing. On March 26, 2020, the Department received the ALJ’s Proposal for Decision denying the claimant’s recovery fund claim.

### Future SOAH hearings:

Due to the Coronavirus, emergency hearings can be held in person and telephonic hearings are permitted, but no contested live hearings will be set to occur prior to May 1, 2020.

### Home Equity Working Group:

Due to requests for guidance relating to home equity loans and the Coronavirus, the Legal Department, met with the other members of the Home Equity Working Group. Based on the Working Group’s recommendations, SML, DOB, OCCC, and the Credit Union on April 1, 2020, issued Home Equity Lending Guidance – Coronavirus Emergency Measures. The guidance has been communicated via email blasts to the Thrift and Mortgage industries and has been posted to the Department’s website.

### Gift Reporting:

The State Regulatory Registry, LLC provided the Department a scholarship for the 2020 NMLS Annual Conference, covering registration, airfare, and hotel. The value of the scholarship was \$2,575.96.

### 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. Bankruptcy Judge Christopher Mott, on the Motion of the United States Trustee’s Office, converted the Chapter 11 bankruptcy to a Chapter 7 bankruptcy. This case is now in liquidation not reorganization. The United States Trustee has also appointed a new Interim Trustee, Ron Ingalls from Fredericksburg, Texas. The conversion to a chapter 7 will have no effect on the State of Texas Adversary Proceeding against Mr. Trien. A docket call is scheduled at the end of September to obtain a trial date.

Docket No: D-1-GN-19-0080190; 353RD Judicial District Court, Travis County, Texas; RE: Jon Douglas Black v. Department of Savings and Mortgage Lending: Relating to the Final Order denying licensure signed by the Commissioner on September 18, 2019. The Department received a copy of the Plaintiff’s Original Petition filed in the 353rd Judicial District Court. Appellant / Black filed his brief. The Department’s Brief was filed on April 7, 2020. Any hearing on the briefs is anticipated to occur between May 14, 2020 and May 30, 2020.

Case No. D-1-GN-17-005803 Department of Savings and Mortgage Lending v. VPW & Associates LLC, et al.

George Vasquez and Jonathan Price were ordered to pay restitution in the amount of \$10,850 to consumers Michael Suarez and Teri Clark. In addition, the respondents were ordered to pay an administrative penalty in the amount of \$127,000. Respondent Jonathan Price defaulted on the settlement agreement entered into on August 1, 2019, and on March 11, 2020, the Department received a copy of the final judgment and Abstract of Judgment against Mr. Price in this matter.

State of Texas v. Scott Marinelli – The Department’s final order assessing a penalty for unlicensed loan origination activity has been forwarded to the Texas Attorney General’s Office and the Department has requested that the Bankruptcy and Collection Division of such office reduce the order to a final judgment and pursue collection efforts.

2. Discussion and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC §77.73 Concerning Investments in Banking Premises and Other Real Estate Owned.

**PURPOSE:** The amendments, if adopted, would allow a state savings bank to conduct an evaluation on real property valued at \$400,000 or less, raising the existing threshold amount from \$250,000. The amendments mirror and conform to similar amendments adopted jointly by the United States Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve Board (Board), and the Federal Deposit Insurance Corporation (FDIC).

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

**RECOMMENDED MOTION:** I move that we publish the proposed amendments to 7 TAC §77.73 in the *Texas Register*.

*Title 7. Banking and Securities.*

*Part 4. Department of Savings and Mortgage Lending*

*Chapter 77. Loans, Investments, Savings, and Deposits*

*Subchapter A. Authorized Loans and Investments*

*§77.73. Investment in Banking Premises and Other Real Estate Owned*

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), proposes amendments to 7 Texas Administrative Code §77.73.

**BACKGROUND AND PURPOSE**

Section 77.73 governs when a state savings bank must perform an appraisal or evaluation of real estate it acquires in satisfaction or partial satisfaction of indebtedness. The proposed amendments, if adopted, would raise the threshold for which a state savings bank may elect to perform an evaluation in lieu of a formal appraisal by a certified or licensed appraiser. Specifically, the proposed amendments, if adopted, would allow a state savings bank to conduct an evaluation on real property valued at \$400,000 or less, raising the existing threshold amount from \$250,000. The amendments are proposed to mirror and conform to similar amendments adopted jointly by the United States Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve (Board), and the Federal Deposit Insurance Corporation (FDIC; the OCC, Board, and FDIC, collectively, the federal banking agencies; the amendments, collectively, the federal amendments) to their regulations at 12 C.F.R. §§34.44, 225.64, and 323.3, respectively. The department incorporates by reference the extensive analysis and discussion by the federal banking agencies in adopting the federal amendments, published

in the *Federal Register* (Real Estate Appraisals, 84 Fed. Reg. 53,579 (October 8, 2019)). The federal amendments became effective on January 1, 2020. Until the federal amendments were adopted, the previous federal appraisal/evaluation threshold amount of \$250,000 stood unchanged since 1994. The similar requirements of existing §77.73, meanwhile, have not changed since January 6, 2011. As was aptly discussed by the federal banking agencies in adopting the federal amendments, since 1994, residential real estate prices have risen significantly. In adopting the federal amendments, the federal banking agencies cited data from the Standard & Poor's Case-Shiller Home Price Index (Case-Shiller), estimating that a residential property sold for \$250,000 on June 30, 1994 would have sold for \$643,750 on March 31, 2019. Meanwhile, according to data from the Federal Housing Finance Agency (FHFA), a residential property sold for \$250,000 on June 30, 1994 would have sold for \$621,448 in March 2019. The federal banking agencies also reviewed how the 1994 \$250,000 appraisal/evaluation threshold amount compared to general measures of inflation according to the Consumer Price Index (CPI) and concluded that \$250,000 of consumer cost as of July 1, 1994 would equate to a relative consumer cost of \$429,240 as of March 2019. The federal banking agencies also considered estimates for the most recent low point in housing prices in 2011 and determined that a residential property sold for

\$250,000 on June 30, 1994 would have sold for \$445,152 if instead sold on December 31, 2011, according to Case Shiller, and \$414,629, according to the FHFA. Under the CPI, meanwhile, a consumer cost of \$250,000 on July 1, 1994 would equate to a relative consumer cost of \$379,997 in December 2011. Depending on its loans and investments, a state savings bank could acquire real estate subject to the rule that is located in Texas or outside of the state. However, the majority of regulated state savings banks have branches strictly in Texas with operations concentrated in Texas. As a result, for additional context, the department also considered available datasets specific to Texas. According to the FHFA's data specific to the entirety of Texas, a home sold for \$250,000 on June 30, 1994 would have sold for \$735,950 on December 31, 2019; and, on December 31, 2011, \$441,025. According to the Case-Shiller index specific to the Dallas, Texas metropolitan statistical area (the only dataset of Case-Shiller pertaining to Texas), a home sold for \$250,000 in January of 2000 (the oldest available data point) would have sold for \$482,025 in December 2019. The department also considered the Texas A&M Real Estate Center's Texas Home Price Index (HPI), which measures home price appreciation within nine metropolitan statistical areas around Texas. The HPI datasets have different initial report dates for each metropolitan statistical area (MSA), none of which relates back to 1994. As a result, the department performed a hybrid analysis of HPI's data and of FHFA's data specific to each MSA (or the closest proximity thereto) by first calculating the estimated appreciation of costs from June 30, 1994 to the initial report date for each of the

HPI's MSAs utilizing the FHFA's data, and then carrying that figure forward utilizing the HPI's appreciation figures. Both the FHFA and HPI utilize a geometric modeling format but, according to the Texas A&M Real Estate Center, the HPI tends to have a flatter curve due to differences in the underlying data from which the modeling is performed (the FHFA is limited to data from conventional loans while the HPI is not so limited). As a result, when considering the following results, the farther back in time the HPI data extends, the flatter and less appreciated the result, and, conversely, a more recent start date of HPI data resulted in higher appreciation figures due to increased reliance on FHFA data. The results of the department's hybrid analysis of how much a home initially sold in Texas on June 30, 1994 for \$250,000 would have sold for on December 31, 2019, are as follows: (i) Amarillo MSA (oldest HPI data point March 31, 2004) - \$448,106; (ii) Austin/Round Rock MSA (oldest HPI data point March 31, 1999) - \$573,592; (iii) Dallas/Fort Worth/Arlington MSA (oldest HPI data point March 31, 2005) - \$522,020; (iv) Dallas/Plano/Irving MSA (oldest HPI data point March 31, 2005) - \$536,889; (v) El Paso MSA (oldest HPI data point March 31, 2004) - \$407,030; (vi) Fort Worth/Arlington MSA (oldest data point March 31, 2005) - \$523,425; (vii) Houston/The Woodlands/Sugar Land MSA (oldest HPI data point March 31, 2000) - \$493,827; (viii) San Antonio/New Braunfels MSA (oldest HPI data point March 31, 2013) - \$525,153; (ix) Sherman/Denison MSA (oldest HPI data point March 31, 2014) - \$609,033. Taking the foregoing into consideration, the department concurs with the federal banking agencies in asserting that the proposed amendments raising the appraisal/evaluation

threshold take a conservative approach, and compliance with the amended rule should not result in unsafe or unsound banking practices by state savings banks.

#### SUMMARY OF CHANGES

As discussed, *supra*, subsections (e) and (g) of §77.73 are amended to raise the appraisal/threshold amount from \$250,000 to \$400,000. A new final sentence is added to subsection (e) allowing the commissioner to extend the deadline to obtain an appraisal or evaluation for good cause shown. A new subsection (i) is proposed, requiring a state savings bank to perform an appraisal or evaluation in accordance with federal regulations.

#### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Stephany Trotti, deputy commissioner for the department (deputy commissioner), has determined that for the first five-year period the rule is in effect, there are no foreseeable increases or reductions in costs to the state or local governments as a result of enforcing or administering the rule. The deputy commissioner has further determined that for the first five-year period the rule is in effect, there will be no foreseeable loss in revenue for the state or local governments as a result of enforcing or administering the rule.

#### PUBLIC BENEFITS / COSTS TO REGULATED PERSONS

The deputy commissioner has determined that for each of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to have a rule that is consistent with the requirements of federal law, thereby reducing regulatory

complexity in the broader banking industry, and putting state savings banks in a similar position as other federally insured depository institutions, thereby fostering a competitive environment for regulated state savings banks. As discussed *infra*, the proposed amendments also have the potential to reduce costs to regulated persons which may, in turn, confer a reduction of costs on those members of the public who are borrowers and customers of or otherwise invested in a regulated state savings bank.

The deputy commissioner has further determined that for the first five years the rule is in effect, there are no costs anticipated for persons required to comply with the rule. The proposed amendments have the potential to reduce costs to regulated persons by increasing the number of properties for which a state savings bank is eligible to conduct an evaluation in lieu of a formal appraisal. An evaluation, unlike an appraisal, need not be performed by a certified or licensed appraiser, or in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). As a result, an evaluation is typically less costly than an appraisal. Specifically, according to data collected and feedback received by the federal agencies in response to proposing the federal amendments, the costs for an evaluation may be less than one-half or potentially even twenty percent of that for a formal appraisal by a certified or licensed third party fee appraiser. An evaluation also typically includes less information than a formal appraisal, thereby requiring less time to compile and complete, and, to the extent a state savings bank utilizes staff to conduct appraisals, has the potential to reduce such staffing needs and costs. The department

welcomes comments and feedback in response to this proposal concerning the potential costs to regulated state savings banks (including cost savings), and specifically requests information concerning the cost of an evaluation versus an appraisal performed by a third party fee appraiser's office, and the potential impact on staff resources for those state savings banks utilizing staff to conduct appraisals.

#### **ONE-FOR-ONE RULE ANALYSIS**

Pursuant to Finance Code §16.002, the department is a self-directed and semi-independent agency and thus not subject to the requirements of Government Code §2001.0045.

#### **GOVERNMENT GROWTH IMPACT STATEMENT**

For each of the first five years the proposed amendments are in effect, the department has determined the following: (1) the rule does not create or eliminate a government program; (2) implementation of the rule does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the rule does not require an increase or decrease in future legislative appropriations to the agency; (4) the rule does not require an increase or decrease in fees paid to the agency; (5) the rule does not create a new regulation; (6) the rule does not expand or eliminate an existing regulation but does limit an existing regulation; (7) the rule does not increase or decrease the number of individuals subject to the rule's applicability; and (8) the rule does not positively or adversely affect this state's economy.

#### **FISCAL IMPACT ON SMALL AND MICRO-BUSINESSES, AND RURAL COMMUNITIES**

The deputy commissioner has determined the rule will not have an adverse economic effect on small or micro-businesses, or rural communities because there are no costs or other adverse economic effects to persons who are required to comply with the rule. As a result, the department asserts preparation of an economic impact statement and a regulatory flexibility analysis, as provided by Government Code §2006.002, are not required.

The deputy commissioner has determined the proposed amendments, if adopted, may indirectly have an adverse economic impact on small and micro-businesses that conduct real estate appraisals. Given that the proposed amendments, if adopted, have the potential to reduce the number of real estate appraisals performed by regulated state savings banks the proposed amendments may, if adopted, result in lost business opportunities for small or micro-businesses conducting such appraisals; including, potentially, persons regulated by the Texas Appraiser Licensing Certification Board (TALCB). However, the deputy commissioner, acting in accordance with guidelines established by the Office of the Attorney General as provided by Government Code §2006.002(g), has determined that such potential adverse economic impact concerns persons not regulated by the department and thus is only indirectly related to the rule, and does not require the additional analysis for a direct adverse economic effect contemplated by Government Code §2006.002(c). However, the deputy commissioner further finds that,

while there is the potential for an adverse economic impact on small or micro-businesses conducting appraisals for regulated state savings banks due to lost business opportunity, such loss in opportunity is unrelated to the business's status as a small or micro-business, and businesses other than a small or micro-business performing appraisals will be similarly affected proportionate to the amount of work derived from appraisals performed for regulated state savings banks. The very nature and purpose of the rule is to afford greater flexibility for regulated state savings banks to conduct evaluations in lieu of appraisals which entails a potential reduction in the number of appraisals performed that cannot be avoided entirely. Moreover, any potential alternative methods to reduce the potential adverse economic impact on small or micro-businesses would inherently involve an appraisal/evaluation threshold amount lower than the amount proposed; but, the department asserts the purposes of the rule are best achieved by mirroring and conforming to the appraisal/evaluation threshold adopted by the federal banking agencies, which has the tendency to reduce regulatory complexity in the broader banking industry. The department further asserts the public benefits of the proposed rule, as discussed *supra*, outweigh any potential adverse impact on small and micro-businesses.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The deputy commissioner has determined no local economies are substantially affected by the rule and, as such, the department is exempted from preparing a local employment

impact statement pursuant to Government Code §2001.022.

#### TAKINGS IMPACT ASSESSMENT

The department has determined there are no private real property interests affected by the rule; thus, the department asserts preparation of a takings impact assessment, as provided by Government Code §2007.043, is not required.

#### PUBLIC COMMENTS

Written comments regarding the amendments may be submitted by mail to Iain A. Berry, Associate General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to [smlinfo@sml.texas.gov](mailto:smlinfo@sml.texas.gov) with the subject line "Public Comment - Real Estate Appraisals." All comments must be received within 30 days of publication of this proposal.

#### STATUTORY AUTHORITY

This proposal is made under the authority of Finance Code §11.302 which authorizes the commission to adopt rules applicable to state savings banks. This proposal is also made under the authority of Finance Code §96.002(a) which authorizes the commission to adopt rules necessary to supervise and regulate state savings banks and to protect public investment in state savings banks, including for those specific subject matters outlined in paragraphs (4), (11), and (16) of that subsection.

This proposal affects the statutes administered and enforced by the department's commissioner with respect to state savings banks, contained in Finance



Code, Subtitle C. No other statute is affected by this proposal.

<rule>

§77.73. Investment in Banking Premises and Other Real Estate Owned.

(a) - (d) (No change.)

(e) Subject to subsection (f) of this section, when real estate is acquired in accordance with subsection (d) of this section, a state savings bank must substantiate the market value of the real estate by obtaining an appraisal within sixty (60) days of the date of acquisition. An evaluation may be substituted for an appraisal if the recorded book value of the real estate is ~~[less than]~~ \$40~~[25]~~0,000 or less. The commissioner may, for good cause shown, grant an extension of time for obtaining an appraisal or evaluation (as appropriate), as described in this subsection.

(f) (No change.)

(g) An evaluation shall be made on all real estate acquired in accordance with subsection (d) of this section at least once a year. An appraisal shall be made at least once every three years on real estate with a recorded book value in excess of \$40~~[25]~~0,000.

(h) (No change.)

(i) An appraisal or evaluation made in accordance with this section must be performed in accordance with the standards described by the Federal Deposit Insurance Corporation in 12 C.F.R., Part 323, Subpart A or the Federal Reserve System in 12 C.F.R., Part 225, Subpart G, as applicable.

### Certification

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Iain Berry  
Associate General Counsel  
Department of Savings and Mortgage  
Lending

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**D.**

**Office of Consumer Credit  
Commissioner**

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## **Consumer Protection and Consumer Assistance Report**

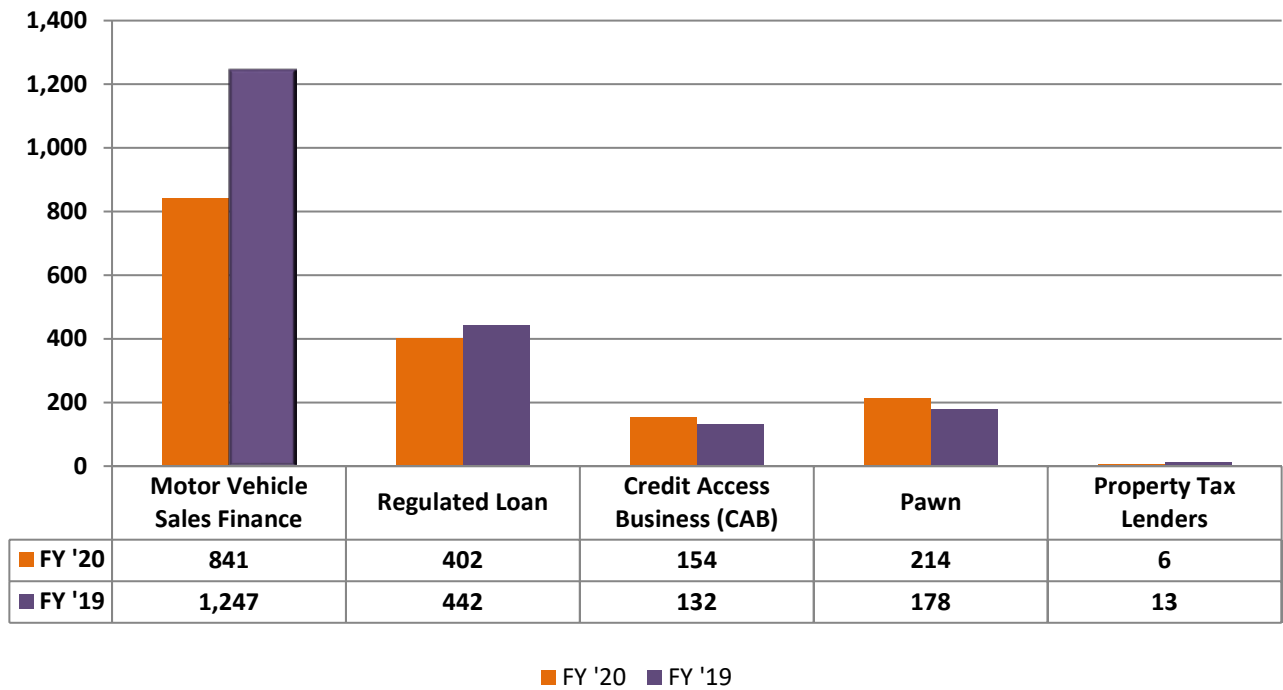
The overall examination results remain below target fiscal year to date. As noted in the December and February briefings, significant investments of time and resources in training during the first part of the fiscal year impacted exam production. Additionally, as a result of the COVID-19 pandemic, the agency suspended on site examinations effective March 16, 2020. Currently, the agency has two large credit access business (CAB) exams (suspended) in progress representing a total of 82% of the agency's CAB production target for fiscal year 2020. The agency completed the site work on a large motor vehicle finance enterprise exam in February. This report is currently in production writing.

Given the unexpected availability of large blocks of time provided by the COVID-19 exam suspension action, the department has implemented four major improvement initiatives. Specifically, extended virtual training has focused on fully implementing a decentralized approach (using field based examiners) to the Exam Review Program. Prior to the COVID-19 suspension, the Exam Review Program was training advanced examiners (Financial Examiner III and above) individually when the examiners were on site at the Austin office. As a result of the virtual training, the agency now has 23 qualified examiners who can provide exam review services in addition to their examination activities. These 23 examiners can be deployed in meaningful and productive work in the Exam Review Program until normal operations resume. Once normal operations resume, these examiners will continue providing exam reviews as a part of their expanding roles in the agency.

The second virtual training initiative delivered detailed project management training for the field examiners to prepare them for Examiner In Charge roles conducting desktop (remote) exams of out of state licensees. Topics included in this training included financial statement analysis, approaches to scoping exams based upon reviews of financial statements and other external data sources. In addition, a sample of scoping questions and interview approaches was illustrated for use in contacting these companies to set up and manage remote exams.

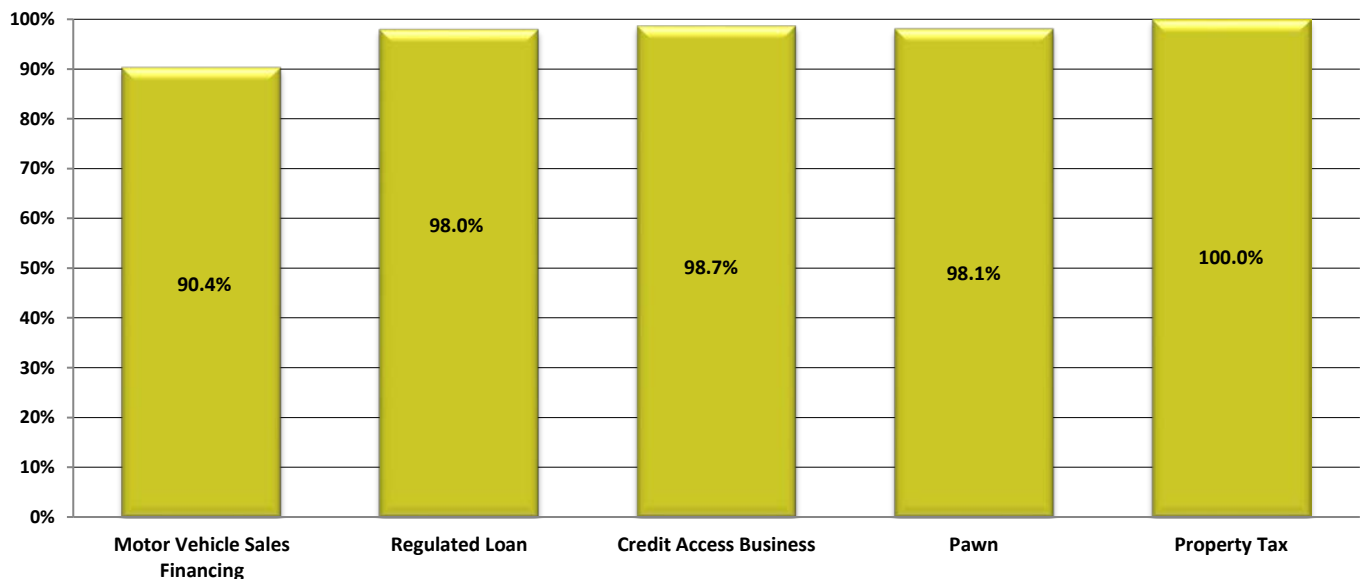
The department has also undertaken a complete review and rewrite of the Exam Comment Library. This initiative involves multiple examiners and will have a large impact on the overall quality and consistency of the written exam product delivered to our licensees. Finally, Senior Exam and Legal staff coordinated a process improvement initiative that will increase throughput in the entire OCCC system affecting performance measures in both the Consumer Protection Division and the Legal Division.

## Examinations Conducted: Sept - Feb Fiscal Year Comparison

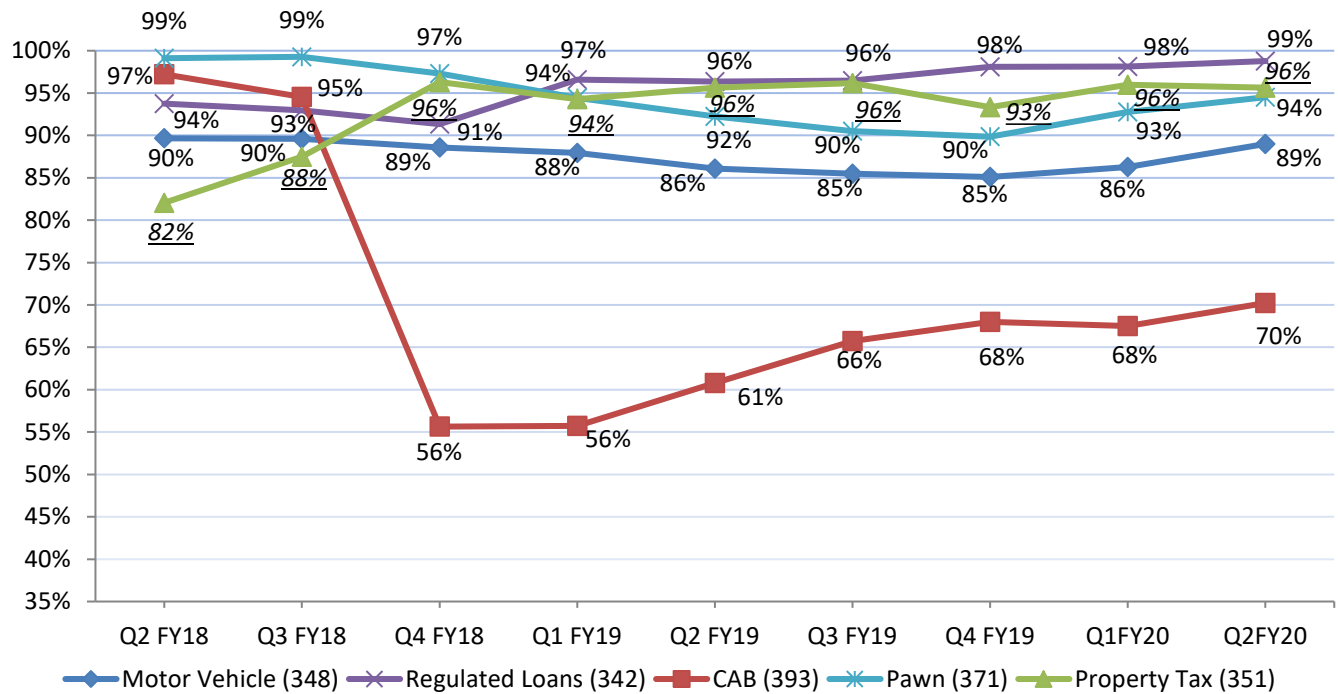


The acceptable level of compliance for all examinations is charted below. The first chart below shows the acceptable level of compliance for examinations conducted in FY 2020. All license types were above 85%. The second chart denotes the acceptable level of compliance on a trailing 12 month basis through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

## Acceptable Level of Compliance FY '20 (Sept 2019 - Feb 2020)



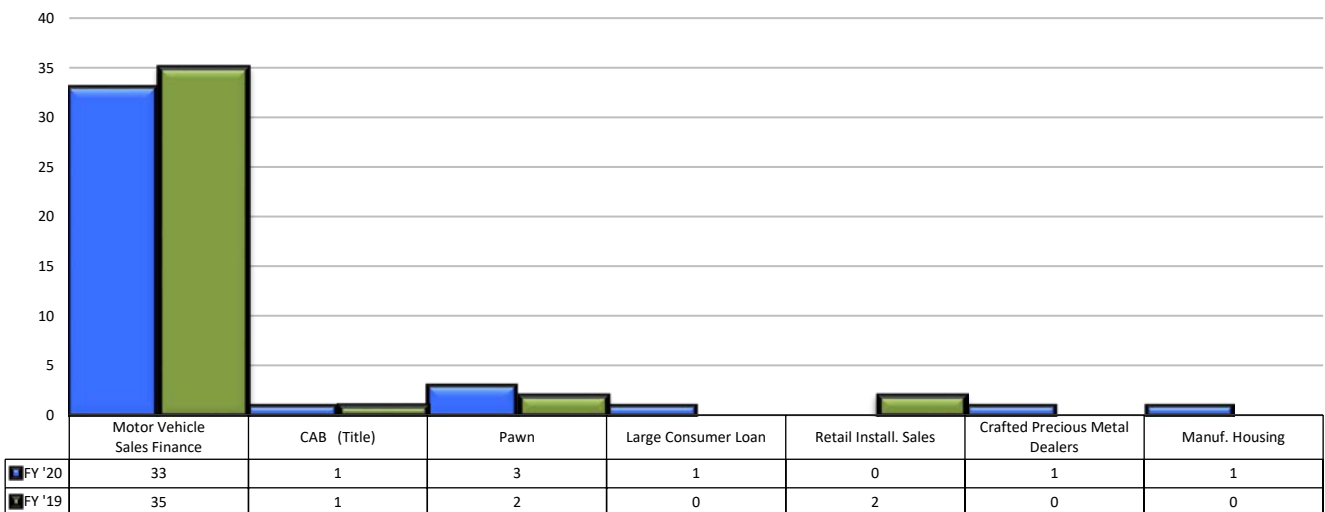
## Acceptable Compliance Levels - Trailing 12 Months (at quarter end)



### Investigations

For FY 2020, the agency completed 40 investigations, 50% of the FY 2020 goal of 80. Motor Vehicle Sales Finance was the largest category comprising 82.5% of the overall number of investigations.

### Investigations Completed FY '20 (Sept 2019 - Feb 2020) Total: 40 FY '19 (Sept 2018 - Feb 2019) Total: 40

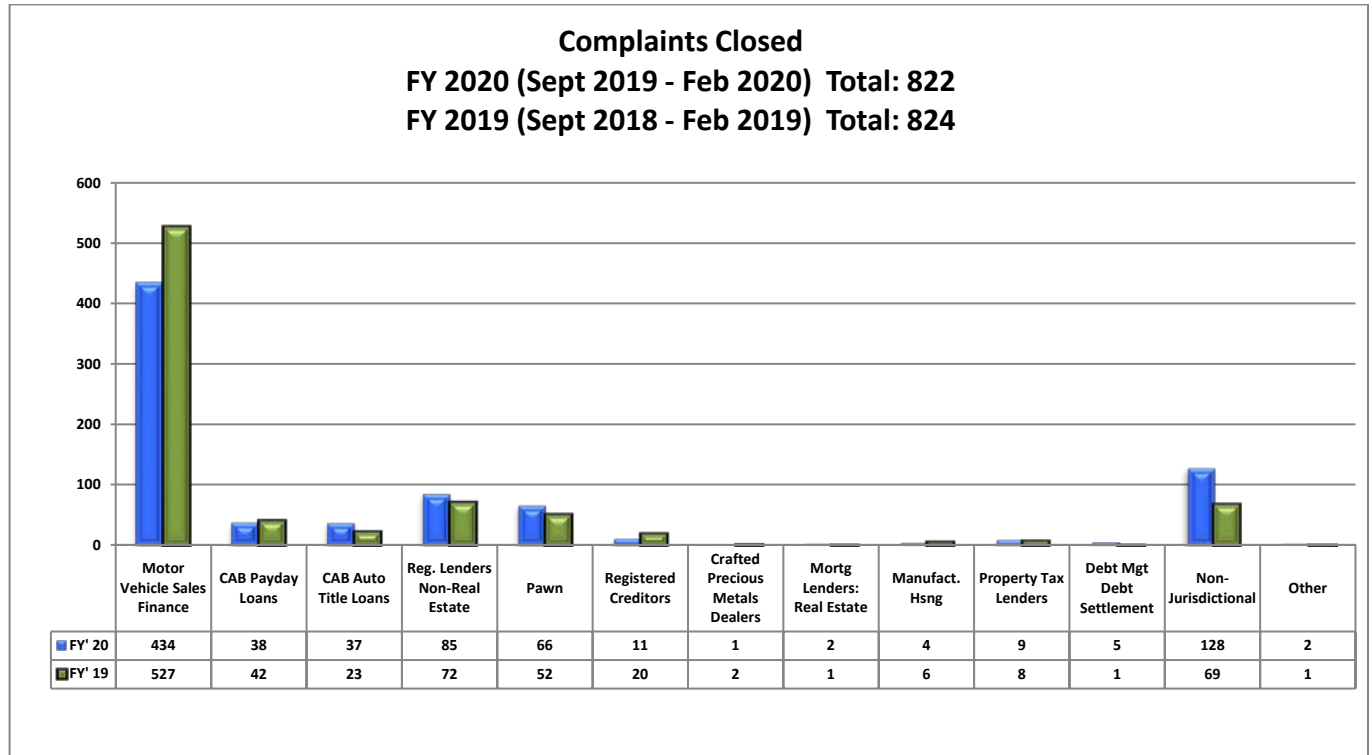


## Consumer Assistance

For this period, 822 complaints were closed of which 128 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 52.8%. The second largest number of complaints came from Regulated Lenders Non-Real Estate at 10.3%. The third largest category was CAB complaints at 9.1% collectively; separately, these are 4.6% for payday loans and 4.5% for title loans. The fourth largest category came from Pawn at 8.0%.





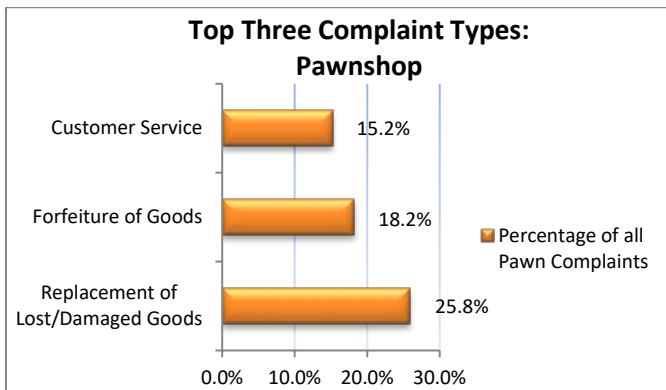
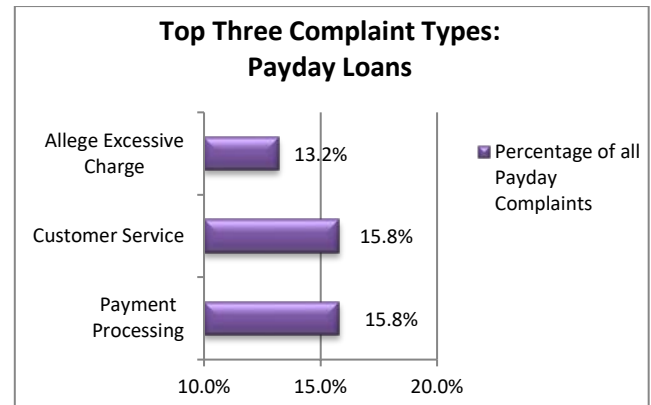
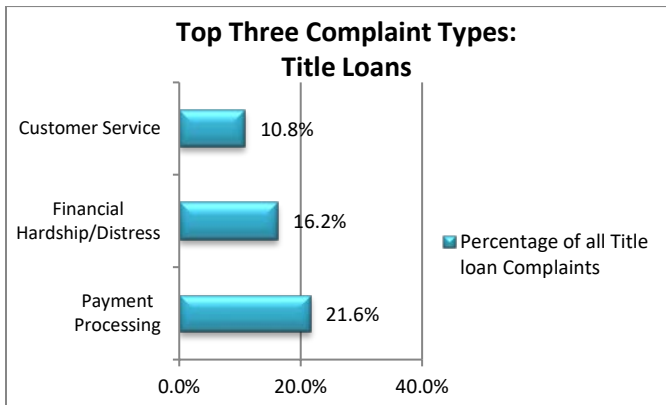
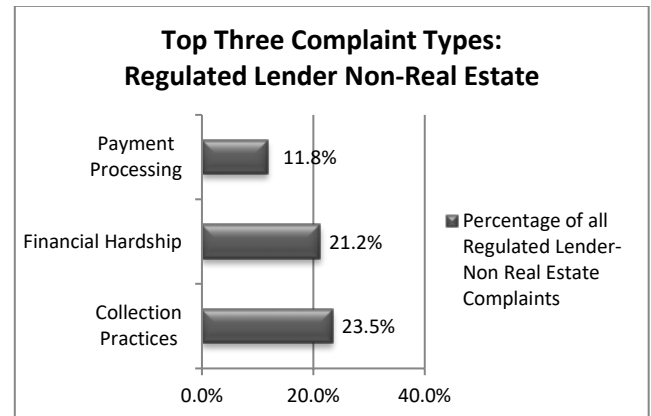
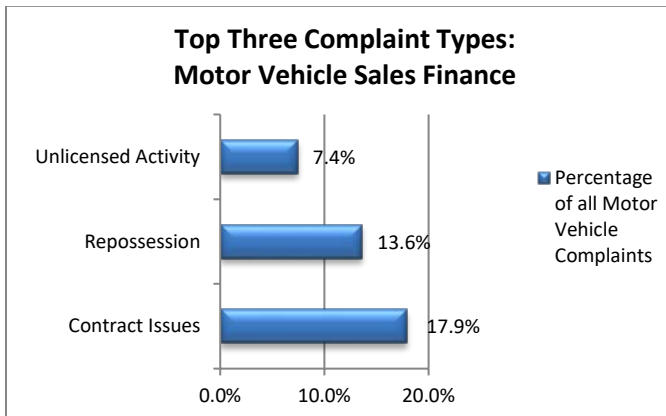
**FY '20 1<sup>st</sup> Quarter Complaint Data – Sept 1, 2019 – February 29, 2020**

<b>Source of Complaints</b>	<b>First Quarter</b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter</b>
Consumer	372	367	-	-
Business	2	5	-	-
Law Enforcement	0	0	-	-
State or Federal Agency	29	44	-	-
OCCC	1	1	-	-
Whistleblower	0	1	-	-
<b>Total</b>	<b>404</b>	<b>418</b>	<b>-</b>	<b>-</b>

<b>Subjects</b>	<b>First Quarter</b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter</b>
Motor Vehicle Sales Finance	208	226	-	-
CAB Payday Loans	15	23	-	-
CAB Auto Title Loans	17	20	-	-
Reg. Lenders Non-Real Estate	41	44	-	-
Pawn	34	32	-	-
Registered Creditors	6	5	-	-
Crafted Precious Metals Dealers	1	0	-	-
Mortgage Lenders: Real Estate	0	2	-	-
Manufactured. Housing	2	2	-	-
Property Tax Lenders	3	6	-	-
Debt Management Debt Settlement	0	5	-	-
Non-Jurisdictional	76	52	-	-
Other	1	1	-	-
<b>Total</b>	<b>404</b>	<b>418</b>	<b>-</b>	<b>-</b>

<b>Disposition:</b>	<b>First Quarter</b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter</b>
Closed to Investigation	7	11	-	-
Closed to Legal	0	0	-	-
Closed-Action Taken	147	183	-	-
Closed-No Violation	86	97	-	-
Closed-Administratively	88	75	-	-
Closed-Non Jurisdictional	76	52	-	-
<b>Total</b>	<b>404</b>	<b>418</b>	<b>-</b>	<b>-</b>

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

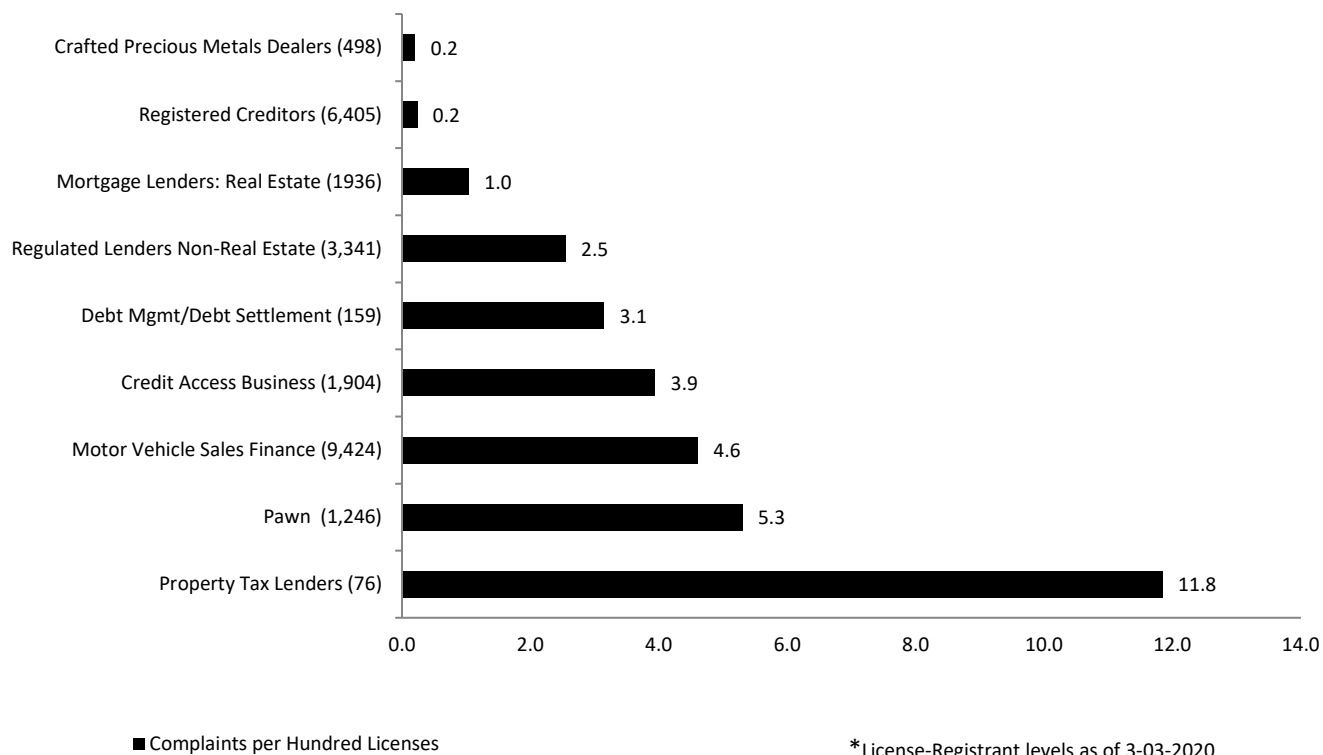


### Consumer Assistance Activities Information By Quarter

Production Targets and Priorities	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Percentage Written Complaints Closed within 90 days	84.2%	80.0%	-	-
Average Number of Days to Close a Complaint	45.4	50.4	-	-
Number of Complaints Closed	404	418	-	-

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 Pawn as the second highest, Motor Vehicle Sales Finance as the third, and Credit Access Business as the fourth highest.

**Ratio of Complaints Closed to Total Active License or Registrants\***  
**FY 2020 (Sept 2019 - Feb 2020)**



## CAB Reporting Update

Summaries of CAB reports through 2019 are available on the OCC website. Presented are selected statistics of both Annual and Quarterly reports through the years. Total loan volume has decreased 27% in dollars and 36% in total transactions since 2014. Primary factors of the decrease include consolidation in the industry and an increase in installment lending that leads to less refinance activity.

Installment loans also increase the length of time consumers are indebted and increase the fees accruing per transaction. Historically, multiple installment loans accrue fees that are greater than the amount borrowed and contribute to consumers paying \$2 in fees for every \$3 borrowed in across all product types in 2019. Additional changes in the market include loan volume share reported by out of state locations rising from 16% in 2014 to 31% in 2019.

<b>Data Highlights (All Loan Types) Calendar Year</b>	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>
Number of new Payday Loans	2,212,526	2,120,397	2,178,620	2,340,945	2,410,917	2,451,568
Total Refinances - Payday	1,463,754	1,739,496	2,173,152	2,389,340	2,877,806	3,303,752
Number of new Auto Title Loans	316,444	329,292	294,813	269,190	328,520	367,518
Total Refinances - Title	758,186	777,966	764,598	898,851	1,168,782	1,347,303
Percentage of New Payday Loans due in multiple installments	59%	55%	45%	42%	40%	35%
Percentage of New Auto Title Loans due in multiple installments	52%	54%	39%	41%	30%	18%
Number of vehicles repossessed under all Auto Title Loans	42,878	37,777	32,347	32,077	37,296	44,052
Total Customers <sup>1</sup>	1,612,029	1,505,212	1,499,599	1,651,278	1,691,553	1,757,882
Total \$ fees accrued on all transactions	\$2.03 B	\$1.86 B	\$1.76 B	\$1.63 B	\$1.67 B	\$1.53 B
Total \$ Loaned by All Licensees (in billions)	\$3.12 B	\$3.33 B	\$3.27 B	\$3.60 B	\$4.10 B	\$4.28 B
Total \$ Loaned by Out of State Licensees (in millions)	\$977 M	\$851 M	\$839 M	\$813 M	\$747 M	\$704 M

<b>Payday Loans Calendar Year</b>	<b>Single Installment</b>			<b>Multiple Installment</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2019</b>	<b>2018</b>	<b>2017</b>
Average loan amount	\$453	\$468	\$460	\$667	\$621	\$593
Average fee per \$100 borrowed	\$22.67	\$23.57	\$24.05	\$139.81	\$135.52	\$153.55
Average original term (in days)	22	21	20	151	142	150
Average Fee Converted to a Daily Rate <sup>2</sup>	1.05%	1.10%	1.23%	0.93%	0.95%	1.02%
Estimated transactions per borrower <sup>3</sup>	5.2	5.7	5.6	1.7	1.8	1.7

<b>Title Loans Calendar Year</b>	<b>Single Installment</b>			<b>Multiple Installment</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2019</b>	<b>2018</b>	<b>2017</b>
Average loan amount	\$1,650	\$1,340	\$1,318	\$1,267	\$1,245	\$1,060
Average fee per \$100 borrowed	\$15.23	\$15.93	\$16.33	\$114.99	\$114.79	\$127.60
Average original term (in days)	30	30	30	157	155	157
Average Fee Converted to a Daily Rate <sup>2</sup>	0.51%	0.53%	0.55%	0.73%	0.74%	0.81%
Estimated transactions per borrower <sup>3</sup>	7.7	7.8	6.3	2.4	2.2	2.6

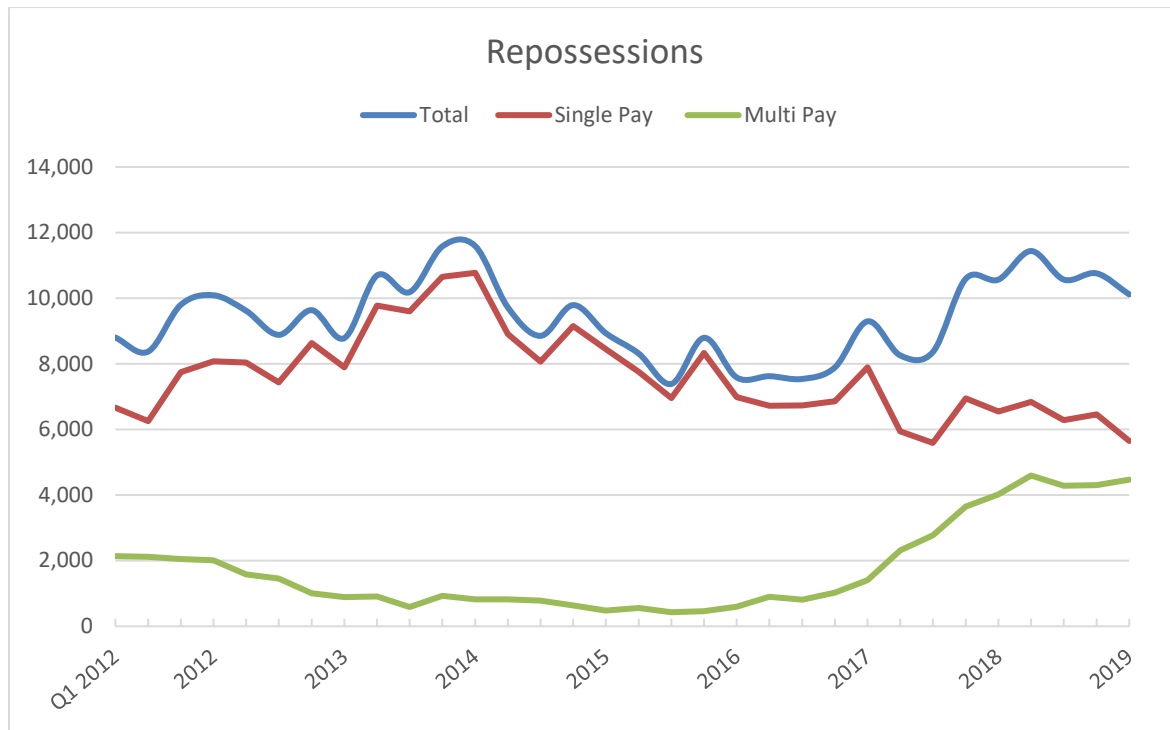
<sup>1</sup>Customers are reported on the annual report item #5. They are unique to each product type and to each location. Depending on customer borrowing habits they may be counted more than once.

<sup>2</sup>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.

<sup>3</sup>Equation:  $\sum \text{Quarterly 10F} / \text{Annual Report \#5}$ . Effects on the estimation include (1) Single store reporting can count customers more than once if obtaining loans at different stores (2) Total transactions in 10F could be made to some customers who aren't counted in this year's customer count. e.g. They are refinancing loans made in the prior year.

### 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 18% in 2014 to 52% in 2019. Beginning in 2018, the number of “Multi Pay” or installment loan repossessions began to mature and repossessions subsequently increased in that category.





## **Licensing Report- April 2020**

*Mirand Diamond, Director*

### Renewals

The department has begun to prepare for pawn shop and pawn employee renewal. The total number of pawn employees licensed will drop significantly in July after the renewal period due to optional pawn employee licensing. The current situation will continue to be considered for this industry as renewal rates and processes are developed.

### Applications Processing

The department has seamlessly moved to remote application processing and all licensing employees are in a telework status. The department deployed technology to continue support to license applications through the automated call distribution group but with remote call handling capability.

The total number of pending applications remains at a manageable level. Business license application processing in the second quarter of FY 2020 was higher than average, which is likely due to progressing training of new employees. Additionally the amount of incoming applications remains near the fiscal year's average.

While pawn employee application processing is steadily continuing, the volume of incoming applications has dropped due to optional pawn employee licensing.

### Other Updates

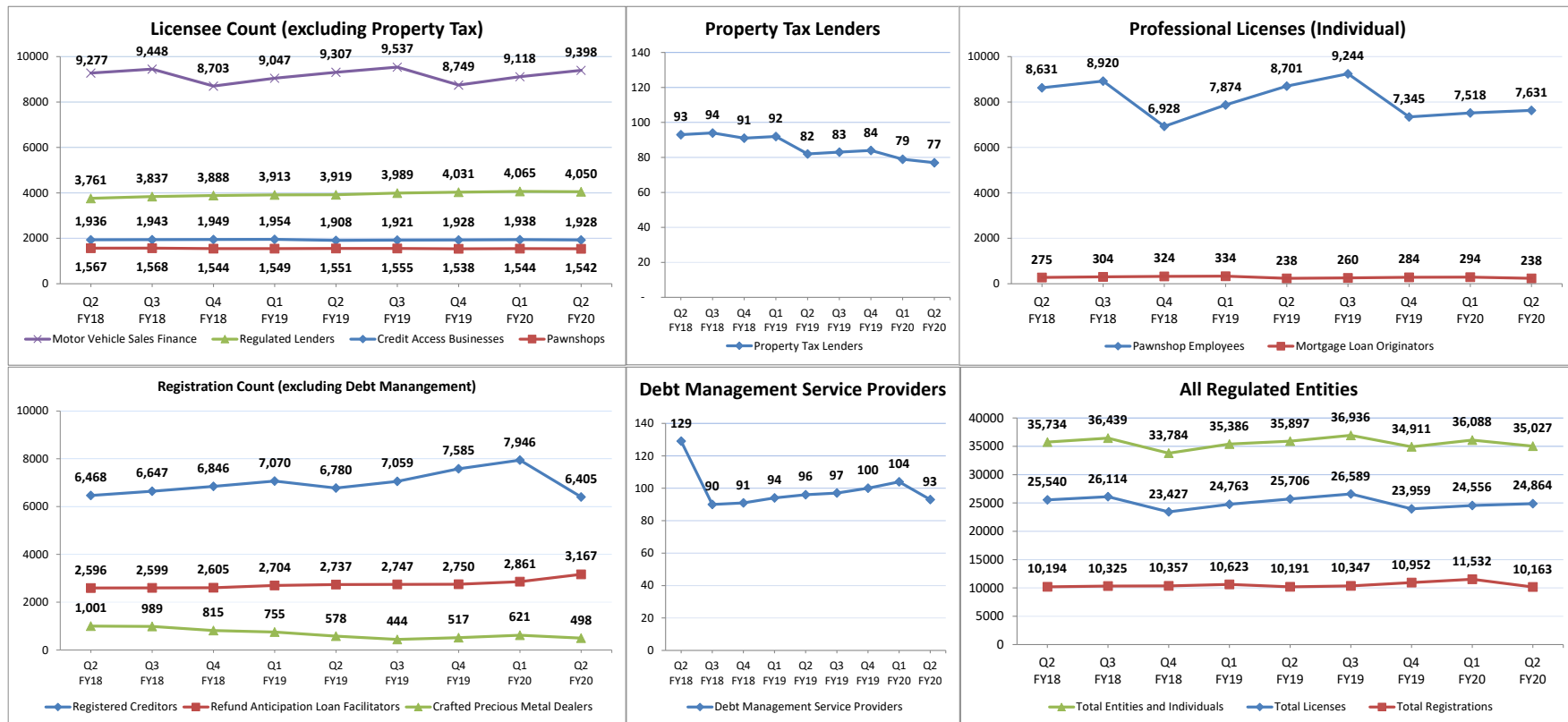
Two members of the licensing department attended the NMLS annual conference and training in February to learn more about recent changes to the system and represent the agency to engage with industry participants and other regulators.

The director of licensing attended the Texas Association of Pawnbrokers annual conference in February and spoke with members about the transition to optional pawn employee licensing, among other topics.

### 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 OCCC Regulated Entities Quarterly Comparison of FY18-20





## ADMINISTRATION REPORT

### COMMUNICATIONS

The OCCC is currently working on its strategic plan for 2021-2025. As part of this process, the agency conducted a customer satisfaction survey that opened March 5, 2020, and closed March 31, 2020. Separate surveys were sent for each of the following areas: Legal, Consumer Assistance, Licensing and Registration, Public Information, and Financial Education/Texas Financial Education Endowment (TFEE). The overall response rate was 11%. The OCCC will be using the data collected in its survey to develop the agency's future goals, objectives, and operational plans.

Agency staff continues to provide a combination of live presentations and communication through various channels to regulated entities and other regulatory groups.

- On February 19, 2020, Director of Consumer Protection Huffman Lewis presented at the San Antonio Independent Dealers Association meeting.
- On February 27, 2020, Financial Examiner Eric Fancher presented at the Fort Worth Independent Dealers Association meeting in Fort Worth and at the DMV Dealer's Seminar in Waco.
- On March 10, 2020 Senior Supervising Examiner William Purce presented at the Texas Department of Community Affairs meeting in Austin.
- On March 19, 2020 Deputy General Matthew Nance and Legal Assistant Ginger Harmon conducted a Property Tax Lender Stakeholder Meeting via webinar.

Since the end of February, the agency has been regularly communicating important information regarding the Coronavirus (COVID-19) pandemic to its staff. These communications have included information about steps to mitigate the spread of disease in the workplace; plans, tips and tools for moving to and maintaining a remote working environment; and employee assistance program resources. The agency will continue to inform staff of ongoing changes and available resources during this uncertain time.

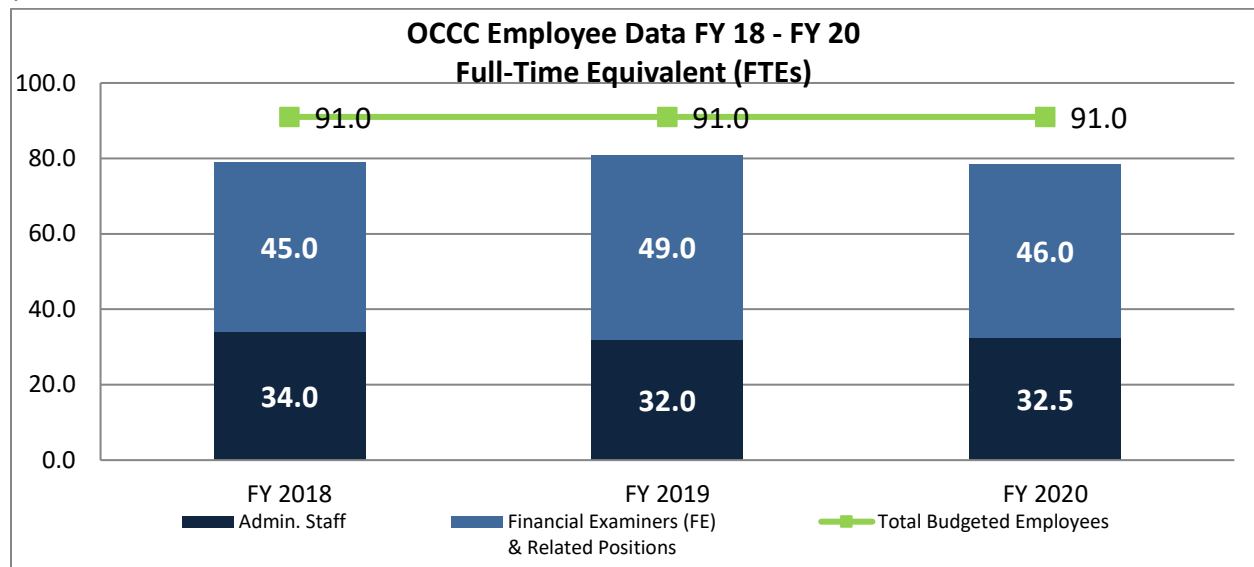
### HUMAN RESOURCES

In this reporting period, from the end of November to the end of February 2020, the OCCC was staffed with a total of 78.5 FTEs (full-time equivalent and one part-time). Currently the agency does not have any posted vacancies.

Vacancy	Status
No posted vacancies at this time	

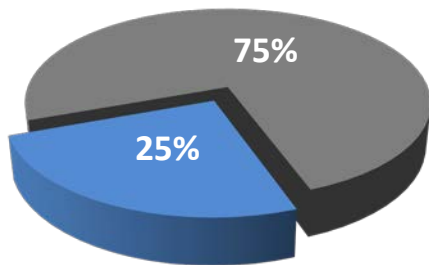


The following chart compares administrative staff vs. financial examiners (FEs) for the last three fiscal years.

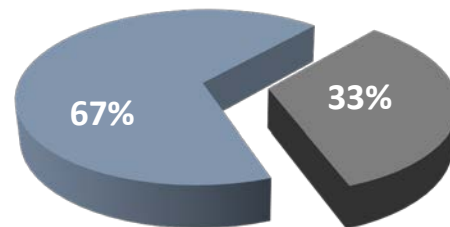


The turnover rate as of February 2020 is 10.1%, and the chart below represents FY20 data.

**OCCC Turnover Categories**  
**FY 20 - All Employees**  
 (09/01/19 - 2/29/2020)  
 8 total - 2 Interagency Transfer, 6 Voluntary Resignations.



**OCCC Turnover**  
**FY 20 - FE Series**  
 (09/01/19 - 2/29/2020)  
 3 total - 2 Voluntary Resignation, one Interagency Transfer.



■ Interagency Transfer    ■ Voluntary Resignation

Institute for Organizational Excellence - UT Survey, was launched on November 2019. The final response rate was 86.1%. The results were received December 13, 2019. The Commissioner shared the results with Senior Staff. HR will provide the information to employees by webinar, conference call or by conference once normal work activities have been reinstated.

Mr. Jim Stephens, Risk Manager from the State Office of Risk Management provided the Austin Headquarters staff training on "Safe Ways of Lifting Boxes" January 27, 2020. Copies of the presentation materials were provided on OCCC employee's intranet for all regional staff to review.

OCCC developed a new Cross-Training Program that began November, 2019. This is a pilot program that is designed to provide employees with a new development opportunity to enhance their knowledge, skills and abilities. Several cross-trained employees have been involved in providing assistance in different departments to ensure that the agency has no loss of productivity. Employees have improved in their awareness of the agency roles and functions. It has also reduced the costs involved in hiring and training temporary workers or new employees. OCCC's implementation of the Cross-Training Program has been successful and is a valuable asset.

### **FINANCIAL EDUCATION**

The Financial Education Department provided presentations at the Taylor Senior Center in Taylor on January 30, 2020, the Madella Hillard Center in Georgetown on February 4, 2020, and the Allen R. Baca Center in Round Rock on March 12, 2020. These presentations reached a combined thirty-one individuals. Face to face financial education presentations are currently on hold but the agency is exploring remote financial education possibilities and hopes to resume face to face presentations as soon as possible.

The agency has issued TFEE 2020-2021 Cycle Grant Agreements to the ten organizations approved at the last Finance Commission meeting. The first period of the 2020-2021 TFEE Grant Cycle runs from March 1, 2020 – June 30, 2020.

The Semi-Annual Program Activities and Grant Reimbursement Report for the fourth period of the 2018-2019 TFEE Grant Cycle is included elsewhere in this meeting's materials. This report reflects the activities related to the TFEE Grant from July 1, 2019 through December 31, 2019.

### **Information Technology**

#### **Physical Facilities and Hardware**

OCCC IT has equipped all Austin office personnel for remote working capabilities, as a work measure for social safety in the pandemic state of emergency.

IT is configuring a virtual server which will download Microsoft Windows updates and redistribute them to the agency endpoint computers on a pre-set, off-hours schedule. This will obviate individual computers querying and downloading updates, reducing external bandwidth usage and keeping the computer fleet consistent and standard.

#### **Security & Software**

The agency's VPN (virtual private network) system for secure outside connection to the internal network is reaching certain capacity limits during the pandemic-response teleworking program. While sufficiently robust in normal mode of operations, dispersing nearly all Austin personnel has effectively doubled the population of remote users. IT is pursuing an expedient means to relieve the demand.

Tutorials written in-house were distributed for ease in transitioning to teleworking, including: accessing email remotely; using VPN; unsubscribing from unwanted email distributions; and cybersecurity advisories based upon the current, pandemic-heightened cyberscape.



## **ACCOUNTING REPORT**

*Christina Cuellar Hoke, Manager*

The Accounting Manager has interviewed applicants for the revenue accountant vacancy, and has hired a new Accountant for the department who began work with the OCCC on April 1 after transferring from another state agency. Revenue activity was one of the areas included in the agency's cross-training program. Using that experience and with the training opportunity for a new staff member, the revenue procedures are receiving a full review and revision with a cross-agency team.

The department's Payroll/Accounts Payable Accountant has registered to take the Texas Public Funds Investment Act course. The Accounting department received employee 1095-C tax documents during the month of February, and delivered all these tax documents to employees.

**OFFICE OF CONSUMER CREDIT COMMISSIONER**  
**EXECUTIVE SUMMARY**

*As of February 29, 2020*

	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	1,104			1,344
Regulated Lenders Examinations	1,085	942	233	169			402
Property Tax Lender Examinations	27	30	4	2			6
Pawnshop Examinations	484	473	123	91			214
Motor Vehicle Examinations	2,269	2,463	434	407			841
Credit Access Businesses Examinations	638	475	128	26			154
CONSUMER ASSISTANCE							
Telephone Complaints Received	986	510	83	106			189
Written Complaints Received	1,111	1,151	319	302			621
Total Complaints Closed	2,130	1,737	404	419			823
% of Written Complaints Closed within 90 Calendar Days	91.8%	85.4%	84.2%	80.3%			82.2%
ADMINISTRATIVE ENFORCEMENT ACTIONS							
Originated	371	417	71	51			122
Finalized	389	324	101	120			221
LICENSING AND REGISTRATION							
Licenses							
Regulated Loan Licenses	3,845	4,031	4,065	4,050			4,050
Pawnshop Licenses	1,565	1,538	1,544	1,542			1,542
Pawnshop Employee Licenses	7,243	7,345	7,518	7,631			7,631
Commercial MV Sales Fin. Licenses	39	49	50	49			49
Motor Vehicle Sales Finance Licenses	8,539	8,700	9,068	9,349			9,349
Property Tax Loan Licenses	89	84	79	77			77
Mortgage Loan Originators	326	284	294	238			238
Credit Access Business Licenses	2,046	1,928	1,938	1,928			1,928
Registrations							
Registered Creditors	7,371	7,585	7,946	6,405			6,405
Crafted Precious Metal Dealers	1,061	517	621	498			498
Debt Management Service Providers	128	100	104	93			93
Refund Anticipation Loan Facilitators	2,634	2,750	2,861	3,167			3,167
Applications							
Business -- New	1,522	1,679	417	487			904
Business -- Change of Ownership	138	131	41	17			58
Pawnshop Employees -- New	3,133	3,640	327	139			466
HUMAN RESOURCES DATA							
Field Examiners Staffing	41	49	48	46			46
Total Staffing	82	81	79	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	
<b>Output Measures-Key</b>					
<b>CONSUMER PROTECTION</b>					
<b>1-1-1</b>	<b>Complaint Resolution</b>				
	<b>1. # Complaints Closed</b>				
<b>Quarter 1</b>	1,800	404	404	22.4%	
<b>Quarter 2</b>	1800	419	823	45.7%	
<b>2-1-1</b>	<b>Examination and Enforcement</b>				
	<b>1. # Examinations Completed</b>				
<b>Quarter 1</b>	4,000	922	922	23.1%	
<b>Quarter 2</b>	4,000	695	1,617	40.4%	*
Examination Production is below target by approximately 10%. The agency has invested significant time and resources in training, development and certification of examiners with less than 3 years tenure with the agency. In addition, we have experienced some turnover of experienced examiners who left to pursue opportunities in the private sector. The agency currently has 4 unfilled positions, 3 field examiners entry level and one Austin based Sr. Examiner who left to work at another state agency.					
<b>EFFECTIVE LICENSING &amp; REGISTRATION</b>					
<b>2-2-1</b>	<b>Licensing and Registration</b>				
	<b>1. # Business License Applications Processed</b>				
<b>Quarter 1</b>	1,750	417	417	23.8%	
<b>Quarter 2</b>	1,750	487	904	51.7%	
<b>3-3-1</b>	<b>Financial Education</b>				
	<b>1. # People Receiving Direct Educational Services</b>				
<b>Quarter 1</b>	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.					
<b>Quarter 2</b>	325	92	226	70%	*
The Financial Education Department has exceeded its target for number of people receiving direct education services. At the end of the second quarter, the financial department provided education services to 226 individuals, higher than the target of 162 individuals. The agency continues to focus on community outreach efforts and as a result has increased the number of financial education presentations delivered.					

\*Varies by 5% or more from target.



## **Legal Department Report**

*Michael Rigby, General Counsel*

April 2020

### **Enforcement Report**

#### **Contested Case**

In March 2020, the OCCC received a proposal for decision following a 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 did not maintain normal business hours, and customers were unable to redeem their pledged goods. 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.

On March 11, the administrative law judge issued a proposal for decision that recommended affirming the OCCC's order. Million Dollar Pawn did not file exceptions to the proposal for decision within the time period for doing so. On March 16, the pledged goods were removed from Million Dollar Pawn and transported to another licensed pawnshop within five miles.

#### **Orders for Reporting Violations**

In March 2020, the OCCC issued nine orders against credit access businesses that did not timely and accurately file their 2019 fourth quarter and annual reports by the deadline of January 31, 2020. Of these orders, six were injunctions requiring the licensees to file timely and accurate reports, and three imposed an administrative penalty for violating a previous injunction.

Also in March, the OCCC issued five orders against debt management service providers that did not timely and accurately file their 2019 annual reports by the deadline of January 31, 2020. Of these orders, three were injunctions requiring the registrants to file timely and accurate reports, and two imposed an administrative penalty for violating a previous injunction.

### **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 March 31, 2020				
	FYTD 2020	FY 2019	FY 2018	FY 2017
<b>Injunction Actions</b>				
Crafted Precious Metal Dealer	0	0	0	0
Credit Access Business	21	53	27	47
Debt Management Provider	6	10	5	2
Manufactured Housing	0	0	0	1
Motor Vehicle Sales Finance	43	20	19	31
Pawnshop	42	82	39	37
Pawnshop Employee	0	67	48	69
Property Tax Lender	0	8	2	2
Registered Creditor	1	0	1	1
Regulated Lender	49	22	12	37
Residential Mortgage Loan Originator	0	0	1	1
<b>Total Injunction Actions</b>	<b>162</b>	<b>262</b>	<b>154</b>	<b>230</b>
<b>Administrative Penalty Actions</b>				
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	9	19	26	106
Pawnshop	27	12	6	3
Pawnshop Employee	0	0	0	0
Property Tax Lender	1	6	6	2
Regulated Lender	18	7	0	13
Residential Mortgage Loan Originator	0	0	0	0
<b>Total Administrative Penalty Actions</b>	<b>63</b>	<b>58</b>	<b>45</b>	<b>147</b>
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
<b>Total Revocation / Suspension Actions</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>8</b>
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
<b>Total App. Denial and Protest Actions</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>3</b>
<b>Total Actions Closed</b>	<b>229</b>	<b>324</b>	<b>200</b>	<b>388</b>



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

September 1, 2019, through March 31, 2020	
Cases Opened	126
Cases Closed	229
Average Number of Days to Close an Enforcement Action	137
Cases referred to SOAH	1
Contested Cases Heard at SOAH	1
Final Orders Issued	204

The OCCC has no hearings scheduled between April 1, 2020, and May 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 OCCC filed a response to the petition on February 24, 2020, and VIP filed a reply on March 6. The Texas Supreme Court denied VIP's petition for review on April 3. VIP's deadline to file a motion for rehearing on the denial is April 20.

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 April meeting, the OCCC is presenting the following rule actions:

- Adoption of amendments to 7 TAC Chapter 2 (relating to residential mortgage loan originators), resulting from rule review.
- Adoption of amendments to Chapter 86 (relating to registered creditors), resulting from rule review.
- Readoption of Chapter 1 (relating to official interpretations), resulting from rule review.
- Readoption of Chapter 90 (relating to plain language contracts for regulated loans), as well as proposed amendments to this chapter, resulting from rule review.

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

- 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 87 (relating to refund anticipation loan facilitators)  
Chapters 151-153 (relating to home equity lending)
- October 2020: Chapter 84 (relating to motor vehicle sales finance)

### **Attorney General Opinions**

#### ***Opinion No. KP-0289 (Motor Vehicle Service Contracts)***

The Texas attorney general issued opinion no. KP-0289 on March 3, 2020. The opinion concludes that Chapter 1304 of the Texas Occupations Code defines a depreciation benefit service contract as being financed under the Texas Finance Code, and that this definition does not include a cash sale or lease. The attorney general's analysis is consistent with a brief that the OCCC filed in October 2019 concerning this request, in which the OCCC explained the distinctions among retail installment transactions, cash sales, and leases.

#### ***Opinion No. KP-0293 (Pawnshops)***

The Texas attorney general issued opinion no. KP-0293 on March 9, 2020. The opinion concludes that a municipality has no authority to create procedures for pawnshops to record the sale of personal property to the pawnshop, because the Texas Pawnshop Act regulates these procedures and expressly preempts local requirements. However, local jurisdictions may set a hold period of less than 20 days for purchased items, because this is authorized under rules adopted by the Finance Commission. The attorney general issued the opinion in response to a request about a City of College Station ordinance, stating that pawnbrokers must electronically identify and report goods that they purchase. The attorney general's analysis is consistent with a brief that the OCCC filed in October 2019 concerning this request.

### **Advisory Bulletins**

From February 1, 2020 to March 31, 2020, the OCCC issued six advisory bulletins:

- Bulletin B20-1 deals with credit services organizations and loans other than payday or title loans.

The bulletin summarizes Texas attorney general opinion KP-0277, and urges businesses to exercise caution on providing non-credit-access-business loans, to ensure that their representations are accurate.

- Bulletin B20-2 describes emergency measures for regulated lenders to consider in response to the coronavirus. The bulletin urges regulated lenders to work with borrowers during this crisis, and describes requirements relating to electronic signatures and activities performed remotely but associated with a licensed location.
- Bulletin B20-3 describes emergency measures for pawnshops to consider in response to the coronavirus. The bulletin urges pawnshops to work with consumers during this crisis, and describes requirements relating to electronic signatures, protecting pledged goods, and emergency closing.
- Bulletin B20-4 describes emergency measures for credit access businesses to consider in response to the coronavirus. The bulletin urges credit access businesses to work with consumers during this crisis, and describes requirements relating to electronic signatures and activities performed remotely but associated with a licensed location.
- Bulletin B20-5 describes emergency measures for property tax lenders to consider in response to the coronavirus. The bulletin explains that the OCCC will not take reported-related enforcement actions against property tax lenders that file their 2019 annual reports (allowing additional time from the normal March 31 deadline). The bulletin urges property tax lenders to work with borrowers during this crisis, and describes requirements relating to electronic signatures and activities performed remotely but associated with a licensed location.
- Bulletin B20-6 describes emergency measures for motor vehicle sales finance licensees to consider in response to the coronavirus. The bulletin urges licensees to work with consumers during this crisis, and describes requirements relating to electronic signatures and activities performed remotely but associated with a licensed location.

In addition, on April 1, the Joint Financial Regulatory Agencies (OCCC, Texas Department of Banking, Texas Department of Savings and Mortgage Lending, and Texas Credit Union Department) issued a bulletin with guidance on coronavirus emergency measures for home equity lending. The bulletin describes constitutional requirements for modifications and authorized locations for closing a home equity loan.

### **Official Interpretation Requests**

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

### **Public Information Requests**

February 1, 2020, through March 31, 2020	
Requests Received	34
Requests Closed	38
Requests Withdrawn	1
Requests Referred to Office of Attorney General	2

Average Number of Days to Address a Public Information Request	2.2
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### **Gifts Received by the OCCC**

From February 1, 2020 to March 31, 2020, the OCCC received one gift in the amount of \$2,486.10 from the Conference of State Bank Supervisors (CSBS). The gift covered lodging, airfare, and transportation for License and Permit Team Lead, Kaneshia Daniels, to attend the 2020 NMLS annual conference and training in San Francisco, California, February 18-21, 2020.

## **D. OFFICE OF CONSUMER CREDIT COMMISSIONER**

2. Discussion of and Possible Vote to Take Action on the Adoption 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 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 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.

**RECOMMENDED ACTION:** The agency requests that the Finance Commission approve the amendments to 7 TAC Chapter 2 with changes to the proposed text previously published in the *Texas Register*.

**RECOMMENDED MOTION:** I move that we approve 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) adopts 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.

The commission adopts the amendments to §2.104 without changes to the proposed text as published in the February 28, 2020, issue of the *Texas Register* (45 TexReg 1283).

The commission adopts the amendments to §2.106 with changes to the proposed text as published in the February 28, 2020, issue of the *Texas Register* (45 TexReg 1283). The change addresses a recommendation from the staff of the Texas Register, as discussed below.

The commission received no written comments on the proposal.

In general, the purpose of the 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 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 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 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). 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 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. Amendments throughout subsections (c) and (f) of §2.106 would implement these statutory changes from HB 1342. Other amendments to §2.106 include technical corrections, clarifying changes, and updates to citations.

In the original proposal, §2.106(b)(2) was only amended to delete the phrase "from prosecution, law enforcement, and correctional authorities" in accordance with HB 1342. After the proposal was submitted to the Texas Register, staff of the Texas Register recommended adding the phrase "of this section" to §2.106(b)(2). Based on this recommendation, the adopted text of §2.106(b)(2) states: "(2) reliable documents or testimony necessary to make a determination under subsection (c) of this section, including letters of recommendation."

The rule amendments are adopted 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 adopted 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 adoption 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) of this section, 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;



**ADOPTED AMENDMENTS**

**7 TAC CHAPTER 2**

**Page 4 of 6**

(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);~~

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Office of Consumer Credit Commissioner

(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 adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on April 17, 2020.

Matthew J. Nance

**D. OFFICE OF CONSUMER CREDIT COMMISSIONER**

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

**PURPOSE:** The purpose of the 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. The amendments to §86.201 are intended to provide clarity and to update a statutory citation.

**RECOMMENDED ACTION:** The agency requests that the Finance Commission approve the amendments to 7 TAC §86.201 without changes as previously published in the *Texas Register*.

**RECOMMENDED MOTION:** I move that we approve 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) adopts amendments to §86.201 (relating to Documentary Fee) in 7 TAC, Chapter 86, concerning Retail Creditors.

The commission adopts the amendments without changes to the proposed text as published in the February 28, 2020, issue of the *Texas Register* (45 TexReg 1288).

The commission received no written comments on the proposal.

In general, the purpose of the 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 amendments to §86.201 are intended to provide clarity and to update a statutory citation. New subsection (a) would add a purpose statement to specify which vehicles the rule applies to. An 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.

These amendments are adopted 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 adoption 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) [~~(e)~~] 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 adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on April 17, 2020.

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

**D. OFFICE OF CONSUMER CREDIT COMMISSIONER**

4. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 1, Concerning Consumer Credit Regulation, Resulting from Rule Review

**PURPOSE:** Pursuant to Texas Government Code, §2001.039, the OCCC has completed the review of 7 TAC Chapter 1, 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 1 following rule review, because the reasons for the rules continue to exist.

**RECOMMENDED MOTION:** I move that we readopt 7 TAC Chapter 1 following rule review, because the reasons for the rules continue to exist.

*Title 7. Banking and Securities*

*Part 1. Finance Commission of Texas*

*Chapter 1. Consumer Credit Regulation*

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 1, Chapter 1, Consumer Credit Regulation, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapter 1 was published in the *Texas Register* January 31, 2020 (45 TexReg 775). 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 the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 1 continue to exist, and readopts this chapter in accordance with the requirements of Texas Government Code, §2001.039.



**D. OFFICE OF CONSUMER CREDIT COMMISSIONER**

5. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 5, Chapter 90, Concerning Chapter 342, Plain Language Contract Provisions, Resulting from Rule Review

**PURPOSE:** Pursuant to Texas Government Code, §2001.039, the OCCC has completed the review of 7 TAC Chapter 90, 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 90 following rule review, because the reasons for the rules continue to exist.

**RECOMMENDED MOTION:** I move that we readopt 7 TAC Chapter 90 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 90. Chapter 342, Plain Language Contract Provisions*

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 90, concerning Chapter 342, Plain Language Contract Provisions, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapter 90 was published in the *Texas Register* January 31, 2020 (45 TexReg 775). 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 90 continue to exist, and readopts this chapter in accordance with the requirements of Texas Government Code, §2001.039.

## **D. OFFICE OF CONSUMER CREDIT COMMISSIONER**

6. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 5, Chapter 90, Concerning Chapter 342, Plain Language Contract Provisions, Resulting from Rule Review

**PURPOSE:** The purpose of the proposed amendments to 7 TAC Chapter 90 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 clarify requirements for submitting a non-standard plain language contract, and to provide additional model clauses that licensees may use in contracts for regulated loans under Texas Finance Code, Chapter 342.

**RECOMMENDED ACTION:** The agency requests that the Finance Commission approve the amendments to 7 TAC Chapter 90 for publication in the *Texas Register*.

**RECOMMENDED MOTION:** I move that we approve for publication and comment the amendments to 7 TAC Chapter 90.

*Title 7. Banking and Securities*

*Part 5. Office of Consumer Credit Commissioner*

*Chapter 90. Chapter 342, Plain Language Contract Provisions*

The Finance Commission of Texas (commission) proposes amendments to §90.104 (relating to Non-Standard Contract Filing Procedures), §90.202 (relating to Contract Provisions), §90.203 (relating to Model Clauses), §90.204 (relating to Permissible Changes), §90.302 (relating to Contract Provisions), §90.303 (relating to Model Clauses), §90.304 (relating to Permissible Changes), §90.404 (relating to Permissible Changes), §90.504 (relating to Permissible Changes), and §90.604 (relating to Permissible Changes), in 7 TAC, Chapter 90, concerning Chapter 342, Plain Language Contract Provisions.

In general, the purpose of the proposed amendments to 7 TAC Chapter 90 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 90 was published in the *Texas Register* on January 31, 2020 (45 TexReg 775). 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 received one informal precomment on the rule text draft. The OCCC appreciates the thoughtful input provided by stakeholders.

The proposed amendments are intended to clarify requirements for submitting a non-standard plain language contract, and to provide additional model clauses that licensees may use in contracts for regulated

loans under Texas Finance Code, Chapter 342, Subchapter E or F.

The proposed amendments to §90.104(c) provide clarity on the process for submitting a non-standard plain language contract for a regulated loan. These amendments specify that the contract must be submitted in accordance with the OCCC's instructions, and that PDF submissions must be text-searchable, must meet a size requirement, and may not be locked in a manner that prohibits comparison of different version of the contracts. These amendments are intended to enable OCCC staff to efficiently and effectively review non-standard plain language contract submissions. If a PDF submission is not text-searchable (e.g., scanned paper contract or image-only PDF), or if the PDF has security restrictions that prohibit comparison, this prevents OCCC staff from efficiently and effectively reviewing contracts.

Proposed amendments at §90.202(22) and §90.302(22) would specify that the contract for a Subchapter E or Subchapter F loan may include a credit reporting clause. Proposed amendments at §90.203(28) and §90.303(23) include the text of the model credit reporting clause. This text is based on Model Notice B-1 in the Consumer Financial Protection Bureau's Regulation V, 12 C.F.R. pt. 1022, app'x B, which states: "We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report." Proposed amendments would also add this clause to the model Subchapter E

and Subchapter F model contracts attached as figures to §90.204 and §90.304.

In §90.203(b)(7), proposed amendments would update rate bracket amounts for loans under Subchapter E. These amounts are updated annually in the Texas Credit Letter, as provided by Texas Finance Code, §341.203 and §342.201. The updated dollar amounts in the proposed amendments are the amounts that will be in effect starting July 1, 2020, as described in the February 4, 2020 issue of the Texas Credit Letter. In addition, a proposed amendment at §90.203(b)(7)(A) specifies that the clauses in paragraph (A) are for transactions using the add-on method and the scheduled installment earnings method.

Proposed amendments to §90.204, §90.304, §90.404, §90.504, and §90.604 would add the phrase "Model Contracts" to the rule titles. These rules include model plain language contracts as attached figures. The amendments to the rule titles will help readers locate model contracts.

When the OCCC circulated a precomment draft of these rule amendments, the precomment draft included a model servicing and collection contact clause for Subchapter E and F loans, stating: "You may try to contact me at any mailing address, e-mail address, or phone number I give you, as the law allows. You may try to contact me in writing (including mail, e-mail, and text messages) and by phone (including prerecorded or artificial voice messages and automatic telephone dialing systems)." This clause was based on the federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. §227(b)(1)(A) - (B), which generally prohibits creditors and other persons from calling a residential telephone line using an automatic telephone dialing

system or an artificial or prerecorded message without the prior express consent of the called party. In response to the precomment draft, a precommenter expressed concern about whether this clause would be sufficient to constitute prior express consent under the TCPA and its implementing rule that defines the term "prior express consent," 47 C.F.R. §64.1200(f)(8). The precommenter stated that consent under the TCPA is not suited to be included in the promissory note, and that this model clause could lead to risk and liability for lenders. The precommenter also noted that the TCPA is an area of significant litigation, with "uncertain federal guidance and varying court opinions across the country." In response to this precomment, the servicing and collection contacts clause is not included in this proposal. However, the OCCC and the commission invite further comments from stakeholders about whether a TCPA consent would be appropriate as a model clause for plain language contracts, and if so, what the content of the consent should be.

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 proposed 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 aid licensees in preparing contracts that clearly disclose information to borrowers in plain language.

There is no anticipated cost to persons who are required to comply with the amendments as proposed. All new model contract clauses added by the amendments are optional, and licensees may continue using currently compliant plain language contracts if they choose to do so. 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 do not require an increase or decrease in fees paid to the OCCC. The proposed rule changes do not create a new regulation. The proposal would expand existing regulations by specifying requirements for submitting contracts, and providing additional model clauses that lenders may use at their option. The proposed rule changes do not limit 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](mailto: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 amendments are proposed under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts, and to adopt model plain language contracts. In addition, Texas Finance Code, §342.551 authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapters 341 and 342.

*Subchapter A. General Provisions*

*§90.104. Non-Standard Contract Filing Procedures*

(a) Non-standard contracts. A non-standard contract is a contract that does not use the model contract provisions. Non-standard contracts submitted in compliance with the provisions of Texas Finance Code, §341.502(c) will be reviewed to determine that the contract is written in plain language.

(b) Certification of readability. Contract filings subject to this chapter must be accompanied by a certification signed by an

officer of the licensee or the entity submitting the form on behalf of the licensee. The certification must state that the contract is written in plain language and that the contract can be easily understood by the average consumer. The certification must also state that the contract is printed in an easily readable font and type size, including a list of the typefaces used in the contract, the font sizes used in the contract, and the Flesch-Kincaid Grade Level score of the contract. The OCCC will prescribe the form of the certification.

(c) Filing requirements. Contract filings must be identified as to the transaction type. Contract filings must be submitted in accordance with the OCCC's instructions and the following requirements:

(1) Microsoft Word format. One copy must be submitted in a Microsoft Word format with the document having either a .doc or .docx extension. The Flesch-Kincaid Grade Level score of the contract must be based on the Microsoft Word readability statistics function for the Microsoft Word version of the contract.

(2) PDF format. One copy must be submitted in a text-searchable PDF format so that the contract may be visually reviewed in its entirety. The page size must be 8.5 inches by 11 inches or 8.5 inches by 14 inches. The PDF may not be locked or restricted in a way that prohibits comparison of different versions of the contract.

(3) No other formats permitted. The OCCC will not accept paper filings or any other unlisted formats for non-standard contract filings.

(4) Maximum Flesch-Kincaid score. The maximum Flesch-Kincaid Grade Level scores for Chapter 342 contract filings are:

(A) grade 8 for Subchapter F (signature loans);

(B) grade 9 for Subchapter E (secured installment loans);

(C) grade 10 for Subchapter G, computed by scoring the note and security document in one continuous Microsoft Word document (home equity loans, second lien purchase money loans, and second lien home improvement contracts).

(d) Contact person. One person shall be designated as the contact person for each filing submitted. Each submission should provide the name, address, phone number, and fax number, if available, of the contact person for that filing. If the contracts are submitted by anyone other than the licensee itself, the contracts must be accompanied by a dated letter which contains a description of the anticipated users of the contracts and designates the legal counsel or other designated contact person for that filing.

*Subchapter B. Secured Consumer Installment Loans (Subchapter E)*

*§90.202. Contract Provisions*

A Chapter 342, Subchapter E contract may include, but is not limited to, the following contract provisions to the extent not prohibited by law or regulation. If the licensee desires to exercise its rights under one of the following provisions, it must include the provision in the contract. A licensee who does not desire to apply a provision is not required to include it in the contract. For example, if a licensee does not

take a security interest in the borrower's personal property, the provisions addressing security interests are not required. A licensee may also exclude non-relevant portions of a model clause. For example, a licensee who does not routinely finance certain insurance coverages may omit those non-applicable portions of the model clause. A Chapter 342, Subchapter E contract may contain the following provisions:

(1) - (21) (No change.)

(22) A credit reporting clause;

(23) [(22)] A savings clause stating that if any part of the contract is invalid, the rest of the contract remains valid; and

(24) [(23)] OCCC notice.

*§90.203. Model Clauses*

(a) Generally. These model clauses are the plain language rendition of contract clauses that have typically been stated in technical legal terms. Nothing in this regulation prohibits a contract from including provisions that provide more favorable results for the borrower than those that would result from the use of a model clause.

(b) Model clauses for a Chapter 342, Subchapter E secured consumer installment loan contract.

(1) - (6) (No change.)

(7) Finance charge earnings and refund method. The model finance charge earnings and refund method clauses include rate bracket amounts that are updated annually in the Texas Credit Letter. The

model finance charge earnings and refund method clause options read:

(A) For contracts using the add-on interest method and the scheduled installment earnings method, Texas Finance Code, §342.201(a):

(i) For use when the administrative fee is paid in cash or is not included in the cash advance on which interest is computed:

Figure: 7 TAC §90.203(b)(7)(A)(i) *{See attached amendments.}*

(ii) For use when the administrative fee is financed:

Figure: 7 TAC §90.203(b)(7)(A)(ii) *{See attached amendments.}*

(B) (No change.)

(C) For contracts using the scheduled installment earnings method, Texas Finance Code, §342.201(e):

(i) For use when the interest charge is computed by applying a daily rate to brackets under Texas Finance Code, §342.201(e-1)(1), and the administrative fee is paid in cash or is not included in the cash advance on which interest is computed:

Figure: 7 TAC §90.203(b)(7)(C)(i) *{See attached amendments.}*

(ii) For use when the interest charge is computed by applying a daily rate to the brackets under Texas Finance Code, §342.201(e-1)(1), and the administrative fee is financed:



Figure: 7 TAC §90.203(b)(7)(C)(ii) {See attached amendments.}

(iii) - (iv) (No change.)

(D) (No change.)

(E) For contracts using the true daily earnings method, Texas Finance Code, §342.201(e):

(i) For use when the interest charge is computed by applying a daily rate to the brackets under Texas Finance Code, §342.201(e-1)(1), and the administrative fee is paid in cash or is not included in the cash advance on which interest is computed:

Figure: 7 TAC §90.203(b)(7)(E)(i) {See attached amendments.}

(ii) For use when the interest charge is computed by applying a daily rate to the brackets under Texas Finance Code, §342.201(e-1)(1), and the administrative fee is financed:

Figure: 7 TAC §90.203(b)(7)(E)(ii) {See attached amendments.}

(iii) - (iv) (No change.)

(8) - (27) (No change.)

(28) Credit reporting. The Fair Credit Reporting Act, 15 U.S.C. §1681s-2(a)(7), generally requires a creditor to provide a notice to a consumer before furnishing negative information to a credit bureau. The model clause for credit reporting reads: "You may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report."

§90.204. Model Contracts; Permissible Changes

(a) A licensee may consider making the following types of changes to the secured consumer installment loans plain language model clauses:

(1) - (6) (No change.)

(7) A sample model contract using the scheduled installment earnings method is presented in the following example.

Figure: 7 TAC §90.204(a)(7) {See attached amendments.}

(8) A sample model contract using the true daily earnings method is presented in the following example.

Figure: 7 TAC §90.204(a)(8) {See attached amendments.}

(9) (No change.)

(b) (No change.)

*Subchapter C. Signature Loans (Subchapter F)*

§90.302. Contract Provisions

A Chapter 342, Subchapter F contract may include, but is not limited to, the following contract provisions to the extent not prohibited by law or regulation. If the licensee desires to exercise its rights under one of the following provisions, it must include the provision in the contract. A licensee who does not desire to apply a provision is not required to include it in the contract. For example, if a licensee does not take a security interest in the borrower's

personal property, the provisions addressing security interests are not required. A Chapter 342, Subchapter F contract may contain the following provisions.

(1) - (21) (No change.)

(22) A credit reporting clause;

(23) [(22)] OCCC notice;

(24) [(23)] An arbitration agreement;  
and

(25) [(24)] A savings clause stating that if any part of the contract is invalid, all other parts remain valid.

*§90.303. Model Clauses*

(a) (No change.)

(b) Model clauses for a Chapter 342, Subchapter F signature loan contract.

(1) - (22) (No change.)

(23) Credit reporting. The Fair Credit Reporting Act, 15 U.S.C. §1681s-2(a)(7), generally requires a creditor to provide a notice to a consumer before furnishing negative information to a credit bureau. The model clause for credit reporting reads: "You may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report."

*§90.304. Model Contracts; Permissible Changes*

(a) A licensee may consider making the following types of changes to the signature loans plain language model clauses:

(1) - (6) (No change.)

(7) A sample model contract using the add-on method is presented in the following example:

*Figure: 7 TAC §90.304(a)(7) {See attached amendments.}*

(8) A sample model contract using the scheduled installment earnings method is presented in the following example:

*Figure: 7 TAC §90.304(a)(8) {See attached amendments.}*

(9) A sample model contract using the true daily earnings method is presented in the following example:

*Figure: 7 TAC §90.304(a)(9) {See attached amendments.}*

(10) (No change.)

(b) (No change.)

*Subchapter D. Second Lien Home Equity Loans (Subchapter G)*

*§90.404. Model Contracts; Permissible Changes*

(a) - (b) (No change.)

*Subchapter E. Second Lien Purchase Money Loans (Subchapter G)*

*§90.504. Model Contracts; Permissible Changes*

(a) - (b) (No change.)

*Subchapter F. Second Lien Home  
Improvement Contracts (Subchapter G)*

*§90.604. Model Contracts; Permissible  
Changes*

(a) - (b) (No change.)

**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 April 17, 2020.

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

**Amended Figure 7 TAC §90.203(b)(7)(A)(i)**

(Add-on method under §342.201(a), administrative fee not financed)

"Interest will be calculated by using the add-on interest method. Add-on interest is calculated on the full amount of the cash advance and added as a lump sum to the cash advance for the full term of the loan. The interest charge will be:

- \$18.00 per \$100.00 per year on that portion of the cash advance that is \$2,190.00 [~~\$2,070~~] or less; and
- \$8.00 per \$100.00 per year on that portion of the cash advance that is greater than \$2,190.00 [~~\$2,070~~] through \$18,250.00 [~~\$17,250~~].

You base the Finance Charge and the Total of Payments as if I will make each payment on the day it is due. I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. If I prepay my loan in full before the final payment is due, I may save a portion of the Finance Charge. The amount I save will be figured using the scheduled installment earnings method as defined by the Texas Finance Code. I will not get a refund if the amount I save would be less than \$1.00."

**Amended Figure 7 TAC §90.203(b)(7)(A)(ii)**

(Add-on method under §342.201(a), administrative fee financed)

"The cash advance is \$\_\_\_\_. Interest will be calculated by using the add-on interest method. Add-on interest is calculated on the full amount of the cash advance and added as a lump sum to the cash advance for the full term of the loan. The interest charge will be:

- \$18.00 per \$100.00 per year on that portion of the cash advance that is \$2,190.00 [~~\$2,070~~] or less; and
- \$8.00 per \$100.00 per year on that portion of the cash advance that is greater than \$2,190.00 [~~\$2,070~~] through \$18,250.00 [~~\$17,250~~].

You base the Finance Charge and the Total of Payments as if I will make each payment on the day it is due. I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. If I prepay my loan in full before the final payment is due, I may save a portion of the Finance Charge. The amount I save will be figured using the scheduled installment earnings method as defined by the Texas Finance Code. I will not get a refund if the amount I save would be less than \$1.00."

**Amended Figure 7 TAC §90.203(b)(7)(C)(i)**

(Scheduled installment earnings method under §342.201(e), administrative fee not financed)

"The annual rate of interest is: (1) 30% on the unpaid cash advance that is \$3,650.00 [~~\$3,450.00~~] or less; (2) 24% on the unpaid cash advance that is greater than \$3,650.00 [~~\$3,450.00~~] through \$7,665.00 [~~\$7,245.00~~]; and (3) 18% on the unpaid cash advance that is greater than \$7,665.00 [~~\$7,245.00~~] through \$18,250.00 [~~\$17,250~~]. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I may save a portion of the Finance Charge. I will not get a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment."

**Amended Figure 7 TAC §90.203(b)(7)(C)(ii)**

(Scheduled installment earnings method under §342.201(e), administrative fee financed)

"The cash advance is \$\_\_\_\_. The annual rate of interest is: (1) 30% on the unpaid cash advance that is \$3,650.00 [~~\$3,450.00~~] or less; (2) 24% on the unpaid cash advance that is greater than \$3,650.00 [~~\$3,450.00~~] through \$7,665.00 [~~\$7,245.00~~]; and (3) 18% on the unpaid cash advance that is greater than \$7,665.00 [~~\$7,245.00~~] through \$18,250.00 [~~\$17,250.00~~]. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code. The unpaid cash advance includes the administrative fee, but does not include late charges and returned check charges. If I prepay my loan in full before the final payment is due, I may save a portion of the Finance Charge. I will not get a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment."

**Amended Figure 7 TAC §90.203(b)(7)(E)(i)**

(True daily earnings method under §342.201(e), administrative fee not financed)

"The annual rate of interest is: (1) 30% on the unpaid cash advance that is \$3,650.00 [~~\$3,450.00~~] or less; (2) 24% on the unpaid cash advance that is greater than \$3,650.00 [~~\$3,450.00~~] through \$7,665.00 [~~\$7,245.00~~]; and (3) 18% on the unpaid cash advance that is greater than \$7,665.00 [~~\$7,245.00~~] through \$18,250.00 [~~\$17,250~~]. This interest rate may not be the same as the Annual Percentage Rate. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment."

**Amended Figure 7 TAC §90.203(b)(7)(E)(ii)**

(True daily earnings method under §342.201(e), administrative fee financed)

"The cash advance is \$\_\_\_\_. The annual rate of interest is: (1) 30% on the unpaid cash advance that is \$3,650.00 [~~\$3,450.00~~] or less; (2) 24% on the unpaid cash advance that is greater than \$3,650.00 [~~\$3,450.00~~] through \$7,665.00 [~~\$7,245.00~~]; and (3) 18% on the unpaid cash advance that is greater than \$7,665.00 [~~\$7,245.00~~] through \$18,250.00 [~~\$17,250.00~~]. This interest rate may not be the same as the Annual Percentage Rate. The unpaid cash advance includes the administrative fee, but does not include late charges and returned check charges. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment."

## Amended Figure: 7 TAC §90.204(a)(7) (342-E Scheduled Installment Earnings Note)

### CONSUMER CREDIT DISCLOSURE - PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_

DATE OF NOTE \_\_\_\_\_

CREDITOR / LENDER \_\_\_\_\_

BORROWER \_\_\_\_\_

ADDRESS \_\_\_\_\_

ADDRESS \_\_\_\_\_

"I" and "me" and similar words mean each person who signs as a Borrower. "You" and "your" and similar words mean the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  % \$	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.  \$	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.  \$
--	---	--	--

My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

If checked, Borrower is giving a security interest in:

☐ Motor Vehicle    ☐ Property Purchased with the Money from this Loan    ☐ Personal Property    ☐ Other

Late Charge: If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment.

Prepayment: If I pay off early, I may be entitled to a refund of part of the Finance Charge and I will not have to pay a penalty.

Additional Information: See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

I promise to pay the Total of Payments to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment. If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.

I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. [Finance Charge Earnings and Refund Method clause]

If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

#### OPTION A

#### ITEMIZATION OF AMOUNT FINANCED

1. Amount Financed: (2+3+4)	\$ _____
2. Amount given to me directly	\$ _____
3. Amount paid on my account (Net Balance - Prior Account)	\$ _____
4. Amount paid to others on my behalf (A + B + C + D + E + F) (You may be retaining a portion of this amount.)	\$ _____
A. Cost of personal property insurance paid to insurance company \$ _____	
B. Cost of single-interest insurance paid to insurance company \$ _____	
C. Cost of optional credit insurance paid to insurance company or companies	
Life	\$ _____
Disability	\$ _____
Involuntary Unemployment Insurance	\$ _____
Total C:	\$ _____
D. Non-Filing Insurance paid to insurance company	\$ _____
E. Official fees paid to government agencies	\$ _____
F. Payable to: _____	\$ _____
Payable to: _____	\$ _____
Payable to: _____	\$ _____
Total F:	\$ _____
5. Prepaid Finance Charge (Administrative Fee)	\$ _____

I will be in default if:

- I do not timely make a payment;
- I break any promise I made in this agreement;
- I allow a judgment to be entered against me or the collateral;
- I sell, lease, or dispose of the collateral;
- I use the collateral for an illegal purpose; or
- you believe in good faith that I am not going to keep any of my promises.

If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan documents.

**PROPERTY INSURANCE: I must keep the collateral insured against damage or loss in the amount I owe. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas. If I buy personal property insurance through you, the rate is not fixed or approved by the Texas Department of Insurance.**

I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss. If I obtain the insurance through you, I will pay the premium shown below. However, I have 5 days from the date of this loan to furnish like (equivalent) coverage from another source. If I fail to meet any of these requirements, you may obtain collateral protection insurance at my expense. If you obtain collateral protection insurance, you will mail notice to my last known address.

☐ Personal Property Insurance      \$ \_\_\_\_\_      Term \_\_\_\_\_  
☐ Single Interest Insurance (Vehicle)      \$ \_\_\_\_\_      Term \_\_\_\_\_

Credit insurance is optional.

Credit life insurance, credit disability insurance and involuntary unemployment insurance are not required to obtain credit. They will not be provided unless I sign and agree to pay the extra cost.

☐ Credit Life, one borrower      \$ \_\_\_\_\_      ☐ Credit Life, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_\_  
☐ Credit Disability, one borrower      \$ \_\_\_\_\_      ☐ Credit Disability, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_\_  
☐ Credit Involuntary Unemployment Insurance, one borrower      \$ \_\_\_\_\_      Term \_\_\_\_\_

☐ If this box is marked, the premium for the insurance coverage(s) above is not fixed or approved by the Texas Insurance Commissioner.

I want the insurance above.

Borrower's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower's signature: \_\_\_\_\_ Date: \_\_\_\_\_

I agree:

1. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.
2. I promise that all information I gave you is true.
3. If I am in default, you may require me to repay the entire unpaid principal balance, and any accrued interest at once. You don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe. If you don't enforce your rights every time, you can still enforce them later. If this debt is referred to an attorney for collection, I will pay any attorney fees set by the court plus court costs. (Optional: You may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report.)
4. I understand that you may seek payment from only me without first looking to any other Borrower.
5. I don't have to pay interest or other amounts that are more than the law allows.
6. If any part of this contract is declared invalid, the rest of the contract remains valid.
7. **This written loan agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this loan agreement. Any change to this agreement must be in writing. Both you and I have to sign written agreements.**
8. If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.
9. Federal law and Texas law apply to this contract.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

I agree to the terms of this contract. I received a completed copy on \_\_\_\_\_.

X \_\_\_\_\_  
Borrower  
X \_\_\_\_\_  
Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
I received a summary of the contract in Spanish.



# Amended Figure: 7 TAC §90.204(a)(8) (342-E True Daily Earnings Note)

## CONSUMER CREDIT DISCLOSURE - PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_

DATE OF NOTE \_\_\_\_\_

CREDITOR / LENDER \_\_\_\_\_

BORROWER \_\_\_\_\_

ADDRESS \_\_\_\_\_

ADDRESS \_\_\_\_\_

"I" and "me" and similar words mean each person who signs as a Borrower. "You" and "your" and similar words mean the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  % \$	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	Amount Financed The amount of credit provided to me or on my behalf.  \$	Total of Payments The amount I will have paid after I have made all payments as scheduled.  \$
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My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

If checked, Borrower is giving a security interest in:

☐ Motor Vehicle      ☐ Property Purchased with the Money from this Loan      ☐ Personal Property      ☐ Other

Late Charge: If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment.

Prepayment: If I pay off early, I will not have to pay a penalty.

Additional Information: See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

I promise to pay the cash advance plus the accrued interest to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment. [If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.]

I can make any payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. [Finance Charge Earnings and Refund Method clause]

If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

I will be in default if:

- I do not timely make a payment;
- I break any promise I made in this agreement;
- I allow a judgment to be entered against me or the collateral;
- I sell, lease, or dispose of the collateral;
- I use the collateral for an illegal purpose; or
- you believe in good faith that I am not going to keep any of my promises.

If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan documents.

### OPTION A

#### ITEMIZATION OF AMOUNT FINANCED

1. Amount Financed: (2+3+4) \$ \_\_\_\_\_
2. Amount given to me directly \$ \_\_\_\_\_
3. Amount paid on my account (Net Balance - Prior Account) \$ \_\_\_\_\_
4. Amount paid to others on my behalf (A + B + C + D + E + F) \$ \_\_\_\_\_  
 (You may be retaining a portion of this amount.)
  - A. Cost of personal property insurance paid to insurance company \$ \_\_\_\_\_
  - B. Cost of single-interest insurance paid to insurance company \$ \_\_\_\_\_
  - C. Cost of optional credit insurance paid to insurance company or companies
    - Life \$ \_\_\_\_\_
    - Disability \$ \_\_\_\_\_
    - Involuntary Unemployment Insurance \$ \_\_\_\_\_
    - Total C: \$ \_\_\_\_\_
  - D. Non-Filing Insurance paid to insurance company \$ \_\_\_\_\_
  - E. Official fees paid to government agencies \$ \_\_\_\_\_
  - F. Payable to: \_\_\_\_\_ \$ \_\_\_\_\_
  - Payable to: \_\_\_\_\_ \$ \_\_\_\_\_
  - Payable to: \_\_\_\_\_ \$ \_\_\_\_\_
  - Total F: \$ \_\_\_\_\_
5. Prepaid Finance Charge (Administrative Fee) \$ \_\_\_\_\_

**PROPERTY INSURANCE: I must keep the collateral insured against damage or loss in the amount I owe. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas. If I buy personal property insurance through you, the rate is not fixed or approved by the Texas Department of Insurance.**

I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss. If I obtain the insurance through you, I will pay the premium shown below. However, I have 5 days from the date of this loan to furnish like (equivalent) coverage from another source. If I fail to meet any of these requirements, you may obtain collateral protection insurance at my expense. If you obtain collateral protection insurance, you will mail notice to my last known address.

☐ Personal Property Insurance      \$ \_\_\_\_\_      Term \_\_\_\_\_  
☐ Single Interest Insurance (Vehicle) \$ \_\_\_\_\_      Term \_\_\_\_\_

Credit insurance is optional.

Credit life insurance, credit disability insurance and involuntary unemployment insurance are not required to obtain credit. They will not be provided unless I sign and agree to pay the extra cost.

☐ Credit Life, one borrower      \$ \_\_\_\_\_      ☐ Credit Life, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_\_  
☐ Credit Disability, one borrower      \$ \_\_\_\_\_      ☐ Credit Disability, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_\_  
☐ Credit Involuntary Unemployment Insurance, one borrower      \$ \_\_\_\_\_      Term \_\_\_\_\_

☐ **If this box is marked, the premium for the insurance coverage(s) above is not fixed or approved by the Texas Insurance Commissioner.**

I want the insurance above.

Borrower's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower's signature: \_\_\_\_\_ Date: \_\_\_\_\_

I agree:

1. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.
2. I promise that all information I gave you is true.
3. If I am in default, you may require me to repay the entire unpaid principal balance, and any accrued interest at once. You don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe. If you don't enforce your rights every time, you can still enforce them later. If this debt is referred to an attorney for collection, I will pay any attorney fees set by the court plus court costs. (Optional: You may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report.)
4. I understand that you may seek payment from only me without first looking to any other Borrower.
5. I don't have to pay interest or other amounts that are more than the law allows.
6. If any part of this contract is declared invalid, the rest of the contract remains valid.
7. **This written loan agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this loan agreement. Any change to this agreement must be in writing. Both you and I have to sign written agreements.**
8. If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.
9. Federal law and Texas law apply to this contract.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

**I agree to the terms of this contract. I received a completed copy on \_\_\_\_\_.**

X \_\_\_\_\_  
Borrower  
X \_\_\_\_\_  
Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
*I received a summary of the contract in Spanish.*

## Amended Figure: 7 TAC §90.304(a)(7) (342-F Add-On Note)

### CONSUMER CREDIT DISCLOSURE – PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_ DATE OF NOTE \_\_\_\_\_  
CREDITOR / LENDER \_\_\_\_\_ BORROWER \_\_\_\_\_  
ADDRESS \_\_\_\_\_ ADDRESS \_\_\_\_\_  
\_\_\_\_\_

"I" and "me" means each person who signs as a Borrower. "You" means the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.  \$	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.  \$
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My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

Late Charge: If any part of a payment is unpaid for 10 days after it is due, (Option 1:) the late charge will be 5% of the scheduled payment. OR (Option 2:) you can charge me a late charge. If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment.

Prepayment: If I pay off early, I may be entitled to a refund of part of the finance charge.

Additional Information: See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

ITEMIZATION OF THE FINANCE CHARGE	
Acquisition Charge.....	\$ _____
Installment Account Handling Charge.....	\$ _____

ITEMIZATION OF THE AMOUNT FINANCED	
Previous Account.....#	_____
Late Charge on Previous Account.....	\$ _____
Previous Balance.....	\$ _____
Less Refund.....	\$ _____
Net Balance Renewed.....	\$ _____
Cash to me.....	\$ _____
Amount Financed.....	\$ _____

I promise to pay the Total of Payments to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. If I don't pay all of the payment within 10 days after it is due, you can charge me a late charge. (Option 1:) The late charge will be 5% of the scheduled payment. OR (Option 2:) If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment. If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be at a rate of 18% per year and will begin the day after the final payment becomes due.

I can make a whole payment early. The acquisition charge on this loan will not be refunded if I pay off early. If I pay all I owe before the beginning of the last monthly period, I will save part of the installment account handling charge. You will figure the amount I save by the sum of the periodic balances method. This method is explained in the Finance Commission rules. You don't have to refund or credit any amount less than \$1.00.

If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

If I break any of my promises in this document, you can demand that I immediately pay all that I owe. You can also do this if you in good faith believe that I am not going to be willing or able to keep all of my promises. I agree that you don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe.

(Optional: You may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report.)

If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.

I will keep all of my promises in this document. If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan document. I promise that all information I gave you is true.

If you don't enforce your rights every time, you can still enforce them later. Federal law and Texas law apply to this contract. I don't have to pay interest or other amounts that are more than the law allows.

Any change to this agreement has to be in writing. Both you and I have to sign it. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

X \_\_\_\_\_  
Borrower

X \_\_\_\_\_  
Co-Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
*I received a summary of the contract in Spanish.*

## Amended Figure: 7 TAC §90.304(a)(8) (342-F Scheduled Installment Earnings Note)

### CONSUMER CREDIT DISCLOSURE – PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_ DATE OF NOTE \_\_\_\_\_  
CREDITOR / LENDER \_\_\_\_\_ BORROWER \_\_\_\_\_  
ADDRESS \_\_\_\_\_ ADDRESS \_\_\_\_\_  
\_\_\_\_\_

"I" and "me" means each person who signs as a Borrower. "You" means the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.  \$	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.  \$
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My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

Late Charge: If any part of a payment is unpaid for 10 days after it is due, (Option 1:) the late charge will be 5% of the scheduled payment. OR (Option 2:) you can charge me a late charge. If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment.

Prepayment: If I pay off early, I may be entitled to a refund of part of the finance charge and I will not have to pay a penalty.

Additional Information: See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

ITEMIZATION OF THE FINANCE CHARGE	
Acquisition Charge.....	\$ _____
Interest Charge (Installment Account Handling Charge)...	\$ _____

ITEMIZATION OF THE AMOUNT FINANCED	
Previous Account.....#	_____
Late Charge on Previous Account.....	\$ _____
Previous Balance.....	\$ _____
Less Refund.....	\$ _____
Net Balance Renewed.....	\$ _____
Cash to me.....	\$ _____
Amount Financed.....	\$ _____

I promise to pay the Total of Payments to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. I can make a whole payment early.

The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the interest charge (also called the installment account handling charge) by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid principal balance. At the start of the loan, the unpaid principal balance equals the Amount Financed. The unpaid principal balance does not include the acquisition charge, the interest charge, late charges, charges to extend a payment, or returned check fees. You calculate the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply each of my payments in this order: (1) part of the acquisition charge (figured on a straight-line basis under Finance Commission rules), (2) late charges, (3) returned check fees, (4) accrued interest, and (5) the unpaid principal balance. If I pay off the loan in full early, I may save part of the interest charge. However, you can still collect the unpaid acquisition charge, and the acquisition charge will not be refunded. You don't have to refund or credit any amount less than \$1.00.

If I don't pay all of the payment within 10 days after it is due, you can charge me a late charge. (Option 1:) The late charge will be 5% of the scheduled payment. OR (Option 2:) If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment. If I don't pay all I owe by the date the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be at a rate of 18% per year and will begin the day after the final payment becomes due. If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

If I break any of my promises in this document, you can demand that I immediately pay all that I owe. You can also do this if you in good faith believe that I am not going to be willing or able to keep all of my promises. I agree that you don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe.

(Optional: You may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report.)

If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.

I will keep all of my promises in this document. If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan document. I promise that all information I gave you is true.

If you don't enforce your rights every time, you can still enforce them later. Federal law and Texas law apply to this contract. I don't have to pay interest or other amounts that are more than the law allows.

Any change to this agreement has to be in writing. Both you and I have to sign it. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

X \_\_\_\_\_  
Borrower  
X \_\_\_\_\_  
Co-Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
*I received a summary of the contract in Spanish.*

## Amended Figure: 7 TAC §90.304(a)(9) (342-F True Daily Earnings Note)

### CONSUMER CREDIT DISCLOSURE – PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_ DATE OF NOTE \_\_\_\_\_  
CREDITOR / LENDER \_\_\_\_\_ BORROWER \_\_\_\_\_  
ADDRESS \_\_\_\_\_ ADDRESS \_\_\_\_\_  
\_\_\_\_\_

"I" and "me" means each person who signs as a Borrower. "You" means the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.  \$	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.  \$
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My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

Late Charge: If any part of a payment is unpaid for 10 days after it is due, (Option 1:) the late charge will be 5% of the scheduled payment. OR (Option 2:) you can charge me a late charge. If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment.

Prepayment: If I pay off early, I will not have to pay a penalty.

Additional Information: See the contract documents for any additional information about nonpayment, default, and any required repayment in full before the scheduled date.

<b>ITEMIZATION OF THE FINANCE CHARGE</b>	
Acquisition Charge.....	\$ _____
Interest Charge (Installment Account Handling Charge)...	\$ _____

<b>ITEMIZATION OF THE AMOUNT FINANCED</b>	
Previous Account.....#	_____
Late Charge on Previous Account.....	\$ _____
Previous Balance.....	\$ _____
Less Refund.....	\$ _____
Net Balance Renewed.....	\$ _____
Cash to me.....	\$ _____
Amount Financed.....	\$ _____

I promise to pay the unpaid principal balance plus the accrued interest to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. I can make any payment early.

The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the interest charge (also called the installment account handling charge) by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid principal balance. At the start of the loan, the unpaid principal balance equals the Amount Financed. The unpaid principal balance does not include the acquisition charge, the interest charge, late charges, charges to extend a payment, or returned check fees. You calculate the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. You will apply each of my payments in this order: (1) part of the acquisition charge (figured on a straight-line basis under Finance Commission rules), (2) late charges, (3) returned check fees, (4) accrued interest, and (5) the unpaid principal balance. If I pay off the loan in full early, you can still collect the unpaid acquisition charge, and the acquisition charge will not be refunded.

If I don't pay all of the payment within 10 days after it is due, you can charge me a late charge. (Option 1:) The late charge will be 5% of the scheduled payment. OR (Option 2:) If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

If I break any of my promises in this document, you can demand that I immediately pay all that I owe. You can also do this if you in good faith believe that I am not going to be willing or able to keep all of my promises. I agree that you don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe.

(Optional: You may report information about my account to credit bureaus. Late payments, missed payments, or other defaults on my account may be reflected in my credit report.)

If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.

I will keep all of my promises in this document. If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan document. I promise that all information I gave you is true.

If you don't enforce your rights every time, you can still enforce them later. Federal law and Texas law apply to this contract. I don't have to pay interest or other amounts that are more than the law allows.

Any change to this agreement has to be in writing. Both you and I have to sign it. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

X \_\_\_\_\_  
Borrower

X \_\_\_\_\_  
Co-Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
*I received a summary of the contract in Spanish.*