

**A.**

**Finance Commission**

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## FINANCE COMMISSION OF TEXAS

**MEETING DATE** .....April 22, 2022

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

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

**FUTURE MEETING DATES** .....June 24, 2022  
August 19, 2022  
October 21, 2022  
December 16, 2022

*\*\* 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 22, 2022

9:00 a.m.

or Upon Adjournment of the Audit Committee Meeting  
Finance Commission Building  
William F. Aldridge Hearing Room  
2601 N. Lamar Blvd.  
Austin, Texas 78705

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***Section A.3 will take up agenda items A1, B2, B3, C2, C3, and D2 – D4, with NO DISCUSSION as notated in bold and italicized.***

*Public comment on any agenda item or issue under the jurisdiction of the Finance Commission of Texas 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 18, 2022 Finance Commission Meeting***

2. General Public Comment

3. Consent Agenda

4. Finance Commission Operations

5. Audit Committee Report

A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2022 Second Quarter Investment Officer Reports

1. Texas Department of Banking
2. Office of Consumer Credit Commissioner
3. Department of Savings and Mortgage Lending

B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2022 Second Quarter Financial Statements

1. Texas Department of Banking
2. Office of Consumer Credit Commissioner
3. Department of Savings and Mortgage Lending

C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action to Reapprove the Internal Audit Contract for Garza/Gonzalez and Associates for Fiscal Year 2023

D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Department of Banking's Bank Examination Audit Report as Prepared and Presented by Garza/Gonzalez and Associates

E. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Activities of the Texas Financial Education Endowment Fund

6. 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.”

7. Discussion of the Process for the 2023-2027 Strategic Plans for the Finance Commission Agencies
8. Discussion of and Possible Vote to Take Action on the Finance Commission Agencies' Fiscal Year 2022 Mid-Term Accomplishment Reports
9. Discussion of the Condition of the Texas State Banking System Report (*Note: Report provided separately*)
10. 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
11. 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
12. 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
13. 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 §§551.076 and 551.089, Texas Government Code

**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 Readoption of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses, Resulting from Rule Review*
3. *Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 3, Concerning State Bank Regulation, Resulting from Rule Review*
4. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Chapter 33, §§33.7, 33.23, 33.27, 33.33, 33.37, 33.51, 33.54, Concerning Money Services, Resulting from Rule Review
5. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

**C. OFFICE OF CONSUMER CREDIT COMMISSIONER**

1. Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; e) Legal Division Activities; and f) Legislative Activities
2. *Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Chapter*

**83, Subchapter A, Concerning Rules for Regulated Lenders, Resulting from Rule Review**

3. ***Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, Resulting from Rule Review***
4. Discussion of and Possible Vote to Take Action on the 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
5. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 5, Chapter 82, Concerning Administration
6. 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 281<sup>st</sup> Judicial District Court of Harris County, Texas*

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

1. Industry Status and Departmental Operations: a) Thrift Regulation Division Activities; b) Mortgage Regulation Division Activities; c) Operations Division Activities; d) Legal Division Activities, including Consumer Complaints and Gift Reporting; e) Legislative Activities
2. ***Discussion of and Possible Vote to Take Action on the Adoption of a New Rule and Repeal of §80.204 in 7 TAC, Part 4, Chapter 80, Concerning Residential Mortgage Loan Companies***
3. ***Discussion of and Possible Vote to Take Action on the Adoption of a New Rule and Repeal of §81.204 in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators***
4. ***Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 4, Chapter 51, Concerning Charter Applications, and Chapter 52, Concerning Department Administration, Resulting from Rule Review***
5. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New Rules and Repeals in 7 TAC, Part 4, Chapter 51, Concerning Charter Applications, Resulting from Rule Review
6. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of New Rules and Repeals in 7 TAC, Part 4, Chapter 52, Concerning Department Administration, Resulting from Rule Review
7. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

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

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**MINUTES OF THE  
FINANCE COMMISSION MEETING  
Friday, February 18, 2022**

The Finance Commission of Texas convened at 9:11 a.m., on February 18, 2022, with the following members present:

**Finance Commission Members in Attendance:**

Phillip Holt, Chairman	Will Lucas
George “Cliff” McCauley, Vice Chairman	Sharon McCormick
Hector Cerna	Vince Puente
Larry Long	Laura Warren

**Finance Commission Members Absent:**

Robin Armstrong	Debbie Scanlon
Bob Borochoff	

Chairman Phillip Holt made a motion to excuse Robin Armstrong, Bob Borochoff, and Debbie Scanlon from the Finance Commission meeting held on February 18, 2022. There were no objections and the motion passed unanimously. (0:32 on audio file)

Commissioner Charles G. Cooper announced there was a quorum with eight (8) members present. (1:30 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 16 and 17, 2021 Finance Committee Meeting	<b>On Consent Agenda – Item A1</b> This item Approved on the Consent Agenda.	n/a
2. General Public Comment	No Action Required.	2:38 start of discussion
3. Consent Agenda – Items A1, and B2-B4	Laura Warren made a motion to Approve Consent Agenda items A1, and B2-B4. Will Lucas seconded and the motion passed.	3:14 start of discussion  3:33 Vote
4. Finance Commission Operations	No Action Required.	3:57 start of discussion
5. Presentation from the Texas Treasury Safekeeping Trust Company related to the Texas Financial Education Endowment Fund	No Action Required.	5:41 start of discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
6. Audit Committee Report		
A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2022 First Quarter Investment Officer Reports  1. Office of Consumer Credit Commissioner 2. Department of Savings and Mortgage Lending 3. Texas Department of Banking	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies' 2022 First Quarter Investment Officer Reports passed.	38:27 start of discussion  38:41 Vote
B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2022 First Quarter Financial Statements  1. Office of Consumer Credit Commissioner 2. Department of Savings and Mortgage Lending 3. Texas Department of Banking	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies' 2022 First Quarter Financial Statements passed.	38:54 start of discussion  39:02 Vote
C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Activities of the Texas Financial Education Endowment Fund	No Discussion.	n/a
D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Appointment of a New Grant Advisory Committee Member Deborah Reyes	Coming upon the Recommendation from the Audit Committee, no second is required and the motion to Approve the Appointment of a New Grant Advisory Committee Member Deborah Reyes passed.	39:15 start of discussion  39:24 Vote
7. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 8, Chapter 153, Concerning Home Equity Lending	Vince Puente made a motion to Approve the Proposal and Publication for Comment of Amendments to 7 TAC, Part 8, Chapter 153, Concerning Home Equity Lending. Sharon McCormick seconded and the motion passed.	39:51 start of discussion  46:18 Vote
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	No Discussion.	n/a

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
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	No Discussion	n/a
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	No Discussion.	n/a
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 Texas Government Code Sections. 551.076 and 551.089	No Discussion.	n/a
<b>B. 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.	46:56 start of discussion
2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Part 5, Chapter 85, Subchapter B, Concerning Rules for Crafted Precious Metal Dealers	<b>On Consent Agenda – Item B2</b> This item Approved on the Consent Agenda.	n/a
3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Part 5, Chapter 88, Concerning Consumer Debt Management Service, Resulting from Rule Review	<b>On Consent Agenda – Item B3</b> This item Approved on the Consent Agenda.	n/a
4. Discussion of and Possible Vote to Take Action on the Readoption of Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders, Resulting from Rule Review	<b>On Consent Agenda – Item B4</b> This item Approved on the Consent Agenda	n/a

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
5. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 5, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders, Resulting from Rule Review	Laura Warren made a motion to Approve the Proposal and Publication for Comment of Amendments to 7 TAC, Part 5, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders from Rule Review. Larry Long seconded and the motion passed.	1:07:27 start of discussion  1:11:46 Vote
6. 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>	No Discussion.	n/a
<b>C. Department of Savings and Mortgage Lending</b>		
1. Industry Status and Departmental Operations: a) Thrift Regulation Division Activities; b) Mortgage Regulation Division Activities; c) Operations Division Activities; d) Legal Division Activities, including Consumer Complaints and Gift Reporting; and e) Legislative Activities	No Action Required.	1:12:23 start of discussion
2. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of a New Rule and Repeal of §80.204 in 7 TAC, Part 4, Chapter 80, Concerning Residential Mortgage Loan Companies	Will Lucas made a motion to Approve the Proposal and Publication for Comment of a New Rule and Repeal of §80.204 in 7 TAC, Part 4, Chapter 80, Concerning Residential Mortgage Loan Companies. Laura Warren seconded and the motion passed	1:24:52 start of discussion  1:30:54 Vote
3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of a New Rule and Repeal of §81.204 in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators	Larry Long made a motion to Approve the Proposal and Publication for Comment of a New Rule and Repeal of §81.204 in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators. Sharon McCormick seconded and the motion passed.	1:31:08 start of discussion  1:32:54 Vote
4. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Discussion.	n/a

<b>D. Texas Department of Banking</b>		
<b>AGENDA ITEM</b>	<b>ACTION</b>	<b>LOCATION ON AUDIO FILE</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.	1:37:44 start of discussion
2. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Chapter 33, §§33.7, 33.23, 33.27, 33.33, 33.37, 33.51, 33.54, Concerning Money Services, Resulting from Rule Review	Laura Warren made a motion to Approve the Proposal and Publication for Comment of Amendments to 7 TAC, Chapter 33, §§33.7, 33.23, 33.27, 33.33, 33.37, 33.51, 33.54, Concerning Money Services, Resulting from Rule Review. Sharon McCormick seconded and the motion passed.	1:58:27 start of discussion  2:00:22 Vote
3. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Discussion.	n/a

Chairman Phillip Holt called for an Executive Session at 11:12 a.m. (2:01:17 on the audio file). The open meeting resumed at 11:43 a.m. (2:02:49 on the audio file).

<b>AGENDA ITEM</b>	<b>ACTION</b>	<b>LOCATION ON AUDIO FILE</b>
<b>Executive Session</b>		
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 Persona 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	Vince Puente made a motion to Approve the Department of Savings and Mortgage Lending Commissioner Hector Retta consider a One-time Merit Pay Adjustment for Department of Savings and Mortgage Lending Deputy Commissioner Stephany Trotti. Sharon McCormick seconded and the motion passed.	2:02:58 start of discussion  2:03:01 Vote

There being no further business, Chairman Phillip Holt adjourned the meeting of the Finance Commission at 11:44 a.m. (2:04:20 on the audio file).

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Phillip Holt, Chairman  
Finance Commission of Texas

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Charles G. Cooper, Executive Director  
Finance Commission of Texas

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Ruth Wright, Executive Assistant  
Finance Commission of Texas

# Finance Commission of Texas

## Consent Agenda

April 22, 2022

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

1. Review and Approval of the Minutes of the February 18, 2022 Finance Commission Meeting

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

2. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses, Resulting from Rule Review
3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 3, Concerning State Bank Regulation, Resulting from Rule Review

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

2. Discussion of and Possible Vote to Take Action on the Adoption of 7 TAC, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders, Resulting from Rule Review
3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner, Resulting from Rule Review

### **D. Department of Savings and Mortgage Lending**

2. Discussion of and Possible Vote to Take Action on the Adoption of a New Rule and Repeal of §80.204 in 7 TAC, Part 4, Chapter 80, Concerning Residential Mortgage Loan Companies
3. Discussion of and Possible Vote to Take Action on the Adoption of a New Rule and Repeal of §81.204 in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators
4. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 4, Chapter 51, Concerning Charter Applications, and Chapter 52, Concerning Department Administration, Resulting from Rule Review

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## Finance Commission Agencies Tentative Strategic Planning Timeline\*

Date	Action
January – February 2022	<ul style="list-style-type: none"> <li>• Review Survey of Employee Engagement Results</li> <li>• Stakeholder meetings</li> </ul>
March – April 2022	<ul style="list-style-type: none"> <li>• Review Goals and Performance Measures</li> <li>• Conduct and Review Customer Service Survey</li> </ul> Prepare Drafts of: <ul style="list-style-type: none"> <li>• Strategic Plan</li> <li>• Customer Service Report</li> <li>• Workforce Analysis</li> </ul>
Early May 2022	Provide drafts to Strategic Planning Committee and receive feedback
Mid May 2022	Make edits and revisions as necessary
End of May 2022	Provide revised strategic plan drafts to all Finance Commission members
June 2022	<ul style="list-style-type: none"> <li>• Submission of final Strategic Plans, Workforce Analysis, and Customer Service Reports to state leadership</li> <li>• Present strategic plans to Finance Commission for formal action</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: Finance Commission of Texas Members

FROM: Charles G. Cooper, Commissioner

DATE: February 28, 2022

RE: Department of Banking Priorities for Fiscal Year 2022

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#### **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.

**Update:**

- *The agency's staff maintained regular contact with state and federal legislative leadership.*

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

**Measure:** Notify Finance Commission members of significant federal laws and policy statements and how supervised entities may be affected. Provide sufficient information and materials to give members an overall assessment of our regulated industries.

**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.*

I.3 **Objective:** Monitor legislative interim charges that may affect the Department or its regulated entities. Implement legislative changes from the 87th legislative session that affect the agency.

**Measure:** Assist 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.

**Update:**

- *The interim charges for the Texas House of Representatives were released in early March and staff will be monitoring the activities related to these charges.*

**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:** Meet or exceed the strategic planning goals for performance measures. Maintain banking and money services business accreditation from CSBS. Report performance measure results to the Finance Commission quarterly.

**Update:**

- *The Non-Depository Supervision Division (NDS) continues to actively monitor the changing circumstances resulting from the COVID-19 pandemic and adjusts examination schedules accordingly. Based on various risk factors and in coordination with license holders, certain prepaid funeral contract (PFC) and perpetual care cemetery (PCC) examinations are conducted on-site. In the money services business (MSB) area, multi-state coordinated examinations continue to be conducted off-site, including multi-state joint examinations.*
- *The Bank & Trust (B&T) division continues to actively monitor and respond to the changing circumstances resulting from the COVID-19 pandemic. The Department maintains communication with regulated entities between examinations and performs off-site monitoring of key financial metrics. Examinations are being conducted predominantly off-site, but some on-site work is being performed as well as in-person management and board meetings on a limited basis.*
- *Through February 28, 2022, NDS & B&T all key performance measures were either met or exceeded.*

**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. Participate in the networked supervision and examination of MSBs licensed in multi-states. Take proactive steps to respond as issues arise affecting the industries or our supervisory duties.

**Update:**

- *Department staff represented the Department at the Conference of State Bank Supervisors (CSBS) NMLS Annual Conference held virtually beginning on February 22, 2022. Various MSB topics related to examination and industry trends were discussed.*
- *The Commissioner participated as a panelist at the Independent Bankers Association of Texas (IBAT) Winter Summit XXVI in Avon, Colorado in January.*
- *As a member of the State Coordinating Committee (SCC), the NDS Director participated in the SCC – Consumer Financial Protection Bureau (CFPB) Winter Meeting in January 2022 to discuss trends, major developments, key areas of focus, and major findings noted during past examinations. The SCC is responsible for coordinating the supervision of activities related to MSBs, mortgage, debt collection, and payday lending with the CFPB.*
- *The Commissioner and select Department staff participated in the CSBS Supervisor’s Symposium held in San Diego in early December 2021.*
- *The Lubbock Regional Director graduated from the University of Texas – Austin, Executive Management Development Program held over a three-week period ending in November 2021.*
- *Department staff participated in a Money Transmitter Model Law (MSB Model Law) Workshop Series offered by the CSBS in October and November 2021. The series was designed to provide state regulatory agencies with additional knowledge and insight related to the implementation of the MSB Model Law.*
- *Select NDS staff attended the North American Death Care Regulators Association (DCRA) Annual Meeting & Training Seminar held virtually the week of October 4, 2021. The meeting provided a forum for death care state regulators to listen to industry-related presentations and to discuss matters affecting the death care industry.*
- *Department Staff attended the 2021 Community Banking in the 21st Century Research and Policy Conference held virtually beginning on September 28, 2021. This conference, which is co-sponsored by CSBS, the Federal Reserve System, and the FDIC, focused on a wide variety of topics affecting community banks.*
- *Department staff participated in the CSBS Virtual Strategic Planning Meeting beginning on September 20, 2021. This meeting provides the Department with an opportunity to help direct the long-term strategic direction of CSBS as well as set its priorities for the coming year.*
- *Department staff attended the Independent Bankers Association of Texas (IBAT) Annual Convention held in Austin beginning on September 19, 2021.*
- *NDS staff continues to participate in State Examination System (SES) meetings to discuss and provide ongoing feedback to CSBS personnel regarding SES. SES is an examination management system developed by the CSBS to facilitate MSB examinations by improving communication and coordination among the states and licensees. NDS continues to assess SES system functionality during select examinations.*
- *The NDS Director continues to serve as a member of the MTRA Board of Directors.*

- *Commissioner Cooper continues to represent the state banking supervisors on the Financial Stability Oversight Council (FSOC) and attends the meetings of this council.*
- *The General Counsel serves on the CSBS SRR Lawyers Committee.*
- *Commissioner Cooper serves on various CSBS Committees, including:*
  - *Legislative Committee Member At-Large*
  - *Chair of District IV*
  - *Finance Compensation and Benefits Committee*

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. Monitor individual or systemic conditions, including the continuing economic effects of the COVID-19 pandemic, cybersecurity threats and other high-risk activities which present risks to their financial stability. Ensure that supervisory activities remain appropriate 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. Maintain a current bank watch list reflecting entities with a heightened risk of becoming a problem bank.

**Update:**

- *Commissioner Cooper continues to represent the state banking supervisors of the Financial and Banking Information Infrastructure Committee (FBIIC) and attends the meetings and briefings of this group. Director of IT Security Examinations also attends meetings related to cybersecurity.*
- *B&T and NDS are monitoring the developments in Ukraine as well as other state, national, and world political and economic events impacting the industry. Both divisions continue to monitor and respond to changing circumstances brought about by the COVID-19 pandemic on all regulated entities.*
- *B&T and NDS continue to monitor cybersecurity incidents and the impact on the regulated entities and consumers. Incidents are reviewed in coordination with an Information Technology (IT) Specialist, as needed.*
- *Based on available resources and certain risk factors, NDS continues to collaborate with the IT examination staff to conduct reviews of IT systems of MSB license holders.*
- *B&T continues to monitor the condition of banks and trust companies between examination through our off-site monitoring programs. These programs consist of quarterly reviews of call report data, the use of data analytic tools, and conducting calls to bank management. The division's watch list of institutions exhibiting heightened risk is monitored and adjusted quarterly.*

II.4 **Objective:** Monitor emerging issues in our areas of regulation. Determine and communicate the impact of these issues 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, seminars, committees and working groups. Continue to be involved in speaking opportunities with regulated industries to provide updates relating to ongoing supervisory issues.

**Update:**

- *Department staff participated in a combined total of 11 regulatory panel discussions and cyber security presentations in the first six months of fiscal year 2022.*
- *NDS staff continues to participate in various Multi-State MSB Examination Taskforce (MMET) and MTRA committees, including the MTRA Examination Standards Committee tasked with updating the MSB work program and the MTRA Licensing/Emerging Issues calls. The Department also participates in routine scheduling calls facilitated by the MMET to coordinate multi-state examinations as part of the Networked Supervision of MSBs.*
- *NDS staff is a member-at-large of the Executive Committee of the DCRA, which strives to promote a forum for death care regulators to discuss problems affecting the public and death care industry.*
- *A NDS staff participated as a speaker at the annual convention of the Texas Cemeteries & Crematories Association. The annual convention discusses various concerns and issues relating to cemeteries and crematories in Texas.*
- *The Department issued [Industry Notice 2021-07](#), Cybersecurity Awareness Month: Focusing on the Fundamentals, on October 6, 2021. The notice highlighted the fact that the majority of successful cyberattacks are the result of a failure to follow well-established cybersecurity practices. Additionally, the notice provided a link to a short video that highlights a three-step strategy for managing cybersecurity threats in a community bank.*
- *Staff monitored entity office and business closures caused by COVID-19 exposures, Hurricane Nicholas in September 2021, and both Winter Storm events in February 2022. Events of prolong significance were reported to the Finance Commission.*

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

**Measure:** Monitor for and investigate potential 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 and applicable industries. Refer cases as needed to local, state, or federal law enforcement agencies or the Texas Attorney General.

**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, these actions were taken against individuals and entities:*

- *Issued one consent order against a bank.*
- *Issued one removal and prohibition order against bank employee.*
- *Brought one case to hearing involving a bank employee.*
- *Issued six consent orders against unauthorized money transmitters.*
- *Issued one consent order against a licensed money transmitter.*
- *Issued two cease and desist orders against unauthorized prepaid funeral contract sellers.*
- *Brought one case to hearing involving an unauthorized prepaid funeral contract seller.*
- *Eight MSB entities were notified that they 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:** Report complaints/inquiries activity at each Finance Commission meeting. Meet or exceed the strategic planning goals for consumer activity performance measures.

**Update:**

- *Consumer assistance activity is reported at each Finance Commission meeting, which includes the percentage of written complaints resolved in 90 days and the number of written complaints resolved.*
- *Performance measures for consumer assistance activities in the first six months of the fiscal year were met.*
- *A Consumer Assistance Supervisor was hired in September 2021 to supervise and manage the daily operations of the consumer assistance activities area for commercial financial institutions and similar entities as well as maintain the goals and objectives of the area; develop and adhere to procedures and policies; develop priorities and standards to effectively and efficient coordinate and implement complaint activities.*

**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. Continue to perform internal reviews of examination procedures to ensure proper intent and applicability. Timely and regularly communicate updates/changes to examiners. Refine examination procedures and processes in response to changing COVID-19 conditions.

**Update:**

- *Reviewed and revised commercial examination procedures:*
  - *Planning & Control*
  - *Management and COVID-19 Supplemental Review*



- *Reviewed and revised trust examination documents:*
  - *Level II Table of Contents*
- *Reviewed and revised information technology examination:*
  - *Planning & Control*
  - *Table of Contents*
- *Updated examination reference materials for commercial, trust, and IT procedures*
- *Issued new Examiner Bulletin:*
  - *XB 2022-01 Ongoing Assessment of Pandemic Risks and Documentation Requirements for the Call-In Memo and Report of Examination Related to COVID-19 (for commercial examiners) - Issued January 2022*
- *Examiners' Council reviewed bank, trust, and information technology examination workpapers as required per Administrative Memorandum 2015. Findings were communicated to examination staff in a timely manner. (January/February)*
- *Reviewed and revised one money transmitter and one currency exchange MSB examination procedure to assist in verifying compliance with applicable regulations.*
- *Reviewed and revised two PCC procedures to assist in verifying compliance with applicable regulations.*
- *Reviewed and revised six PFC procedures to assist in verifying compliance with applicable regulations.*
- *Updated examination templates for PCC and PFC procedures for consistency.*

### **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.

**Update:**

- *Revised and issued the following Supervisory Memorandum (SM):*
  - *SM 1032 Policy for Other Real Estate Owned (OREO) for State-Chartered Trust Companies (November 2021)*

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.

**Update:**

- *Reviewed 7 TAC Chapter 3, State Bank Regulation rules in accordance with requirement in Texas Government Code § 2001.039. Determined that chapter should continue to exist and identified several rules in the chapter that should be amended. Legal Division staff will present those recommended rule amendments at the April meeting of the Finance Commission.*
- *Reviewed 7 TAC Chapter 33, Money Services Businesses rules in accordance with requirement in Texas Government Code § 2001.039. Determined that chapter should continue to exist, and recommended amendments at the February meeting of the Finance Commission.*

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

**Measure:** Periodically update the Department’s financial education web pages and brochure. Highlight financial institutions with active programs in agency publications. Participate in financial education events and webinars throughout the year.

**Update:**

- *On February 11, 2022, a financial education webinar was held titled “Money Smart: Values, Influences, Spending and Saving” and was presented jointly by the Department and OCCC. Thirty-four attendees participated in this webinar.*
- *The October 2021 edition of the Texas Bank Report featured two financial education articles: “Financial Literacy Initiative Passes 87th Regular Session” and “Financial Education Webinars: Are You in the Know.”*
- *The [financial education brochure](#) and Department’s financial education [web page](#) were reviewed and updated in October 2021.*
- *On November 10, 2021, 30 participants attended the Department and OCCC joint financial education webinar titled “Holiday Spending.”*

**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 job fair events (if available) and supporting banking programs at Texas universities. Utilize recruiting platforms that reach a wide talent pool. Promptly post vacancies. Periodically review and update personnel policies and procedures with changes due to the 87th legislative session.

**Update:**

- *Twenty-three positions were posted from September 1, 2021, through February 28, 2022.*
- *Hired two Financial Examiner I and one Financial Examiner II in NDS.*

- *Hired one Human Resources Specialist IV and one Human Resources Specialist III in Human Resources.*
- *Hired one Administrative Assistant V in Corporate Activities.*
- *Hired three Financial Examiner I and one Financial Examiner I – IT Examiner in B&T.*
- *Hired one Attorney II and one Law Clerk in Legal.*
- *Revised internal hiring procedures and forms.*
- *Utilized LinkedIn account to actively recruit.*
- *Updated Department jobs website page to enhance user experience.*
- *Created a new recruiting brochure for use at career fairs.*
- *Agency representatives attended twelve career fairs.*
- *Created a new Compensation Resource webpage on our intranet that includes the Department’s Compensation Administration Guide and Career Planning Guide.*
- *Updated Recruitment/Workforce Diversity/Equal Employment Opportunity Plan.*

IV.2 **Objective:** Work towards full staffing, with an emphasis on employee retention and staff diversity. Promote junior staff involvement in new responsibilities to enable seamless transition into senior staff positions as vacancies and retirements occur. Continue efforts to maintain a competitive salary structure. Obtain feedback from employees 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. 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.

**Update:**

- *Agency fiscal year 2022 turnover rate through February 28, 2022, was 7.26%. Agency turnover excluding retirements was 4.84%. Financial Examiner turnover was 7.50%. Financial Examiner turnover excluding retirements was 5.00%.*
- *Through February 28, 2022, the agency hired twelve employees and lost twelve.*
- *Promoted thirty-one individuals to positions with increased responsibility and qualifications.*
- *Administered annual performance appraisals for calendar year 2021 using NEOGOV in February 2022.*
- *Administered and received results from UT Survey of Employee Engagement.*

IV.3 **Objective:** Transition to the Centralized Accounting Payroll/Personnel System (CAPPS) HR/Payroll.

**Measure:** Report on activities related to CAPPs HR/Payroll transition and implementation.

**Update:**

- *Attended CAPPs HR/Payroll meetings with Comptroller of Public Accounts implementation team.*
- *Identified and addressed gaps in current Department business processes with CAPPs capabilities.*
- *Reviewed conversation data and provided additional data from Department PERS HRIS for inclusion in CAPPs files.*

IV.4 **Objective:** Maintain 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 and training to staff.

**Measure:** Provide technology tools necessary for staff to perform their job functions efficiently, effectively, and securely. Where appropriate, provide technology solutions that support Department wide remote work in accordance with agency determined limitations. Maintain software currency in accordance with the Department of Information Resources guidelines. Ensure network, website, and databases function appropriately and without prolonged downtimes.

**Update:**

- *Ordered and received replacement computers for staff. Coordinating deployment of the equipment with regional offices for final deployment.*
- *Regional office networks were updated in the first six months of the fiscal year.*
- *MIS continues to move all feasible services to the cloud. The migration of applications and databases are in process while all other services have been migrated.*

IV.5 **Objective:** Safeguard the integrity of data and information technology networks and systems from unauthorized access or use, ensuring that access to critical systems are available during an emergency to staff.

**Measure:** Perform an annual external or internal 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. Execute quarterly information security tabletop exercises to ensure staff are ready to respond to various incident types, when and if they occur.

**Update:**

- *Completed two of the three recommendations identified in the bi-annual Texas Cybersecurity Framework Assessment Report. The remaining item will be completed by the end of July 2022.*

- *Conducted three tabletop exercises to ensure staff are ready to respond to various incident types.*

IV.6 **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 successfully complete the Bank and Trust Supervision commissioning test. Continue agency efforts to provide continuing education to field examiners.

**Update:**

- *Thirty-seven examiners in the Financial Examiner I–III series attended twelve different training courses in the first six months of fiscal year 2022.*
- *In the first half of fiscal year 2022, two examiners received their commission.*
- *A total of 121 examiners attended a two-day internal virtual Cybersecurity class held the week of January 18th.*

IV.7 **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.

**Update:**

- *Monthly financial statements were provided to all divisions for review and reported quarterly to the Finance Commission.*
- *Budget variances are analyzed quarterly.*
- *For the first six months of fiscal year 2022, actual revenues were at 98.9% of budget and actual expenditures were at 88.9% of budget.*
- *Cash reserves are within policy guidelines of at least two months, but no more than six months.*

IV.8 **Objective:** Periodically review internal controls and processes to improve the efficiency and effectiveness of the agency.

**Measure:** Report on improvements identified and implemented.

**Update:**

- *Administrative Memorandums (AM) revisions related to internal processes or procedures:*
  - *Reviewed and revised AM 2017 Accounting for State Property (November 2021).*
  - *Reviewed and revised AM 2025 Internal Purchasing Procedures (January 2022).*

- *Reviewed and updated the Department's Contract Management Guide and Handbook (January 2022).*

IV.9 **Objective:** Continue to explore options for physical relocation of the Finance Commission agencies that meet the needs of all three agencies.

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

**Update:**

- *Real estate brokerage, architectural, and outside legal counsel services contracts are in effect for the relocation of the Finance Commission agencies.*
- *The agencies have been in communications with TxDMV and TxDOT with regard to the parcel on the Camp Hubbard campus. The site is anticipated to be available to the Finance Commission agencies in late 2023. The Finance Commission agencies and TxDOT are working together to implement a Memorandum of Understanding for the Camp Hubbard parcel.*
- *The agencies updated preliminary programming space needs and contacted the Texas Facilities Commission for an analysis and evaluation of the proposed project.*
- *The agencies made a formal request, consistent with the December action of the Finance Commission, to increase the reserves for long term facilities planning to the Office of the Governor, which is pending approval.*

IV.10 **Objective:** Comply with the directives of the State Office of Risk Management (SORM) regarding the Continuity of Operations Plan.

**Measure:** Ensure that updates are made, and the Plan is exercised as determined by SORM.

**Update:**

- *The Plan exercise was conducted and submitted to SORM in January 2022. SORM reviewed the plan and provided positive feedback.*

The Department of Banking is considered to be one of the top financial regulators in the country by our regulatory peers. We work hard to achieve and maintain this position and will continue to improve our processes and techniques to properly supervise the industries that we regulate and serve the citizens of Texas.

Office of Consumer Credit Commissioner

Agency Priorities Mid-Year Status Report

FY 2022

1. LEGISLATIVE

1.1. Legislative Interim Studies.

1.1.1. **Objective:** Participate in legislative interim studies and provide information and research to the Texas Legislature.

**Measure:** Respond promptly to legislative requests for information. Communicate with the Finance Commission regarding interim legislative activity.

**Status:** *During the legislative interim, the Texas Legislature has not issued interim charges directly affecting the OCCC, has not held an interim hearing directly affecting the OCCC, and has not requested information from the OCCC in connection with an interim charge. The OCCC is monitoring interim charges that might indirectly affect the agency or its licensees, relating to data privacy, online consumer protections, and virtual currencies.*

2. REGULATORY ACTIVITIES

2.1. Regulated Entities - Supervision.

2.1.1. **Objective:** Supervise and monitor the jurisdictionally appropriate industry segments for compliance with state and federal law. Investigate illegal activity. Take appropriate enforcement actions to ensure compliance with state and federal law.

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

**Status as of 2/28/2022:**

License Type	Examination Compliance	Enforcement Activity
<i>Pawnshop</i>	<i>100% acceptable level of compliance</i>	<i>4 injunctive actions 6 administrative penalty actions 1 license revocation</i>
<i>Regulated Lender</i>	<i>94.7% acceptable level of compliance</i>	<i>39 injunctive actions 23 administrative penalty actions</i>
<i>Property Tax Lender</i>	<i>92% acceptable level of compliance</i>	<i>0 enforcement actions</i>

<i>Credit Access Business</i>	<i>0% acceptable level of compliance</i>	<i>14 injunctive actions 2 administrative penalty actions</i>
<i>Motor Vehicle Sales Finance</i>	<i>84.3% acceptable level of compliance</i>	<i>4 injunctive actions 2 administrative penalty actions 1 license application denial 2 license revocations</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 1,502 examinations at mid-year which is 100% of the pro rata goal and 50% of the annual goal for fiscal year 2022. The overall compliance rate is 89.9% for all five examination areas combined. Restitution from examinations conducted is \$23,153,076.19 as of February 28, 2022. During this period, the agency closed 98 enforcement actions concerning the five examination areas. The 98 closed cases include 61 injunctive actions, 33 administrative penalty actions, 3 license revocations, and 1 license application denial.*

**2.1.3. Objective:** Actively engage in regulatory activities and supervisory issues relating to consumer finance, auto finance, and payday lending at the national and multistate level.

**Measure:** Maintain active contact with other state and federal regulators, independently and through regulatory associations to keep abreast of trends and emerging issues that may impact the OCC's regulatory responsibilities or the regulated industries. Engage in and respond as appropriate to developing issues that impact the OCC or its regulated entities.

**Status:** *The commissioner is the immediate past president of the National Association of Consumer Credit Administrators (NACCA) and serves on the executive committee. One senior examiner is serving on a NACCA committee as Chair of the Multi-State Auto Finance Committee. Another senior examiner and the Director of Consumer Protection are active on the Consumer Finance Exam Standards Committee.*

**2.1.4. Objective:** Implement Networked Supervision Program by developing processes for using the State Examination System (SES) and participating in auto and mortgage multistate exams.



**Measure:** Report on the number of auto finance and mortgage exams that examiners participated in and the number of examinations conducted through SES.

**Status:** *Senior examiners have led and experienced examiners participated in four multi-state auto exams and two multi-state mortgage exams. The multi-state mortgage exams have utilized the State Exam System (SES).*

## 2.2. Licensing.

**2.2.1. Objective:** Process 85% 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:** *At the end of Q2 the department has processed 57% of license applications within 60 days, anticipating once at full staffing this percentage will rise. The department has continued professional development through customer service trainings and staff attended a webinar in November on delivering great customer service. One of the biggest take-aways was how to handle disgruntled customers. Monthly trainings are conducted including business license round table discussions and team building, along with individual coaching sessions to promote staff development.*

## 3. POLICY AND RULE DEVELOPMENT

### 3.1. Rulemaking.

**3.1.1. Objective:** Complete rule reviews for the following rule chapters: 7 TAC Chapter 83, Subchapter A (relating to regulated lenders) and Chapter 88 (relating to debt management service providers). Work with stakeholders to clarify and improve rules.

**Measure:** Present rules to the Finance Commission for readoption according to schedule. Propose appropriate rule amendments to the Finance Commission. Request feedback from stakeholders on whether rules should be updated, and conduct webinars on proposed rule amendments.

**Status:** *The Finance Commission has completed these two rule reviews. In December 2021, the Finance Commission completed the rule review of 7 TAC Chapter 88 by readopting the chapter, with amendments proposed in a separate rulemaking action. In February 2022, the Finance Commission completed the rule review of 7 TAC Chapter 83, Subchapter A by readopting the subchapter, with amendments proposed in a separate rulemaking action. Before presenting these rule actions to the Finance Commission, OCCC staff posted advance notices of rule review and held webinars to obtain input from stakeholders.*

**3.1.2. Objective:** Prepare any rule proposals necessary to implement 2021 legislation. Work with stakeholders to seek feedback on proposed rules.

**Measure:** Present rules to the Finance Commission for proposal and adoption. Request feedback from stakeholders and conduct webinars on proposed rules.

**Status:** *In February 2022, the Finance Commission adopted rule amendments that implemented SB 1132 (2021) by adjusting registration fees for crafted precious metal dealers. In April 2022, the OCCC intends to present proposed amendments that would implement SB 15 (2021) by specifying requirements for motor vehicle records privacy. Before presenting these rule actions to the Finance Commission, OCCC staff held webinars to obtain input from stakeholders.*

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

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

**4.1.1. Objective:** Conclude the TFEE 2021-2022 grant cycle, including monitoring the completion of award recipient's grant cycles, reporting on grant award program progress, and processing reimbursement requests. Begin the TFEE 2022-2023 grant cycle, including selecting award recipients, monitoring grant award recipients, reporting on grant award program progress, and processing reimbursement requests.

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

**Status:** *The 2021-2022 grant cycle ending on December 31, 2021. All eligible expenses have been reimbursed. The agency is working on a final longitudinal report which will be published this summer. Additionally, the 2022-2023 grant cycle has begun and award recipients are actively engaging participants in financial education programs as a result of TFEE funding. The first reimbursement requests for the 2022-2023 grant cycle will be processed over the summer.*

##### 4.2 Financial Education

**4.2.1. Objective:** Identify underserved populations and locations in need of financial education. Provide and support financial education to new demographics of consumers by collaborating with community organizations, state agencies, non-profit organizations, and consumer advocacy groups. Continue to collaborate with the Department of Banking in the promotion and delivery of financial education. Further expand financial education content by remote learning and webinar techniques.

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

**Status:** *As of the second quarter of FY '22 staff has provided financial education to 239 participants, reached out to 13 organizations to promote financial education services or support, and continues to utilize social media to promote agency webinars and educational classes. The agency is currently actively recruiting a Financial Education*

*Specialist to ensure continued innovative educational programs and outreach opportunities.*

#### **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:** *As of the second quarter of FY '22 the agency has participated in a number of events to foster communications with stakeholders. The agency participates in a DMV Motor Vehicle seminar on a reoccurring basis and also hosted several rule review webinars. Additionally, the agency has a staff member serving on the board of the Texas Jump\$tart Coalition and financial examiners routinely participate in training events with NACCA and AARMR.*

### **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 agency is currently meeting or exceeding the measure on 8 of 11 key performance targets. Staff shortages in licensing and communication have posed challenges to achieving these objectives, with active recruitment efforts continuing.*

#### **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:** *The turnover ratio is 9.76%, due to retirements, voluntary separations and inter-agency transfers. In coordination with the budget preparation for FY23, comparative analysis of staff compensation is planned.*

- 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:** *The accounting department director is attending professional development training through the State Auditor's Office. Before July 31, financial examiners are expected to participate in supplemental training classes that will meet the annual training objective. The training content will be based upon recent exams and emerging issues, and will be conducted in two separate tracts taught by senior examiners. Other staff throughout the agency are exploring relevant training opportunities. Staff continue to receive regularly scheduled cybersecurity 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:** *Currently the OCCC is working to fill a vacancy in the HR Officer position. In the meantime, agency policies are being reviewed and updated. Supervisor training resources remain in development.*

### **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 OCCC management monitors and reviews 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 during FY 22 is within the budgeted levels approved by the Finance Commission. At the end of Q2 the pro forma fund balance, contemplating the recent action on building reserve funding, is at 6.6 months, slightly above the liquidity guidelines. The OCCC's revenue collection is seasonal with most revenue received in the first third of the year. The projected fund*

*balance for the fiscal year end would fall within the liquidity guidelines. The OCCC will continue to closely monitor its financial position.*

- 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. Real estate brokerage, architectural, and outside legal counsel services contracts are in effect for the relocation of the Finance Commission agencies. The agencies have been in communications with TxDMV and TxDOT with regard to the parcel on the Camp Hubbard campus. The site is anticipated to be available to the Finance Commission agencies in late 2023. The Finance Commission agencies and TxDOT are working together to implement a Memorandum of Understanding for the Camp Hubbard parcel. The agencies updated preliminary programming space needs and contacted the Texas Facilities Commission for an analysis and evaluation of the proposed project. The agencies made a formal request, consistent with the December action of the Finance Commission, to increase the reserves for long term facilities planning to the Office of the Governor, which is pending approval.*

#### **5.4. Information Technology.**

- 5.4.1. Objective: CAPPs Financial & HR Migration.** Complete OCCC migration to CPA's CAPPs (Centralized Accounting and Payroll/Personnel System) Financial system and undertake subsequent introduction of CAPPs HR system.

**Measure:** Successful, on-time transitions to Financial and HR systems.

**Status:** *The CAPPs-HR/Payroll project is 62% complete. Project phases are ongoing with User Acceptance Testing scheduled to begin May 9, 2022. Cut over and go live is scheduled for July 11, 2022. CAPPs Financials is fully implemented and all FY22 transactions are being recorded in CAPPs.*

- 5.4.2 Objective: Remote Access Security Improvements.** Improve remote access security posture by introduction of new utility, coordinated under a DIR program.

**Measure:** Activation and successful deployment of utility.

**Status:** *The project to introduce a new utility for remote access is ongoing with DIR. Fact-finding has been completed and connectivity is in testing and configuration. Go-live is planned for mid-July.*

- 5.4.3 Objective: Cloud Backup and Dark Capacity.** Improve continuity of operations by conversion of OCCC backup procedures to DIR's cloud services, and contract to using the

Dark Capacity server recovery service. These are separate services which both improve the agency's posture for potential disaster recovery.

**Measure:** Commencement and completion of the initial data copy and subsequent updates.

**Status:** *This project is coordinated with DIR Shared Technology Services. The cloud backup phase is near completion and should be complete by April 30, 2022. The dark capacity phase will follow.*

**5.4.4 Objective: Web-based TPE Payment Page for Non-ALECS Transactions.** Update OCCC's payment options by introducing a payment webpage for digital transactions outside the scope of ALECS, executed through NIC's Transaction Processing Engine.

**Measure:** Progress on project implementation and reporting of revenue streamed through the webpage.

**Status:** *Initial responses to the Statement of Work were surprisingly cost-prohibitive. OCCC is exploring alternatives. One potential option is a webpage payment template that DIR has indicated will be ready later in 2022.*

**5.4.5 Objective: ALECS Enhancements.** Continuing improvements to ALECS, including operations related to recent legislative requirements for Crafted Precious Metal Dealers (CPMD).

**Measure:** Deployment of CPMD functionality as defined and on time.

**Status:** *An ALECS build that deployed the legislative requirements for Crafted Precious Metal Dealers was released at end of November 2021.*



## Agency Priorities for Fiscal Year 2022

### I. Legislative

**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 has monitored the Interim Charges and has reported to the Finance Commission concerning such charges.*

**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:** *The Department has monitored federal legislation and has reported to the Finance Commission concerning legislation that may affect the Department or its regulated industries.*

### II. Regulatory

**II.1 Objective:** Continue to monitor closely 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 monitored quarterly financials reported by state savings banks to identify risks or trends in the portfolio and a summary of the portfolio was reported to the Finance Commission on a regular basis. As of February 28, 2022, the department has conducted 12 examinations of state savings banks. The Department has maintained the state savings bank priority examination schedule. During the first half of FY22, no enforcement actions were issued.*

**II.2 Objective:** Continue compliance examinations of mortgage companies and Residential Mortgage Loan Originators, licensed under Finance Code, Chapters 156, 157, and 159 respectively; to ensure that licensees comply 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, 2022, the Department has conducted 207 examinations of mortgage entities covering 8,478 mortgage loan originators. The Department maintained the mortgage examination schedule, as set by the Department policy, and issued formal and informal enforcement actions as deemed*

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necessary. The Department has provided information on the top violations to the industry on the Mortgage Examination page of its website and at various presentations to local associations.

**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 28, 2022, the Department has taken 95 enforcement actions, arising from mortgage examinations and consumer 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.
- c. Conduct consumer complaint surveys on a regular basis.

**Status:**

- a. *The Department provided regular reports to the Finance Commission concerning the aging of complaints. As of February 28, 2022, 98% of the open consumer complaints were aged 90 days or less.*
- b. *As of February 28, 2022, the Department had 1 complaint aged over 120 days (representing less than 1% of open consumer complaints). Management has reviewed regularly complaint aging in order to resolve complaints on a timely basis, with an emphasis on resolving complaints aged over 120 days as expeditiously as possible.*
- c. *The Department conducted and reviewed on a monthly basis consumer complaint surveys in order to identify any trends and potential areas for improvement, including opportunities for staff training and potential adjustments to processes and procedures concerning the analysis and investigation of consumer complaints.*

**II.5 Objective:** Process complete licensing applications and registrations in a timely manner.

**Measure:**

- a. Monitor the timeliness of licensing process.
- b. Conduct survey of license applicants on a regular basis.

**Status:**

- a. *The Department has monitored the timeliness of the licensing process on ongoing basis. In order to improve the processing times for license requests, during the first half of FY22, the Department hired two License and Permit Specialists and used the services of two temporary employees to process residential mortgage loan originator applications (MU4s).*
- b. *The Department conducted licensing customer service surveys quarterly and reviewed the results in order to identify any actionable items.*



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**II.6 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:**

- a. *On September 10, 2021, the Finance Commission and Credit Union Commission published proposed amendments to the home equity interpretation rules (7 TAC §§153.1, 153.5, 153.12, 153.13, 153.17, 153.22, 153.26, 153.45 and 156.51) in the Texas Register, designed to (i) specify requirements for electronic disclosures and (ii) describe the applicability of the Texas Constitution's home equity provisions (Article 16, Section 50) to out-of-state financial institutions. On December 31, 2021 such amendments were published in the Texas Register for adoption, and became effective on January 6, 2022.*

*During the first half of FY22 the Home Equity Lending Working Group held meetings to discuss potential amendments to the home equity interpretative rules of the Joint Financial Regulatory Agencies in response to an informal request for an interpretation (7 TAC §151.1(c)) received in August of 2021. On March 25, 2022, the Finance Commission and Credit Union Commission published proposed amendments to 7 TAC §153.1 in the Texas Register, designed to (i) amend the definition of "business day" to ensure that the definition appropriately excludes legal public holidays (including recognition of the Juneteenth National Independence Day), reflects the common understanding of "business day" in the context of mortgage loan disclosures, and is consistent with similar definitions under federal law, and (ii) make technical corrections to ensure consistency in the text of other definitions. It is anticipated that the Finance Commission and Credit Union Commission will adopt a version of the proposed amendments in June of 2022, and that the amended rule will become effective sometime in July of 2022.*

- b. *The Department has implemented the rules and interpretations adopted by the Finance Commission, and will implement any new such rules and interpretations adopted during the remainder of FY22.*

**II.7 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, and AARMR), trade associations, (e.g. TBA, IBAT, TMBA, ATMP, TLTA, 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:** *The Department maintained contact with regulatory agencies, including FDIC, FRB, CFPB and the various trade associations to coordinate supervisory oversight of the state savings banks and the mortgage*

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industry. Deputy Commissioner, Stephany Trotti, participated in the regulator panel for annual IBAT convention as well as the Southwest Association of Bank Counsel. The Mortgage Regulation Division actively engaged in various webinar meetings with AARMR, CFPB, CSBS, NMLS and other state regulators to stay abreast of issues affecting the mortgage industry. Some of the webinars or meetings include the State/CFPB Mortgage Implementation Call, CSBS State Examination System Hive meeting, and NMLS Ombudsman meeting. Several members of the Mortgage Regulation Division also served roles with the AARMR Board of Directors and NMLS Policy Committee. The Department reported participation in the above activities to the Finance Commission on a regular basis.

**II.8 Objective:** Establish, administer, and maintain a Mortgage Grant Fund as required by Subchapter G of the Chapter 156 of the Texas Finance Code.

**Measure:**

- a. Develop and create a Mortgage Grant Administration Manual that establishes the policies and procedures for governing the administration of the fund and the issuance of any grant funds.
- b. Appoint a Grant Coordinator to assist the Commissioner in discharging his or her duties related to the Mortgage Grant Fund.
- c. Establish a Mortgage Grant Advisory Committee to serve in an advisory role and make program recommendations to the Commissioner and Grant Coordinator regarding the administration of the fund and the award of grant(s) from the Mortgage Grant Fund.
- d. Provide periodic reports to the Finance Commission on the creation, development, and implementation of the Mortgage Grant Fund.

**Status:** *The Department has adopted rules to support the Mortgage Grant Fund processes and procedures. The Department has drafted the Mortgage Grant Administration Manual.*

**II.9 Objective:** Develop and implement policies and procedures for the examination or inspection of wrap lenders registered under Chapter 159 of the Texas Finance Code.

**Measure:**

- a. Develop examination policies and procedures for the examination or inspection of wrap lenders.
- b. Provide training to Financial Examiners regarding the new examination policies and procedures for the examination or inspection of wrap lenders.

**Status:**

- a. *During the first half of FY22, the Department has drafted policies and procedures for the examination or inspections of wrap lenders including changes to the Application Compliance Worksheet (ACW), an examination checklist used by the mortgage financial examiners.*
- b. *The Department has provided two training sessions to the mortgage financial examiners regarding the statutes and rules involving wrap mortgage loan transactions.*

### III. Policy and Rule Development

**III.1 Objective:** Conduct rule review of all rules related to mortgage licensing. Propose necessary amendments to the rules as necessary.

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

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**Status:** *On September 10, 2021, the Finance Commission published, in the Texas Register, proposed changes to the Department's mortgage licensing rules, identified during rule review. On October 29, 2021, the changes were published for adoption in the Texas Register and became effective on November 4, 2021.*

**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 implement necessary changes timely.

**Status:** *On September 3, 2021, the Finance Commission published, in the Texas Register, proposed new rules 7 TAC §80.206 and §81.206, designed to provide clear guidance to licensed mortgage companies and registered mortgage bankers concerning licensing/registration requirements for office locations and the ability for the employees and sponsored mortgage loan originators to work remotely. On October 29, 2021, the new rules were published for adoption in the Texas Register and became effective on November 4, 2021.*

*In February 2022, the Finance Commission approved for publication, in the Texas Register, the proposed repeal and new rule of 7 TAC §80.204, and §81.204, designed to provide clear guidance to licensed mortgage companies and individual loan originators, and registered mortgage bankers concerning the books and records they are required to maintain to comply with applicable state and federal law (including Finance Code Chapter 159, Wrap Mortgage Loan Financing, which became effective on January 1, 2022).*

**III.3 Objective:** Propose rules necessary to implement enacted bills that impact the Department or the industries.

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

**Status:** *During the first half of FY22, rule changes were adopted to implement HB3617 and SB1900 and the enactment of changes to Finance Code §156.2041 and §156.2042, concerning the elimination of physical office requirements for licensed mortgage loan companies.*

*During the same period, rule changes were adopted to implement HB3617 and the enactment of new Finance Code Chapter 156, Subchapter G, concerning the creation of the mortgage grant fund.*

*During the first half of FY22, rule changes and the new 7 TAC Chapter 78, Wrap Mortgage Loans, were adopted to implement SB43 and the enactment of new Finance Code Chapter 159, concerning the regulation of wrap mortgage loan financing.*

*During the first half of FY22, rule changes to amend 7 TAC §76.95, relating to Special Examination Fees, were adopted to clarify the examination authority over savings bank affiliates and third-party servicers, as a result of SB1900 and the enactment of changes to Finance Code Chapter 96.*

## 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 virtual and in person 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.

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**Status:** *The Mortgage Regulation Division has participated in numerous virtual and in person events with the mortgage industry including:*

- *On September 2, 2021, Director of Mortgage Regulation William Purce provided a virtual presentation to the Originator Connect Network's Texas Mortgage Round Up. The presentation included updates on the Department's progress in completing license requests and conducting examinations of residential mortgage loan companies and mortgage bankers.*
- *On October 12, 2021, Director of Mortgage Regulation William Purce provided an in-person presentation to the San Antonio Texas Mortgage Bankers Association. The presentation discussed: (1) the staffing changes within the Department; (2) current licensing issues, (3) mortgage examination issues; (4) common complaint issues; and (5) the upcoming new regulations. On November 8, 2021, the Department held its 9th Annual Mortgage Industry Day at the Renaissance Dallas at Plano Legacy West Hotel in Plano, TX, and provided numerous presentations to the mortgage industry. The presentations addressed various topics including cybersecurity and information security plans.*
- *On February 22, 2022, Chief Mortgage Examiner Ellena Meier provided a presentation during the 2022 NMLS Annual Conference to address the "Facts and Fiction about (Mortgage) Accreditation."*
- *Beginning in September 2021, the Mortgage Regulation Division held monthly emerging issues webinars with interested stakeholders to address issues affecting the licensing and examination of mortgage related entities or individuals.*

*The Thrift Regulation Division participated in numerous virtual and in person events with the state savings bank industry including:*

- *On September 18-21, 2021, Deputy Commissioner Trotti attended and spoke at the Independent Bankers Association of Texas (IBAT) annual convention in Austin, Texas. The four-day event took an in-depth look at key issues affecting the banking industry, specifically those related to community banks.*
- *On September 9, 2021, the Department held the 14th Annual Thrift Industry Day virtually/in person. Celeste Embrey (TBA), John Fleming (TMBA), and Steve Scurlock (IBAT) provided the industry with a legislative updates. Jeremy Wilson with the Department of Information Resources discussed emerging issues and best practices regarding cybersecurity. The Thrift Regulation Division staff made presentations relating to topics of interest to the industry.*
- *On October 7, 2021, Deputy Commissioner Trotti spoke on the Regulatory Panel at the Southwest Association of Bank Counsel's 2021 Annual Legal Conference in San Antonio, Texas. The conference covered legal issues affecting the day-to-day management of banks.*
- *The Thrift Regulation Division held emerging issues webinars for state savings banks monthly to address and bring awareness to issues affecting financial services.*

## V. Agency Operations

**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 employee departure and to prepare for business needs due to changes in regulated industries and/or technology. Provide and promote opportunities for professional development through individual training plans.

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

**Status:** *During the first half of FY22, the Department filled three positions and had three separations of employment. During the same period, 100% of personnel received job-related training.*

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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.

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

**Status:** *The Department reports quarterly its performance to the Finance Commission. As of the end of the second quarter for FY2022, the Department has met or exceeded all key performance measures.*

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 outcome of audits and implementation progress to Finance Commission Audit Committee.

**Status:** *During the first half of FY22, the Department has not had any audits. As of February 28, 2022, there are no outstanding audit findings, recommendations, or observations. Business processes, however, continue to be reviewed and improved as necessary.*

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

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

**Status:** *Reports were submitted quarterly to the Finance Commission as required, with detailed explanations of budget variances 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:** *During the first half of FY22, the updated Department's website was published. The Department's Information Resources staff worked with DIR and third-party contractors to prepare for the transition of the Department's network to the Data Center. The Department's externally-faced systems and applications underwent an External Network Penetration Test and Web Application Vulnerability Scan. As deemed appropriate, the Department has implemented critical patches, updates, and upgrades to the network and staff computers.*

V.6 **Objective:** Deploy the Centralized Accounting and Payroll/Personnel System (CAPPS) Financials' Core Modules: Asset Management, Accounts Payable, General Ledger, and Purchasing. Prepare for the deployment of the CAPPS Human Resources/Payroll Modules, scheduled for September 1, 2022.

**Measure:** Provide necessary information and documentation, perform tasks, and participate in onboarding and deployment activities, as required by Comptroller of Public Account's CAPPS Teams and according to

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the Interagency Cooperation Contract for CAPPs Services between the Texas Comptroller of Public Account and the Department of Savings and Mortgage Lending.

**Status:** *During the first half of FY22, the CAPPs Financials modules were deployed successfully. The Department's staff has actively participated in all work sessions related to the preparations for deployment of CAPPs HR/Payroll and has provided timely all items required by the Comptroller's CAPPs HR/Payroll Team related to security, module configurations, and mock conversions.*

**V.7 Objective:** Monitor emergencies, natural disasters, or pandemics as they relate to the Department or its regulated industries.

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

**Status:** *The Department reported to the Finance Commission on the COVID-19 pandemic impact on the operational and examination activities on- and off-site, the staff, and the regulated industries.*

**V.8 Objective:** Continue to evaluate 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:** *Real estate brokerage, architectural, and outside legal counsel services contracts are in effect for the relocation of the Finance Commission agencies.*

*The agencies have been in communications with TxDMV and TxDOT with regard to the parcel on the Camp Hubbard campus. The site is anticipated to be available to the Finance Commission agencies in late 2023. The Finance Commission agencies and TxDOT are working together to implement a Memorandum of Understanding for the Camp Hubbard parcel.*

*The agencies updated preliminary programming space needs and contacted the Texas Facilities Commission for an analysis and evaluation of the proposed project.*

*The agencies made a formal request, consistent with the December action of the Finance Commission, to increase the reserves for long-term facilities planning to the Office of the Governor, which is pending approval.*

**B.**

**Texas Department of Banking**

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Charles G. Cooper  
Commissioner

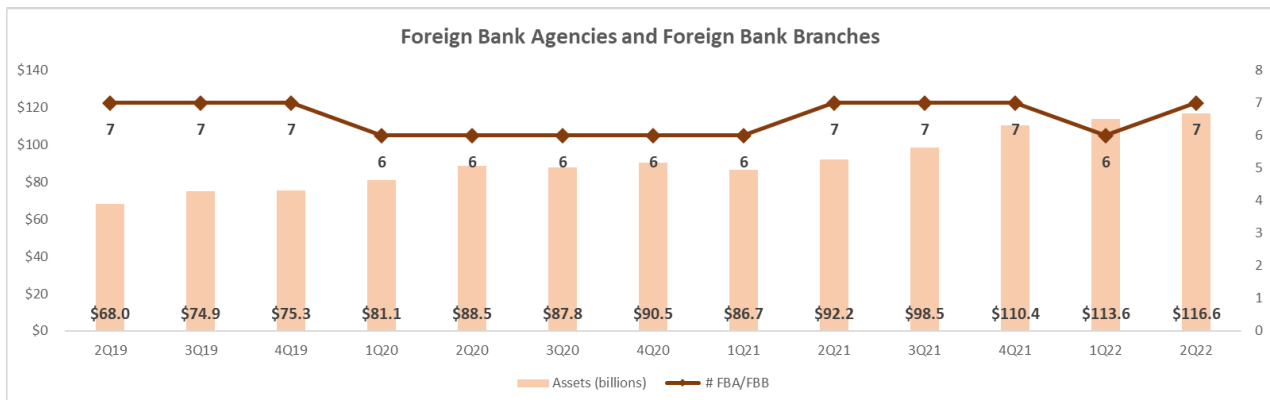
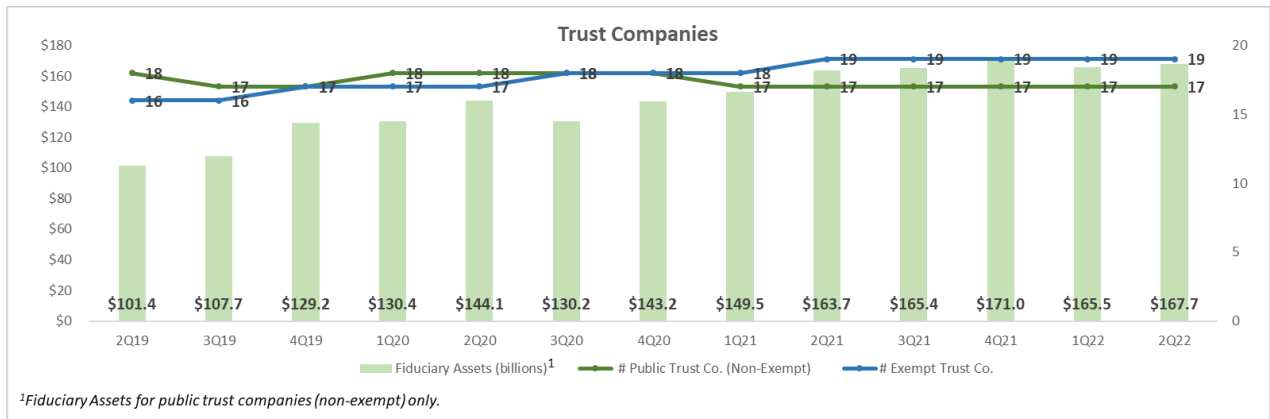
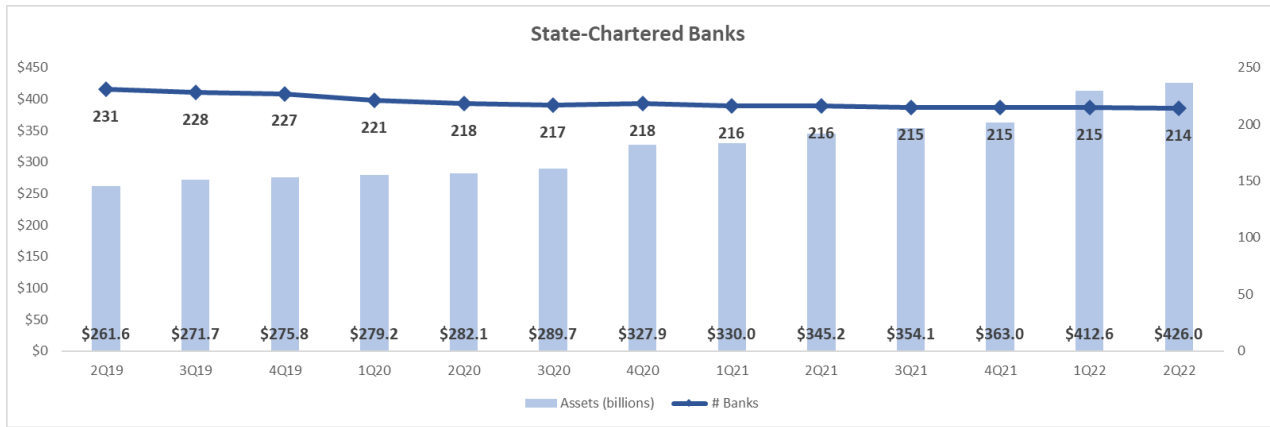
# TEXAS DEPARTMENT OF BANKING

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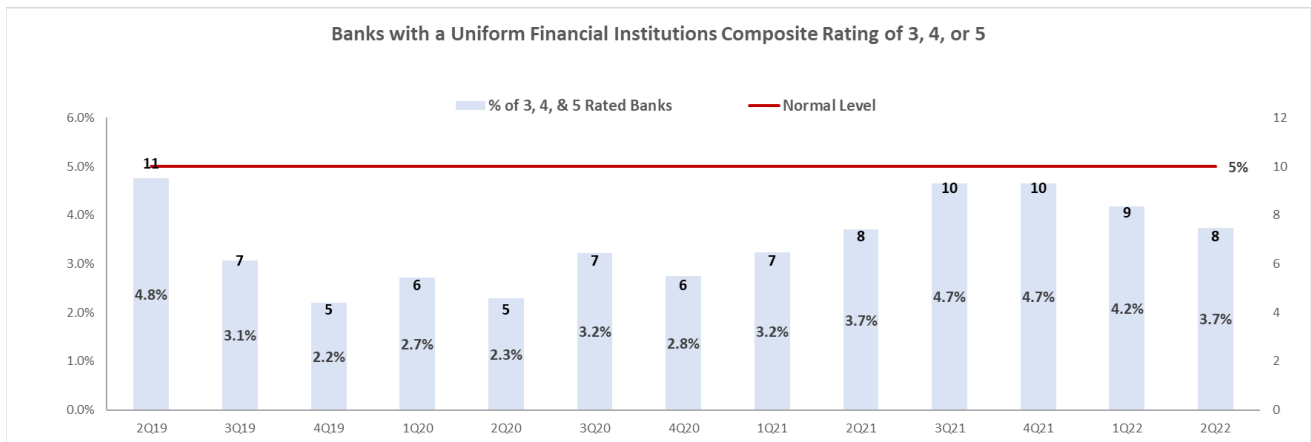
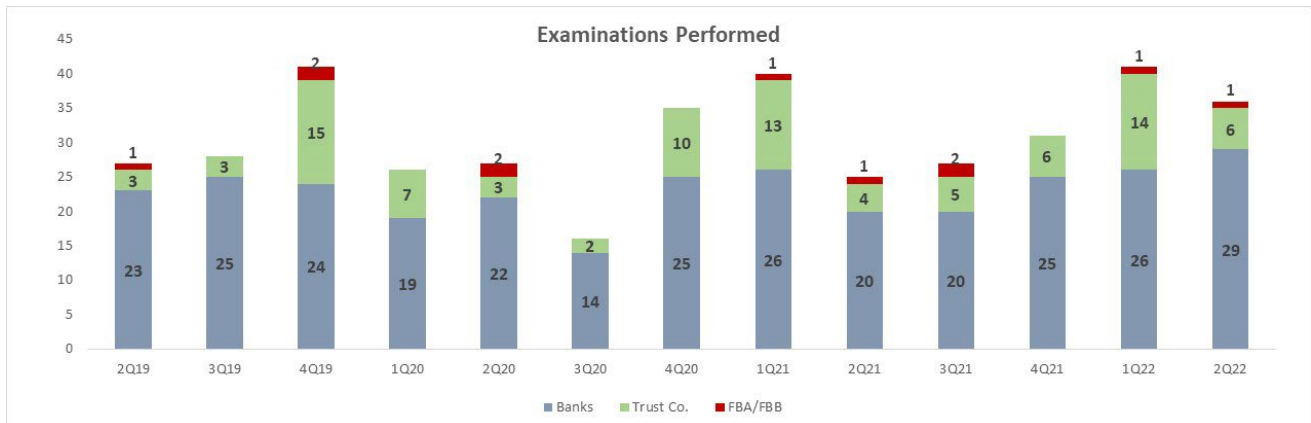
To: Finance Commission Members  
From: Daniel Frasier, Director of Bank & Trust Supervision *DBF*  
Date: April 6, 2022  
Subject: Summary of the Bank & Trust Supervision Division Activities

## Bank and Trust Supervision – Industry Profiles

As of fiscal quarter-end (assets as of the preceding calendar quarter)

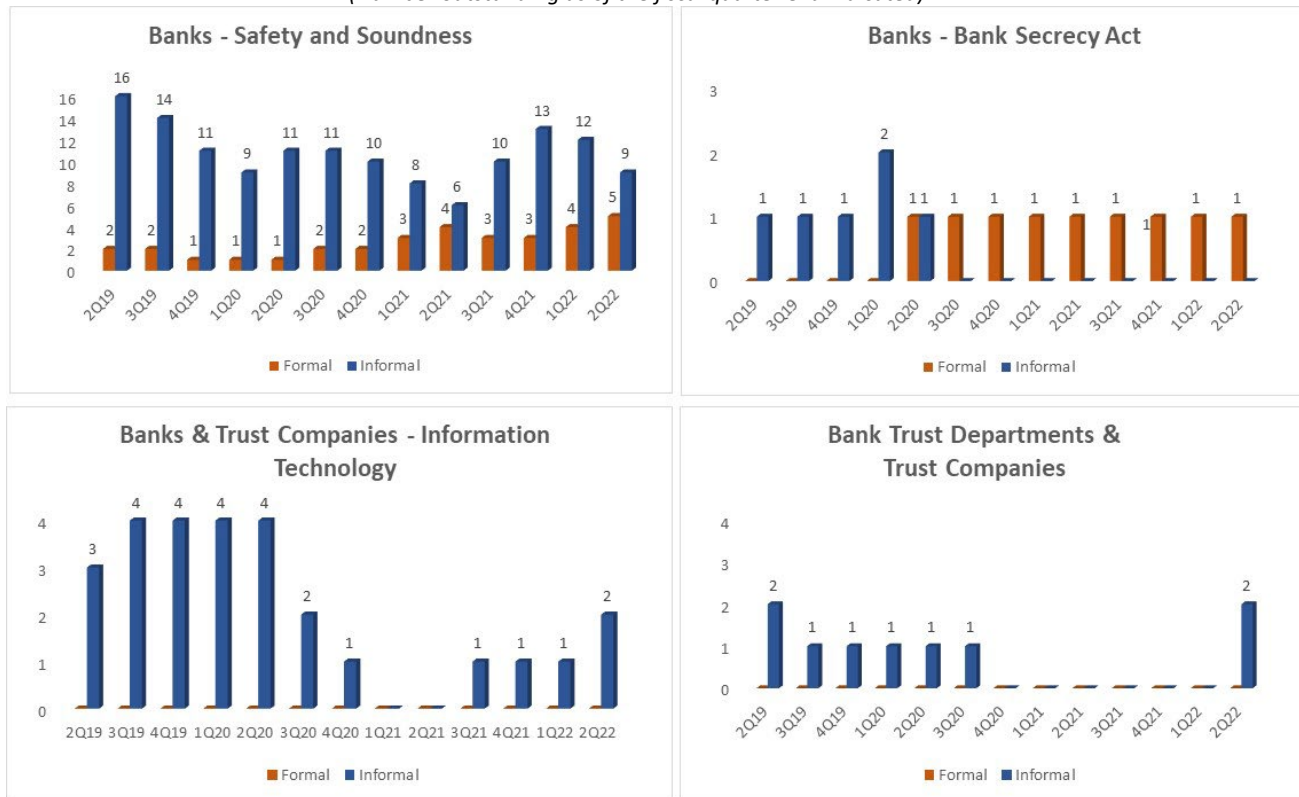


Summary of the Bank & Trust Supervision Division Activities



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 remain in the normal range between 3% and 5% of the total number of institutions. Continued improvement in economic conditions on the back of government stimulus programs has mitigated the financial impact to banks from the COVID-19 pandemic.

**Enforcement Actions Outstanding by Type**  
(Number outstanding as of the fiscal quarter-end 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 2021	FY 2022 (YTD – Feb. 2022)
Commercial Banks (All / DOB Only)	95% / 93%	97% / 95%
IT	98% / 100%	96% / 91%
Trust	97% / 100%	100% / 100%
Foreign Banks (FRB)	67%	100%
Trust Companies (DOB)	100%	100%
IT	100%	100%

The division is meeting its examination priorities for FY 2022 for all examinations except for DOB led IT examinations. Three IT bank examinations were started late this fiscal year by an average of 14 days.

## Division Highlights

- **COVID-19 Update:**
  - The Department continues to actively monitor and respond to the changing circumstances brought about by the COVID-19 pandemic. The Department maintains communication with regulated entities between examinations and performs offsite monitoring of key financial metrics.
  - The Department continues to conduct predominantly offsite examinations, but is performing some onsite work as well as in-person management and board meetings on a limited basis. Banks and trust companies due for an examination are provided with the option for either an onsite or offsite examination based on examiners' and management's comfort level and COVID-19 cases in the community. In addition, in-person meetings with staff at Austin Headquarters are occurring upon request.
  - The impact of the COVID-19 pandemic to bank loan portfolios has thus far been minimal and overall credit risk remains sound.
  
- **Special Operations and Conferences:**
  - On February 9, 2022, Review Examiner Jared Whitson represented the Department on the Regulatory Panel at the Texas Bankers Association (TBA) Annual 30<sup>th</sup> Lending School in Georgetown, Texas.
  - On February 11, 2022, Director of IT Security Examinations Phillip Hinkle represented the Department on the TBA Cyber Tech 2022 Regulatory Panel discussion held virtually.
  - On February 23, 2022, Director Hinkle represented the Department on the panel Nonbank Cybersecurity: The Latest threats and Regulatory Responses at the Conference of State Bank Supervisors (CSBS), Nationwide Mortgage Licensing System (NMLS) Annual Conference held virtually.
  - Beginning on February 27, 2022, Commissioner Cooper represented the Department at the Independent Community Bankers of America (ICBA) Live 2022 Annual Convention in San Antonio, Texas.
  - On March 1, 2022, Director Hinkle represented the Department as a speaker at the United States Treasury Department Ransomware Resiliency Virtual Event. The event targeted small- to mid-sized financial institutions and their information technology service providers throughout the U.S., and provided relevant information about ransomware risks, self-assessment tools, and ransomware prevention and mitigation practices.
  - Commissioner Cooper along with Headquarters and regional office personnel participated in the Independent Bankers Association of Texas 2022 Regional Meetings held in various Texas cities from March 8, 2022 through April 12, 2022.

- Beginning on March 28, 2022, Commissioner Cooper, Regional Review Examiner Tom Susany, Deputy General Counsel Marcus Adams, and Non-Depository Supervision Director Jesse Saucillo represented the Department at the 2022 CSBS Government Relations Fly-In and Board Meeting in Washington, DC.
- On March 31, 2022, Chief IT Examiner Ruth Norris represented the Department as a speaker at the CoNetrix/Tandem KEYS Conference in Allen, Texas.



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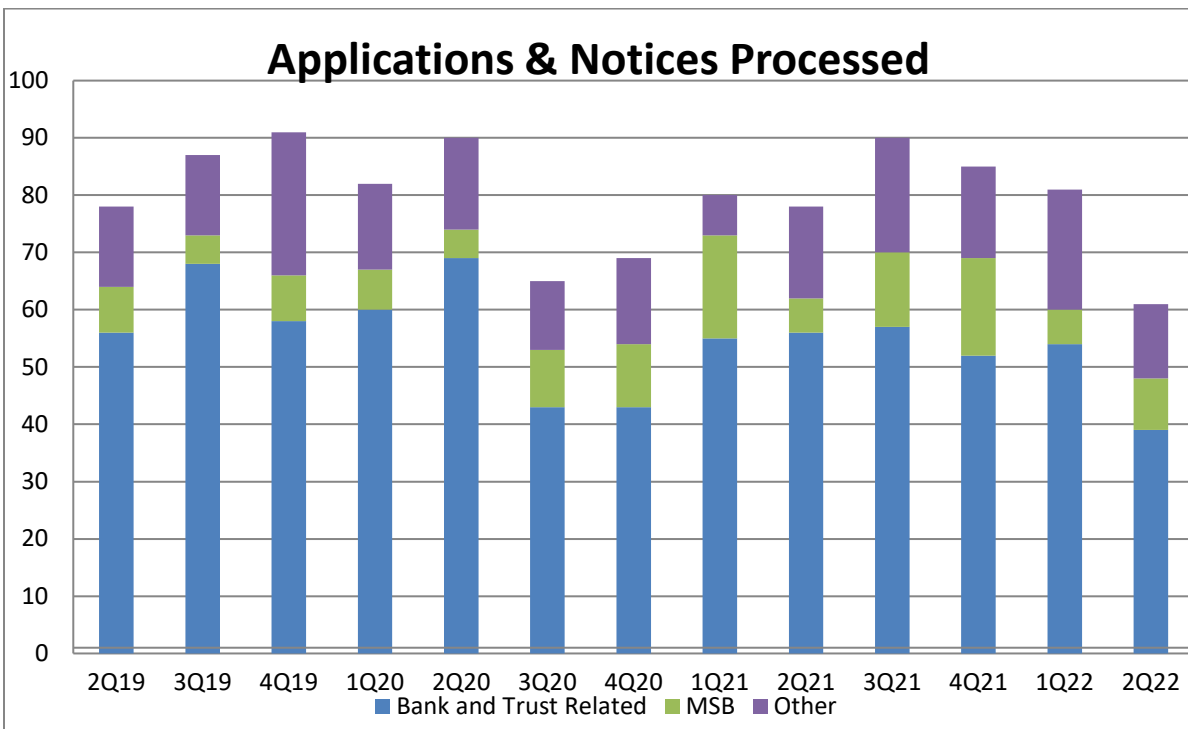
Charles G. Cooper  
Commissioner

To: Finance Commission Members

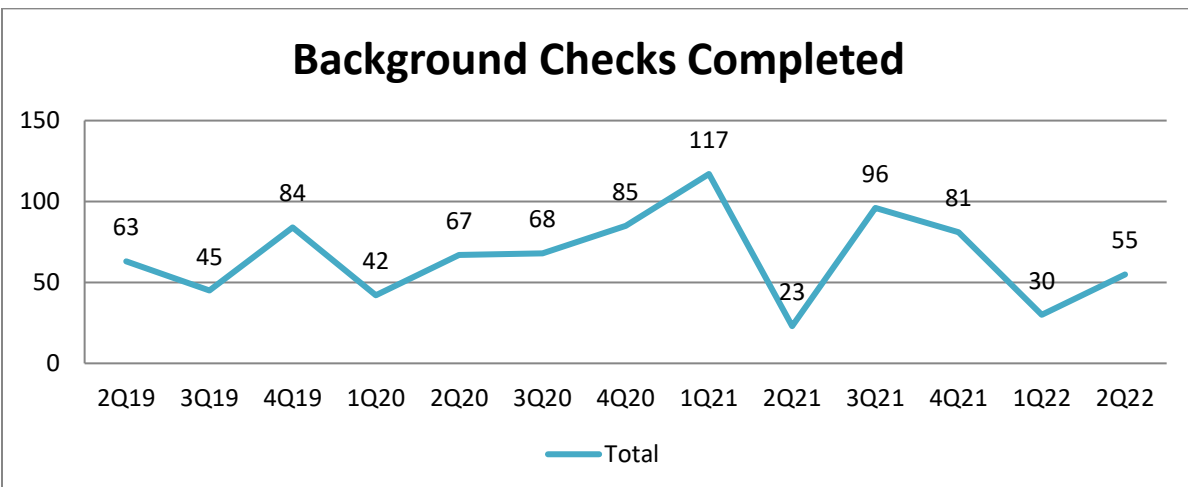
From: Mark Largent, Director of Corporate Activities *Mark R. Largent*

Date: April 6, 2022

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 5, 2022)
Bank Related	34
Trust Companies	3
Money Services Business (MSB)	31
Others	6
<b>Totals</b>	<b>74</b>

#### Division Highlights

- Application volume is substantially higher compared to 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 18 (113%)
  - Trust company increased 1 (50%)
  - MSB related decreased 1 (3%)
  - Other increased 2 (50%)
  
- **Charter, Conversion, and Merger Activity** – Since the last report to the Finance Commission, the following transactions have consummated:
  - *Banks*
    - Happy State Bank, Happy, Texas merged into Centennial Bank, Conway, Arkansas [estimated loss in state banking assets of approximately \$6.3 billion].
  - *Trust Companies*
    - None.
  
- **Conferences, Conventions, and Committee Meetings** – Since the last report to the Finance Commission, Corporate Division personnel have participated in the following:
  - Director Mark Largent and Senior Corporate Analyst participated in the virtual 2022 Nationwide Multi-State Licensing System Annual Conference on February 22-25.



Charles G. Cooper  
Commissioner

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To: Finance Commission Members

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

Date: April 1, 2022

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

		FY 2022								
Entity	FY 2021		1 <sup>st</sup>		2 <sup>nd</sup>		3 <sup>rd</sup>		4 <sup>th</sup>	
<b>Industry Profile (# / Assets (billions))</b>										
Money Services Businesses (MSB)	196	\$219.2	197	\$219.4	198	\$218.8				
Prepaid Funeral Contract (PFC)	345	\$4.5	346	\$4.5	342	\$4.5				
Perpetual Care Cemeteries (PCC)	243	\$401.8*	243	\$413.2*	243	\$420.8*				
Check Verification Entities (CVE)	2	n/a	2	n/a	2	n/a				
<b>Examinations Performed</b>										
MSB	79		19		20					
MSB Limited Scope	1		1		0					
MSB Accepted other State	5		6		2					
PFC	230		60		69					
PFC Limited Scope	0		0		1					
PCC	212		43		34					
PCC Limited Scope	0		0		0					
<b>Ratings (# / %) Assigned to All Regulated Entities</b>										
1	288	38.40%	288	38.35%	293	38.91%				
2	392	52.27%	401	53.40%	398	52.86%				
3	66	8.80%	58	7.72%	55	7.30%				
4 & 5	4	0.53%	4	0.53%	7	0.93%				
<b>Noncompliance with Examination Priorities (Past Due)</b>										
MSB	1		8		17					
PFC	0		1		0					
PCC	0		0		0					

**NOTES:**  
 Limited scope examinations do not receive a rating.  
 \* PCC \$ amounts reflected in the millions.



## Examination Activities

Most of the examinations conducted by the Department of NDS entities continue to be performed primarily off-site. However, based on specific factors such as an entity's overall risk, on-site examinations, mainly of prepaid funeral contract (PFC) and perpetual care cemetery (PCC) license holders, are being conducted on a limited basis. The Department also plans on conducting limited on-site authorized delegate (agent) reviews in the MSB area in summer of 2022. The Department's ability to perform remote examinations along with some limited on-site reviews, has allowed the Department to meet all NDS performance measures for the second quarter of fiscal year 2022.

Nonetheless, the division continues to experience turnover in the Financial Examiner series. Most recently, a Financial Examiner in the PFC/PCC area with approximately five years of experience submitted his resignation effective March 2022. As a result, the division currently has two PFC/PCC Financial Examiner vacancies. Job vacancy notices to fill these positions will be posted in April 2022. In the MSB area, the one Financial Examiner I vacancy was filled in March 2022.

Turnover in the Financial Examiner positions is beginning to negatively impact the division's ability to conduct examinations when due, and this trend will continue until the division is able to hire and properly train examiners in the respective areas. Below is additional information on the examination results reflected on the previous page of this memorandum.

- Of the 17 past-due MSB examinations, four were conducted in March 2022 and four will be conducted in April 2022. The majority of the remaining MSBs will be conducted in June through August 2022 and were delayed in part to be conducted as network examinations in coordination with other state MSB regulators.
- Although no PFC or PCC examinations were past-due in the second quarter of FY 2022, with the current two Financial Examiner vacancies, it is anticipated that the Department will report past-due PFC/PCC examinations in the third and fourth quarters of FY 2022.

## Division Activities

- NDS continues to hold conference calls and virtual meetings with examiners to ensure staff is kept informed of recent Departmental and industry developments, and to allow examiners an opportunity to discuss any issues impacting them. In March 2022, a virtual meeting was held with all examiners to provide updates on various matters and to also answer any questions regarding administrative and examination topics.
- NDS staff represented the Department at the Conference of State Bank Supervisors (CSBS) NMLS Annual Conference held virtually beginning on February 22, 2022. Various MSB topics related to examination and industry trends were discussed. Departmental staff also hosted a virtual booth to allow industry an opportunity to communicate and interact with the representatives of the Department.

- During the week of March 28<sup>th</sup>, Commissioner Cooper, Deputy General Counsel Marcus Adams, Review Examiner Thomas Susany, and Director Saucillo attended the CSBS Government Relations Fly-In and Board Meetings in Washington, DC. During the event, various speakers discussed topics impacting the effective supervision of entities licensed by the Department. The event provided state regulators with the opportunity to discuss regulatory matters with members of Congress.
  
- NDS continues to monitor for and investigate non-compliant activity. During this reporting period, NDS issued regulatory enforcement actions against entities offering and conducting MSB activities in violation of applicable rules and regulations to protect the rights and interests of Texas consumers.



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:** Finance Commission Members  
**From:** Lori Wright, Director of Human Resources  
**Date:** April 1, 2022  
**Subject:** Summary of the Human Resources Division Activities

**Human Resources Fiscal Year 2022 Activities**

<b>Active Postings</b>				
<b>Number of Positions</b>	<b>Position</b>	<b>Division</b>	<b>Status</b>	<b>Activities</b>
1	<i>Programmer III-V</i>	MIS	Open Until Filled	Recruiting
1	<i>Financial Examiner IV-VI Financial Analyst – Training Coordinator</i>	DSS	Open Until Filled	Recruiting
1	<i>Accountant V-VII Chief Accountant</i>	Administrative Services	Open Until Filled	Interviewing
1	<i>Financial Examiner I Assistant Bank Examiner</i>	Bank and Trust	May 6, 2022	Recruiting
1	<i>Financial Examiner I Assistant Trust Examiner</i>	Bank and Trust	May 6, 2022	Recruiting
1	<i>Financial Examiner V Credit Review Specialist</i>	Bank and Trust	Open Until Filled	Recruiting
1	<i>Financial Examiner IV-V Commercial Bank Examiner</i>	Bank and Trust	Perpetual Posting	Recruiting
1	<i>Financial Examiner VI-VII Commercial Bank Examiner</i>	Bank and Trust	Perpetual Posting	Recruiting

**CAPPS**

*Attending CAPPS HR/Payroll meetings, providing information, and preparing for User Acceptance Testing.*

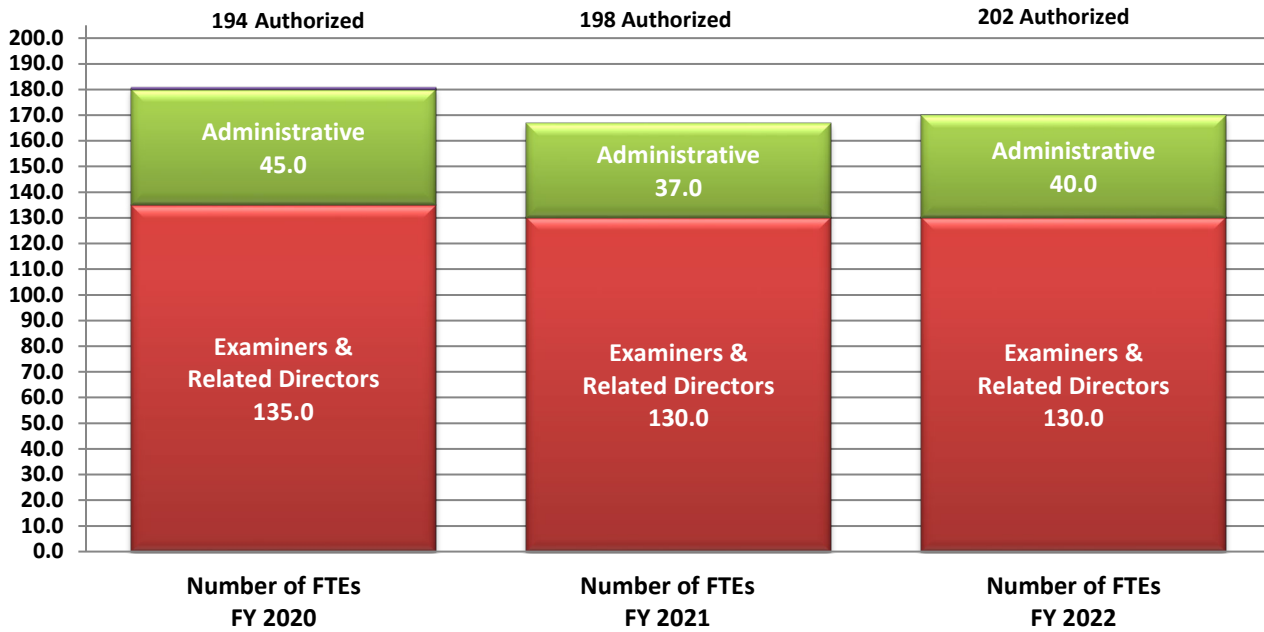
**UT Survey of Employee Engagement**

*Results provided to employees and Employee Advisory Council.*

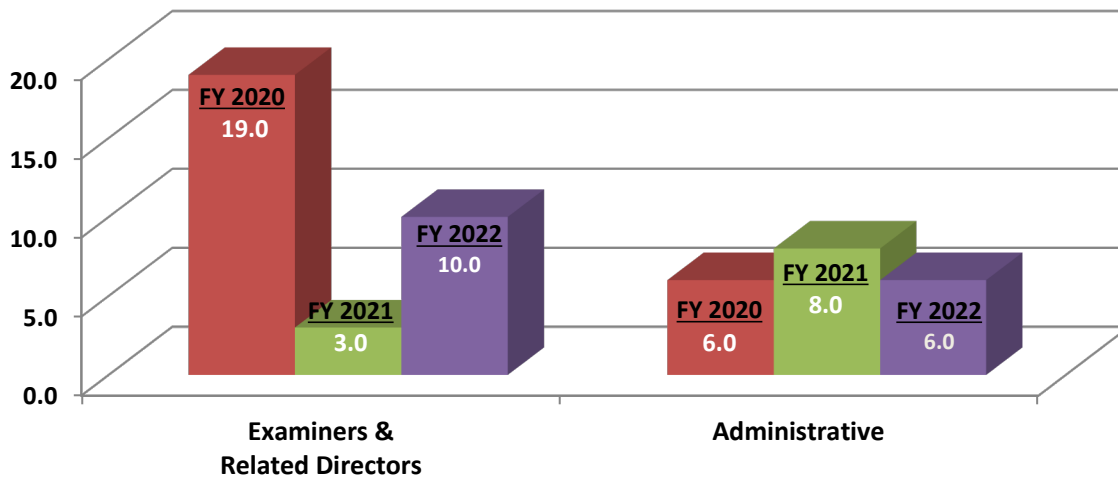
**Recruiting**

*Attending college/university sponsored career fairs around the state to assist with filling entry level positions.*

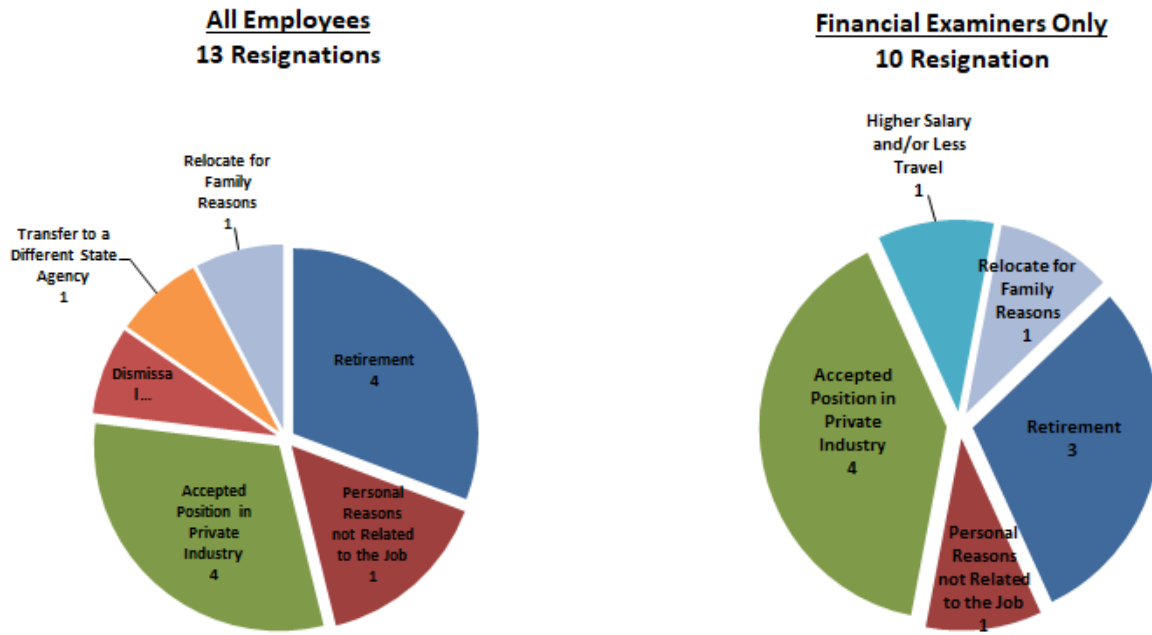
## Texas Department of Banking Employee Data for Fiscal Years 2020, 2021 and 2022 as of 03/31/2022



## New Hire Data for Fiscal Years 2020, 2021 and 2022



## FY 2022 Employee Turnover Reasons



**Department of Banking**  
**Actual Performance for Output Measures**  
**Fiscal Year 2022**

Type/Strategy/Measure	2022 Target	2022 Actual	2022 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>	94	26	26	27.66%
<b>Quarter 2</b>	94	29	55	58.51%
FY 2021, Quarter 2 - The number of bank examinations is above the target due to performing more joint examinations than projected.				
<b>2. # Foreign/Trust/IT Examinations Performed</b>				
<b>Quarter 1</b>	230	63	63	27.39%
<b>Quarter 2</b>	230	63	126	54.78%
<b>1-2-1 Non-Bank Examination</b>				
<b>1. # NDS Licensees Examined</b>				
<b>Quarter 1</b>	520	129	129	24.81%
<b>Quarter 2</b>	520	126	255	49.04%
<b>1-3-1 Application Processing</b>				
<b>1. # License Applications Completed</b>				
<b>Quarter 1</b>	324	90	90	27.78%
<b>Quarter 2</b>	324	64	154	47.53%

\*Varies by 5% or more from target.



Charles G. Cooper  
Commissioner

# TEXAS DEPARTMENT OF BANKING

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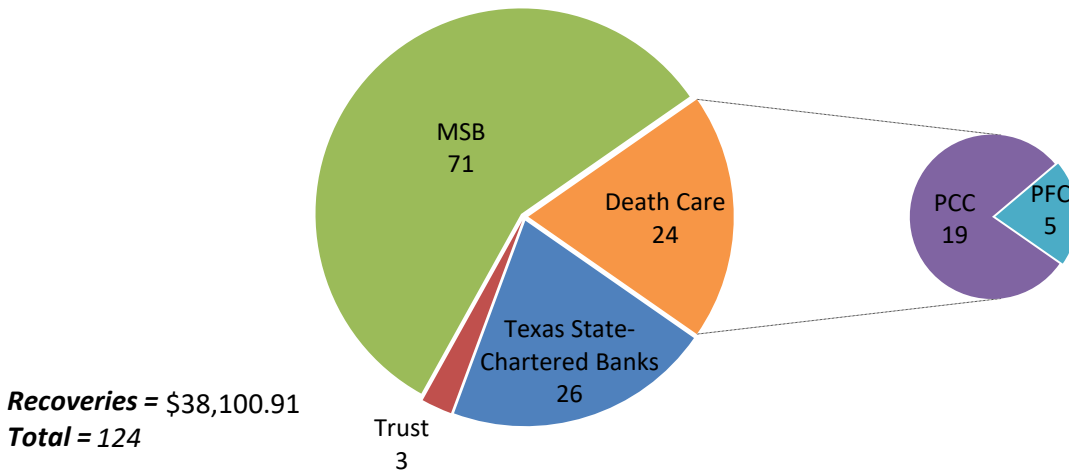
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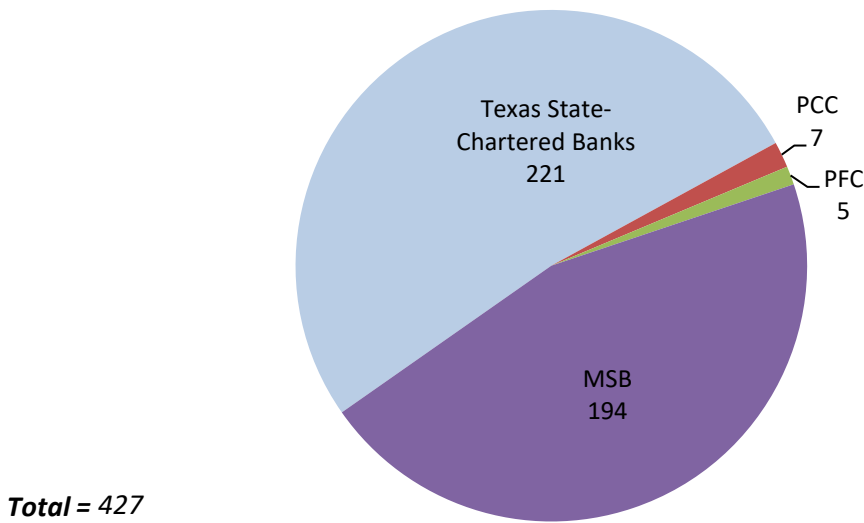
**To:** Finance Commission Members  
**From:** Phil Lena, Financial Analyst  
**Date:** April 1, 2022  
**Subject:** Summary of the Strategic Support Division Activities

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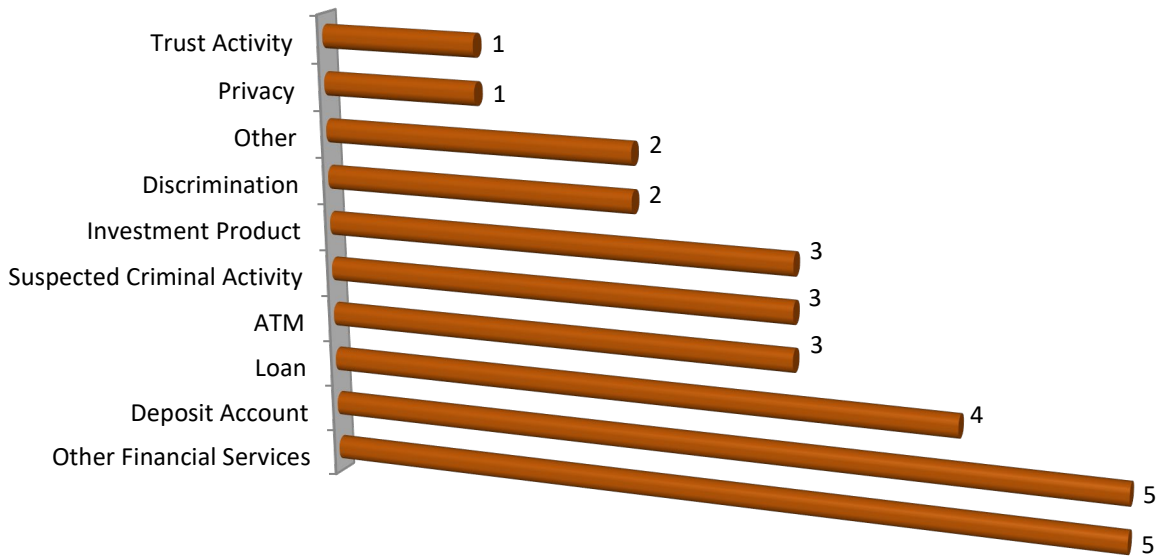
## Jurisdictional Written Complaints September 2021-February 2022



## Inquiries on Jurisdictional Entities September 2021-February 2022

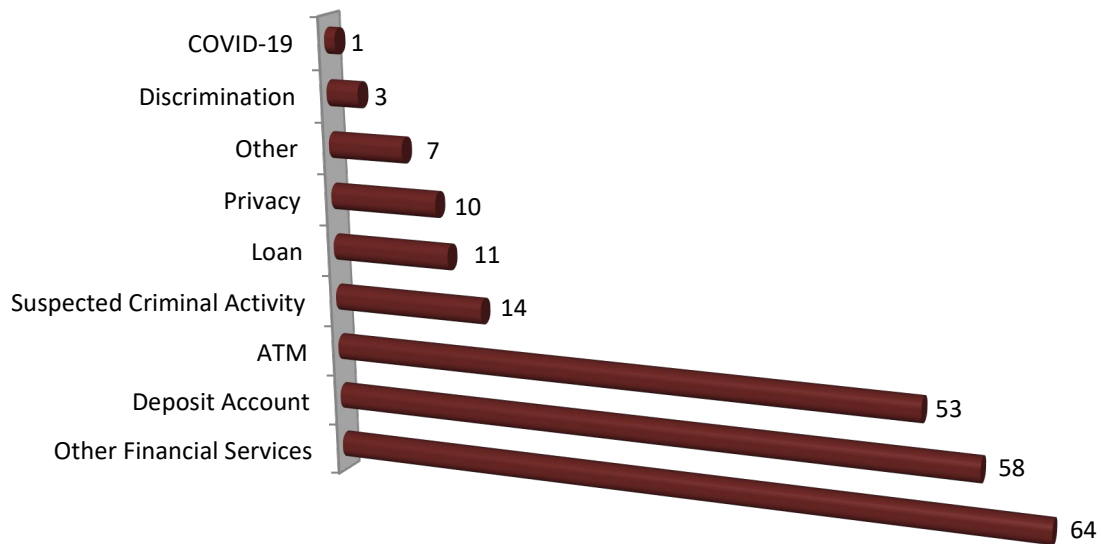


### State-Chartered Banks and Trust Companies Written Complaints by Type September 2021-February 2022



**Total = 29**

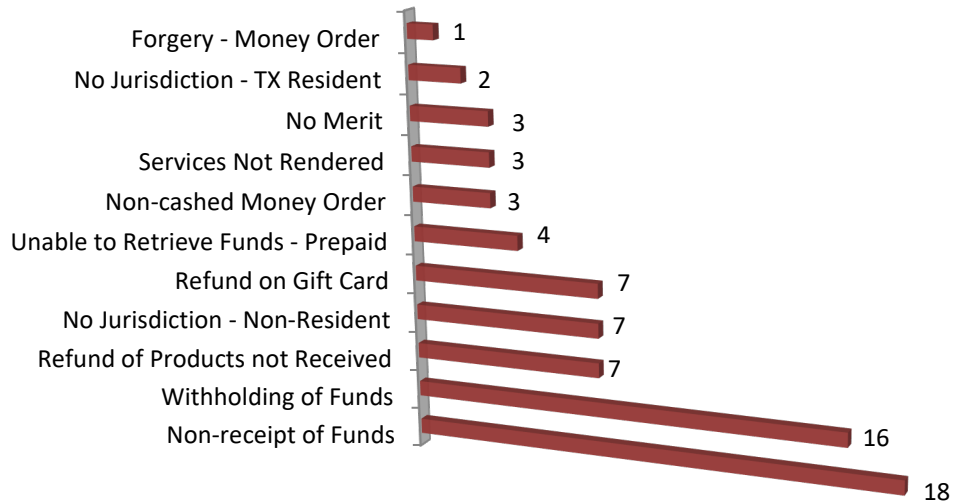
### State-Chartered Banks and Trust Companies Inquiries by Type September 2021-February 2022



**Total = 221**

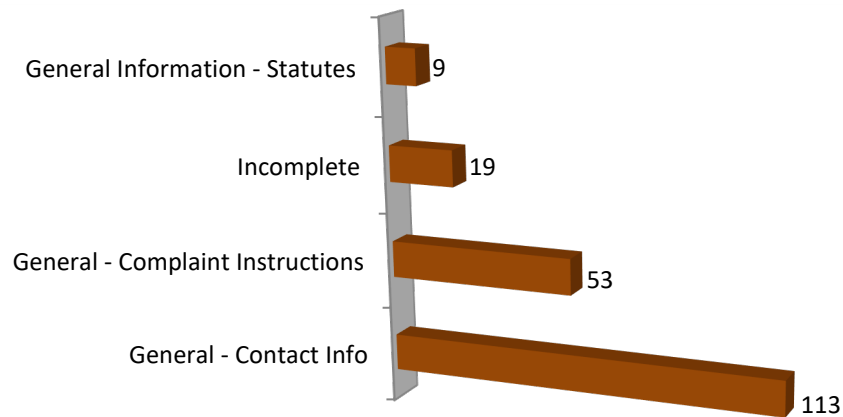


### Money Services Businesses Written Complaints by Type September 2021-February 2022



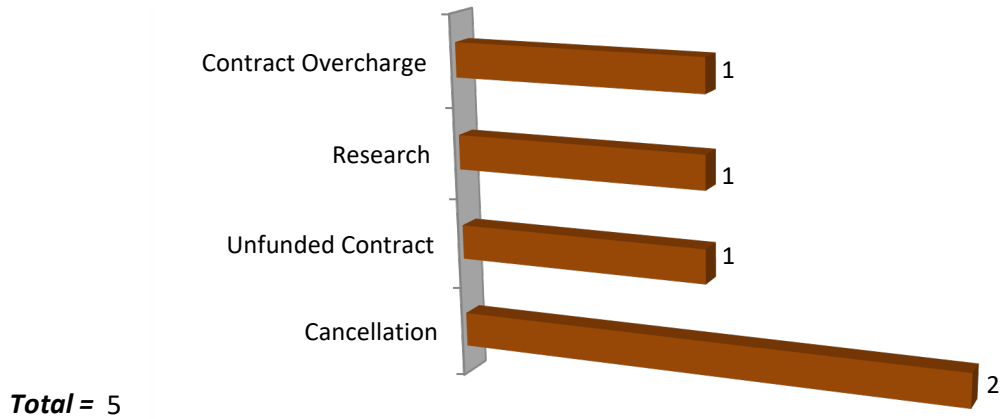
**Total = 71**

### Money Services Businesses Inquiries by Type September 2021-February 2022

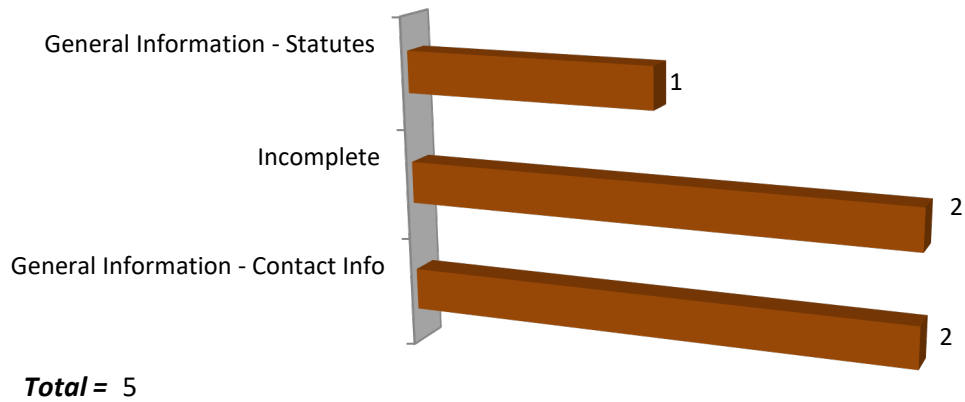


**Total = 194**

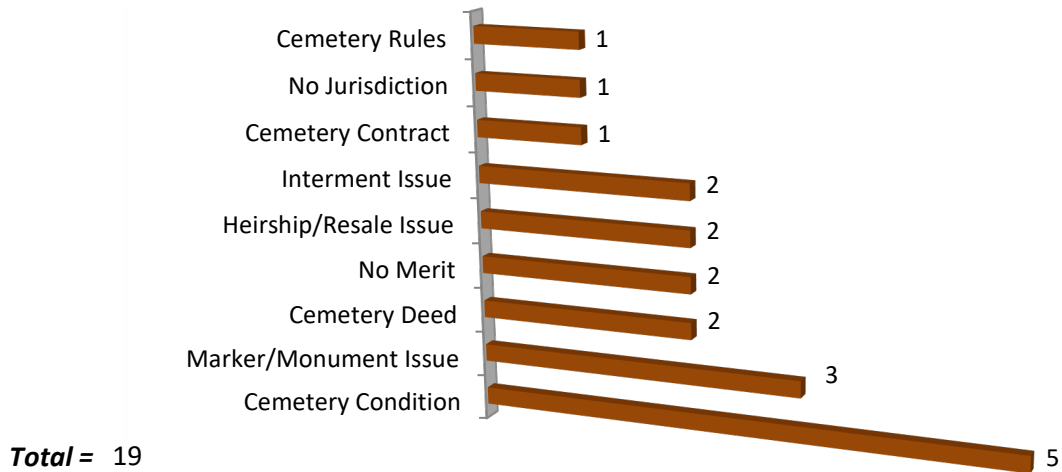
### Prepaid Funeral Contract Sellers Written Complaints by Type September 2021-February 2022



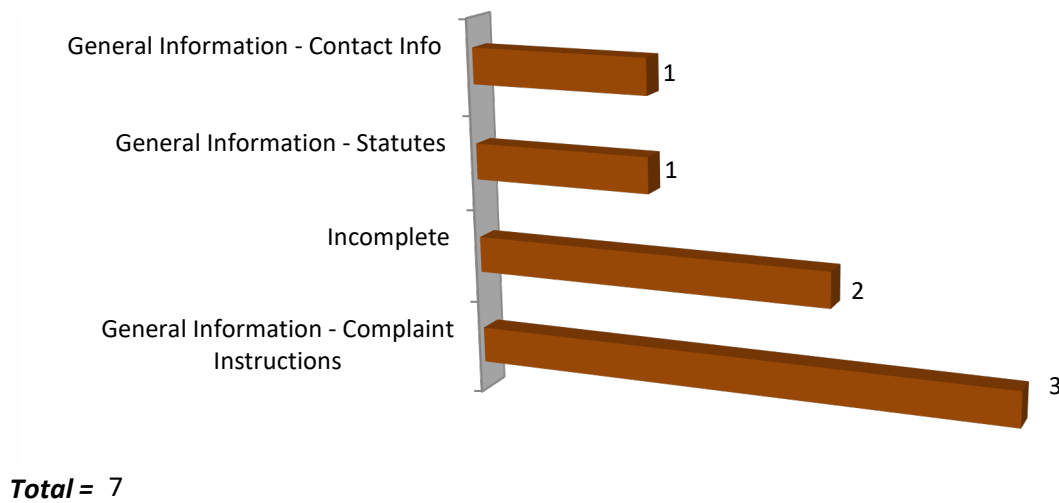
### Prepaid Funeral Contract Sellers Inquiries by Type September 2021-February 2022



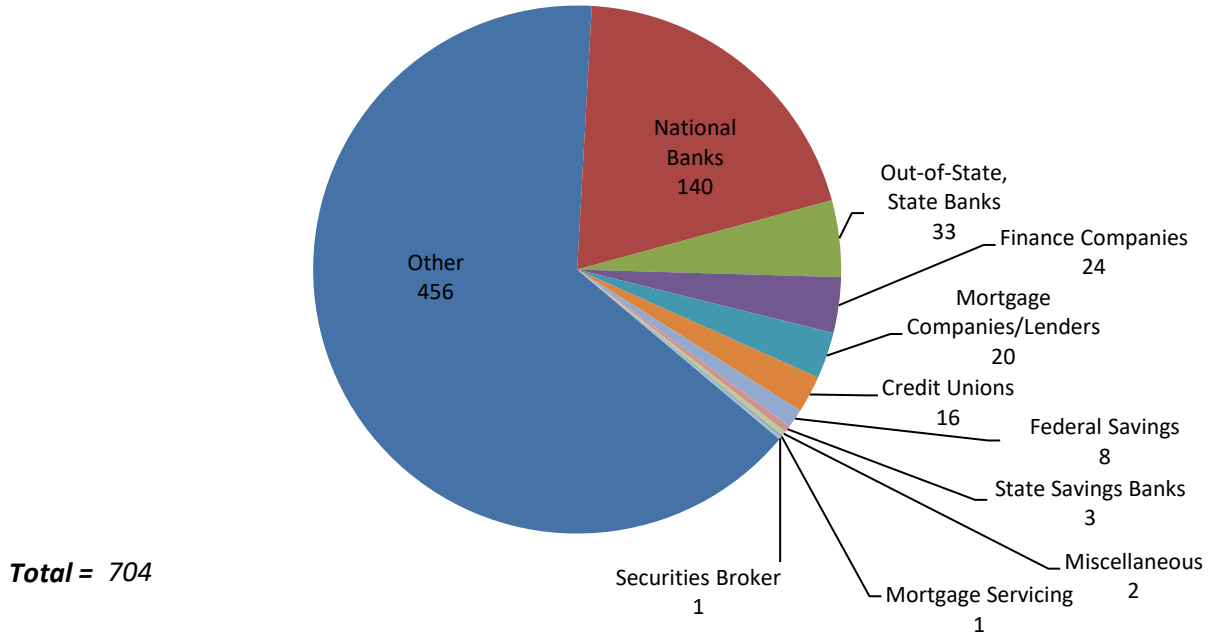
### Perpetual Care Cemeteries Written Complaints by Type September 2021-February 2022



### Perpetual Care Cemeteries Inquiries by Type September 2021-February 2022



### Complaints and Inquiries Against Non-Jurisdictional Entities September 2021-February 2022



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	17	13	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	100%	N/A	N/A
Number of Written Complaints Resolved	13	15	N/A	N/A
<b>Trust</b>				
Avg. Number of Days to Close a Written Complaint	15	17	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	100%	N/A	N/A
Number of Written Complaints Resolved	2	1	N/A	N/A
<b>PFC/PCC</b>				
Avg. Number of Days to Close a Written Complaint	28	30	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	100%	N/A	N/A
Number of Written Complaints Resolved	13	11	N/A	N/A
<b>MSB</b>				
Avg. Number of Days to Close a Written Complaint	25	24	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	100%	100%	N/A	N/A
Number of Written Complaints Resolved	26	45	N/A	N/A

**Closed Account Notification System (CANS) Activity**

January 1, 2019 – March 31, 2022

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	189	289
Texas State-Chartered Savings Banks	22	50
Federal Savings Banks	10	0
State Credit Unions	134	577
Federal Credit Unions	229	334
National Banks	171	95
Out-of-State State-Chartered Banks	12	59
Out-of-State National Banks	6	0
<b>Total</b>	<b>772</b>	<b>1,404</b>

**Bank Examination Testing System (BETS) Activity**

Number of Candidates Passing Each Phase

	FY 2019	FY 2020	FY 2021	FY 2022 As of 3/31/2022
I. General Knowledge	3	4*	6	3
II. Loan Analysis	5	7	1	1
III. Panel	5	10	3	1
IV. Test Bank	4	7	5	2
<b>Total FE3</b>	<b>19</b>	<b>15</b>	<b>17</b>	<b>16</b>

**Promotions**

<b>Commissioned Examiners</b>	5*	7	5	2
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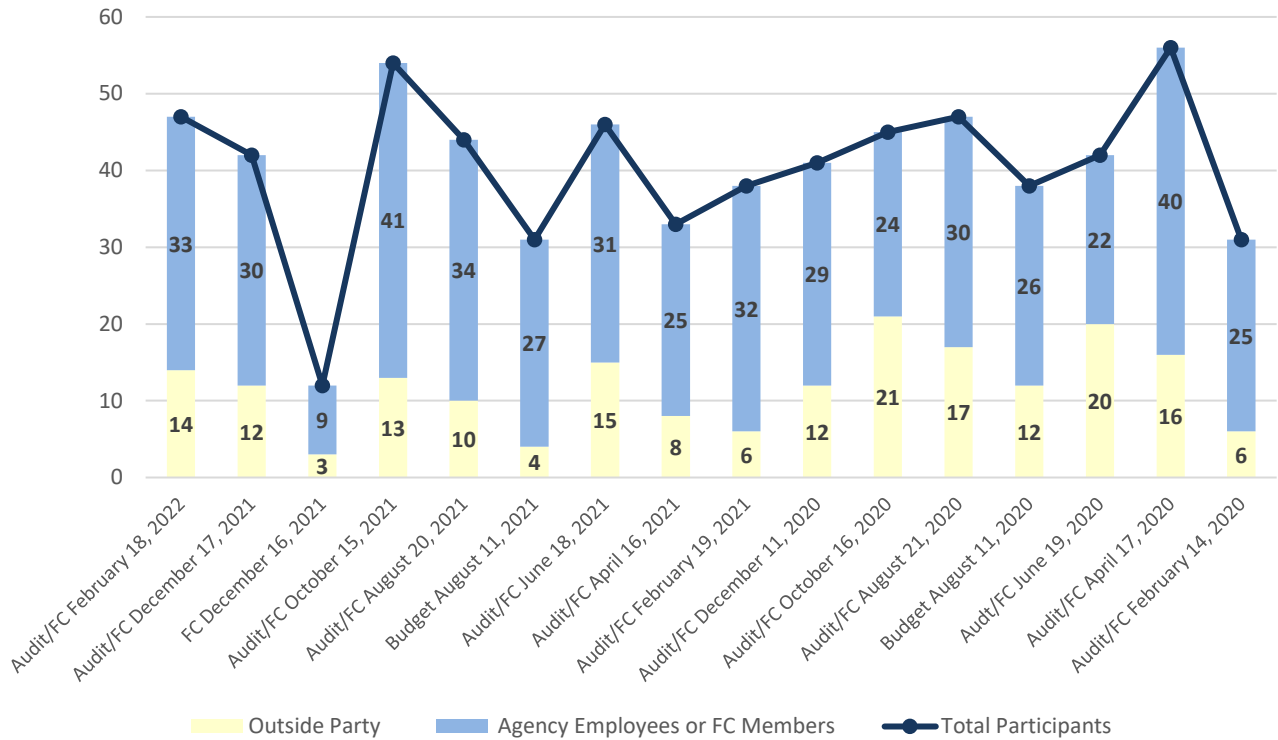
\*Includes a FE V Credit Specialist

**Other Divisional Items:**

- *Rate the Department*
  - The annual Rate the Department survey closed on February 7, 2022, and the survey results are available on the Department's [website](#).
- *Publications*
  - The Strategic Plan for fiscal years 2023-2027
    - The Strategic Plan is due June 1, 2022. The agency is currently working on the plan and will provide a draft to the Finance Commission members by mid-May 2022.

- The March 2022 edition of the [Condition of the Texas State Banking System](#) report is available with financial data as of December 31, 2021.
- Various agency publications were updated in March 2022 with December 30, 2021, financial data:
  - [Agency Profile](#) – An overview of the Department and its regulated and licensed entities.
  - [Texas Banking Activity](#) – Contains all state and national banking activity in Texas.
  - [Top 100 Banks](#) – List of Texas banks by asset size.
- *Personnel and Policies Manual Updates*
  - Personnel Manual
    - Section 11 – Risk Management and Safety and Health Program (January)
    - Section 2 – Fraud Prevention Policy (March)
  - Commercial Bank Procedures
    - #1 Planning and Control (March)
    - #16 Management (March)
- *Staff Training*
  - *Annual Cybersecurity Training completed by all personnel.*
  - *Active Shooter Training underway.*
- *Website Statistics between September 1, 2021 through February 28, 2022*
  - The Texas Department of Banking website had 327,606 page views of the homepage. The top three pages were the Entity Search (40,210-page views), Consumer Information (16,171-page views) and Contact Us (10,555-page views). The financial education webpage had 1,012-page views during the same period. Users are accessing the site via desktop (54,636), mobile (59,412), and tablet devices (1,565).
  - The Finance Commission website had 18,331-page views. The top three visited pages were the homepage (7,699-page views), Finance Commission Meetings (3,020-page views), and 2021 Meetings Archive (1,060-page views). Users are accessing the site via desktop (4,836), mobile (2,444), and tablet devices (98).
  - The Texas Prepaid Funeral Contracts website had 20,612-page views of the homepage. The top three pages after the homepage were General Information (6,195-page views), Prepaid Planning Brochure (2,991-page views) and FAQs (1,824-page views). Users are accessing the site via mobile (11,869), desktop (8,102), and tablet devices (650).

### Finance Commission Webcast Historical Data





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, 2022  
RE: Legal Division Update

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#### **Litigation**

***Cornelius Campbell Burgess vs. Charles G. Cooper, in his official capacity as the Texas Banking Commissioner;*** Cause No. D-1-GN-22-000504, in the 345th Judicial District Court of Travis County, Texas. This case, filed January 31, 2022, included a petition for mandamus seeking to compel the Commissioner to refer the administrative case against Mr. Burgess to the State Office of Administrative Hearings (SOAH), instead of having it heard by the Department's contracted independent administrative law judge. The case also sought an emergency stay of the administrative action. Following a hearing on February 2, 2022, the motion for emergency stay was denied. On February 18, 2022, the Office of the Attorney General (OAG) filed its answer to the mandamus petition.

#### **Contested Case Hearings**

***In the Matter of Robert L. Green, Individually and as President of Green's Mortuary, and Green's Mortuary, Bay City, Texas;*** Docket No. BF-2101-20-215. Respondents, a funeral services provider and funeral home, are alleged to have sold prepaid funeral benefits to at least six Texas customers without the required permit. Staff attended a hearing on January 20, 2022, seeking \$25,099 in restitution for customers and a monetary penalty of \$18,000. A proposal for decision affirming the Department's position was issued following the hearing. The period for exceptions and replies has passed, and we expect a final recommendation to be sent to the Commissioner soon.

***In the Matter of Cornelius Campbell Burgess, Amarillo, Texas;*** Docket No. BB-2201-21-120. Respondent, a director of a state-chartered bank, is alleged to have refused to submit to examination. Staff is seeking to have Mr. Burgess removed from the bank and prohibited from participation in the affairs of any entity regulated by the Department. Hearing was held February 2, 2022. Following the hearing, the parties submitted written closing arguments. A proposal for decision is expected in the coming weeks.

#### **Orders Issued February 1, 2022 – March 31, 2022**

The Commissioner issued three enforcement orders, two of which are final and non-appealable<sup>1</sup>:

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

- Consent Order dated February 11, 2022; Texas G & S Investments, McAllen, Texas
- Consent Order dated February 22, 2022; Gamdirect, LLC, Lynnwood, Washington

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<sup>1</sup> A cease and desist order was issued February 8, 2022; a hearing on that order is pending.



**Public Information Requests**

From February 1 through March 31, 2022, staff received and responded to 16 requests for public information addressed to the Department of Banking, and received seven inquiries from the “Ask a Question” feature. During the same period, we received and responded to one public information request addressed to the Finance Commission. One request for OAG opinion related to a public information request is pending.

**Gifts**

No gifts were received during this reporting period.

**FY 2022 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	1	1		
Cease & Desist	0	0		
Supervision	0	1		
Prohibition	0	1		
Total	1	3		
<b>TRUST COMPANY</b>				
Consent Order	0	0		
Cease & Desist	0	0		
Supervision	0	0		
Prohibition	0	0		
Total	0	0		
<b>MONEY SERVICES BUSINESS</b>				
Consent Order	3	4		
Cease & Desist	0	0		
Final Order after hearing	0	0		
Total	3	4		
<b>PERPETUAL CARE CEMETERY</b>				
Consent Order	0	0		
Cease & Desist	0	0		
Refusal to Renew Cert/Auth	0	0		
Final Order after hearing	0	0		
Total	0	0		
<b>PREPAID FUNERAL CONTRACT</b>				
Consent Order	0	0		
Cease & Desist	1*	1*		
Total	1	1		

\*Hearing requested, order not final

**Projected Future Rule Actions:**

**June 2022**

7 TAC, Chapter 3 – Proposed Amendments Resulting from Rule Review

7 TAC, Section 17.3 – Sale or Lease Agreements with Trust Company Insiders

2. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses, 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 33 was published in the *Texas Register* as required on February 11, 2022 (47 TexReg 677). The Department received no comments regarding the review.

The Department believes the reasons for initially adopting the rules in Chapter 33 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 33 continue to exist and that the Commission readopt these rules.

**RECOMMENDED MOTION:** I move that we find that the reasons for initially adopting the rules in 7 TAC, Chapter 33 continue to exist, and that those rules 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 33 (Money Services Businesses), §§33.3 - 33.54, in its entirety.

Notice of the review of Chapter 33 was published in the February 11, 2022, issue of the *Texas Register* (47 TexReg 677). Notice of the intent to readopt §33.13 and §33.27 was submitted to the Regulatory Compliance Division of the Office of the Governor (Division) as the two rules have the potential to affect market competition. The Division approved the two rules without further amendment.

The commission believes the reasons for initially adopting Chapter 33 continue to exist. However, the commission has determined that certain revisions and amendments may be appropriate and necessary. Proposed amendments and revisions to Chapter 33, with discussion of the justification for the proposed changes, will be published in the Texas Register at a later date.

Accordingly, the commission finds that the reasons for initially adopting these rules continue to exist and readopts Chapter 33 in accordance with the requirements of the Government Code, §2001.039.

3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 3, Concerning State Bank Regulation, 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 3 was published in the *Texas Register* as required on February 18, 2022 (47 TexReg 797). The Department received no comments regarding the review.

The Department believes the reasons for initially adopting the rules in Chapter 3 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 3 continue to exist and that the Commission readopt these rules.

**RECOMMENDED MOTION:** I move that we find that the reasons for initially adopting the rules in 7 TAC, Chapter 3 continue to exist, and that those rules 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 3 (State Bank Regulation) §§3.1 – 3.112, in its entirety.

Notice of the review of Chapter 3 was published in the February 18, 2022, issue of the *Texas Register* (47 TexReg 797). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 3 continue to exist. However, the commission has determined that certain revisions and amendments may be appropriate and necessary. Proposed amendments and revisions to Chapter 3, with discussion of the justification for the proposed changes, will be published in the Texas Register at a later date.

Accordingly, the commission finds that the reasons for initially adopting these rules continue to exist and readopts Chapter 3 in accordance with the requirements of the Government Code, §2001.039.

4. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Chapter 33, §§33.7, 33.23, 33.27, 33.33, 33.37, 33.51, 33.54, Concerning Money Services Businesses, Resulting from Rule Review

**PURPOSE:** Amendments to Chapter 33, §§33.7, 33.23, 33.27, 33.33, 33.37, 33.51, 33.54 result from a rule review conducted pursuant to Texas Government Code §2001.1039. The purpose of these amendments is to provide clarity, correct statutory citations and certain scrivener’s errors, and maintain consistent formatting within the chapter. These amendments have no substantive effect on the application of the various sections.

**RECOMMENDED ACTION:** No comments were received regarding the proposed amendments to 7 TAC, §§33.7, 33.23, 33.27, 33.33, 33.37, 33.51, 33.54. The Department recommends that the Commission approve adoption of the amendments without changes to the proposal as previously published in the *Texas Register*.

**RECOMMENDED MOTION:** I move that we adopt the amendments to 7 TAC, §§33.7, 33.23, 33.27, 33.33, 33.37, 33.51, 33.54 without changes to the proposal as previously published in the *Texas Register*.

**Title 7. Banking and Securities  
Part 2. Finance Commission of Texas  
Chapter 33. Money Services Businesses  
7 TAC, §§33.7, 33.23, 33.27, 33.33, 33.37,  
33.51, 33.54**

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts amendments concerning §33.7, how to obtain an exemption from licensing related to exchanging currency in connection with retail, wholesale or service transactions; §33.23, additional provisions that apply to permissible investments; §33.27, fees to obtain and maintain a license; §33.33, receipts issued relating to currency exchange transactions; §33.37, receipts issued relating to money transmission transactions; §33.51, providing information to customers on how to file a complaint; and, §33.54, an exemption from licensure for securities dealers and agents. These amendments are adopted without changes to the proposed text as published in the March 4, 2022, issue of the *Texas Register* (47 TexReg 1043). The amended rules will not be republished.

The amended rules arise from rule review conducted pursuant to Texas Government Code §2001.039 and provide clarity, correct statutory citations and certain scrivener's errors, and maintain consistent formatting within the chapter.

The department received no comments regarding the proposed amendments. Notice of the intent to amend section 33.27 was submitted to the Regulatory Compliance Division of the Office of the Governor (Division) as the rule has the potential to affect market competition. The Division

approved the amendment without further revision.

The amendments are adopted pursuant to Finance Code, §151.102, which authorizes the commission to adopt rules to administer and enforce Texas Finance Code, Chapter 151.

*§33.7 How Do I Obtain an Exemption from Licensing Because I Exchange Currency in Connection with Retail, Wholesale or Service Transactions?*

(a) Does this section apply to me?

(1) This section applies if you are a retailer, wholesaler, or service provider and in the ordinary course of business:

(A) accept the currency of a foreign country or government as payment for your goods or services;

(B) in connection with the transaction, make or give change in the currency of a different foreign country or government; and

(C) qualify for an exemption under Finance Code, §151.502(d).

(2) (No change.)

(b) To request an exemption, you must submit a letter to the commissioner that fully explains your business and is accompanied by a statement, signed and sworn to before a notary, affirming that none of the disqualifying conditions set out in Finance Code, §151.502(d)(1) - (5), apply to you. For purposes of subsection (d)(4) of this section regarding disqualification, you are

considered to be engaged in the "business of cashing checks, drafts or other payment instruments" if, in the 12 month period immediately preceding the filing of the application for exemption, you derived more than 1.00% of your gross receipts, directly or indirectly, from fees or other consideration you charged, earned, or imputed from cashing checks, drafts or other monetary instruments.

(c) – (d) (No change.)

*§33.23. What Additional Provisions Apply to Permissible Investments?*

(a) – (e) (No change.)

(f) For the purpose of satisfying a license holder's permissible investments requirement under Finance Code, §151.309, the Department interprets "cash in demand or interest-bearing accounts with a federally insured depository institution" to include funds held by a license holder's depository institution after being withdrawn from the license holder's account for transmission to satisfy the license holder's outstanding money transmission obligation.

(g) – (k) (No change.)

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

(a) (No change.)

(b) Definitions. The following words and terms, when used in this section, have the following meanings unless the context clearly indicates otherwise.

(1) "Annual Assessment" means the fee assessed annually to pay the costs incurred by the department to examine a license holder and administer Finance Code, Chapter 151, including the annual license fee required by Finance Code, §151.207(b)(1).

(2) "Examination" means the process, either by on-site or off-site review, of evaluating the books and records of a license holder under the authority of Finance Code, §151.601, relating to its money services activities. For purposes of this section, the term does not include an investigation conducted under the authority of Finance Code, §151.104, §151.305, or §151.505.

(c) – (d) (No change.)

(e) What fees must I pay to maintain my money transmission or currency exchange license? You must pay your annual assessment. Subject to paragraph (3) of this subsection, the amount of your annual assessment is determined based on the total annual dollar amount of your Texas money transmission and/or currency exchange transactions, as applicable, as reflected on your most recent annual report filed with the department under Finance Code, §151.207(b)(2).

(1) If you hold a currency exchange license, you must pay the annual assessment specified in the following table:

Figure: 7 TAC §33.27(e)(1)

(2) If you hold a money transmission license, you must pay the annual assessment specified in the following table:



Figure: 7 TAC §33.27(e)(2)

(3) (No change.)

(f) – (h) (No change.)

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

(1) – (3) (No change.)

(4) You must pay the investigation fee required under subsection (f) of this section within 10 days of receipt of the department's written invoice.

(5) 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.

(6) – (8) (No change.)

(j) (No change.)

*§33.33 What Receipts Must I Issue Related to Currency Exchange Transactions?*

(a) (No change.)

(b) Must I issue a receipt in connection with the currency exchange transactions I conduct?

(1) For purposes of this section, "receipt" means a receipt, electronic record, or other written confirmation.

(2) (No change.)

(3) With respect to a currency exchange transaction you conduct with another financial institution as that term is defined in 31 C.F.R. §1010.100(t) or with a financial institution located outside the United States, you must obtain a contemporaneous receipt for each transaction, regardless of where the transaction is conducted. If the other financial institution is a money services business as that term is defined in 31 C.F.R. §1010.100(ff), or a money services business or financial institution located outside the United States, the receipt must contain:

(A) the date and amount of the transaction;

(B) the currency names and total amount of each currency;

(C) the rate of exchange;

(D) the name and address of the money services business issuing the receipt; and

(E) information sufficient to identify the employee or representative who conducts the transaction for the entity issuing the receipt, such as initials, unique employee or representative code, or other appropriate identifier.

*§33.37 What Receipts Must I Issue Related to Money Transmission Transactions?*

(a) (No change.)

(b) Must I issue a receipt in connection with the money transmission transactions I conduct?

(1) For purposes of this section "receipt"

means a receipt, electronic record, or other written confirmation. If the customer conducts the transaction online or electronically, the term includes a means by which the customer can save or print a receipt or other record of the transaction that contains the information required under this section.

(2) – (3) (No change.)

(4) With respect to a currency transmission transaction subject to Finance Code, Chapter 278, you must provide the receipt required under Finance Code, §278.051. The information required under those sections may be included on the receipt required under paragraph (2) of this subsection.

*§33.51. How do I Provide Information to My Customers about How to File a Complaint?*

(a) (No change.)

(b) Definitions. Words used in this section that are defined in Finance Code, Chapter 151, have the same meaning as defined in the Finance Code. The following words and terms, when used in this section, shall have the following meanings unless, the text clearly indicates otherwise.

(1) “Conspicuously posted” means displayed so that a customer with 20/20 vision can read it from the place where he or she would typically conduct business with you or, alternatively, on a bulletin board, in plain view, on which you post notices to the general public (such as equal housing posters, licenses, Community Reinvestment Act notices, etc.).

(2) “Customer” means, as to money transmission or currency exchange, any Texas resident to whom, either directly or through an authorized delegate, you provide or have provided money transmission or currency exchange products or services or for whom you conduct or have conducted a money transmission or currency exchange transaction.

(3) “Privacy notice” means any notice regarding a person's right to privacy that you are required to give under a specific state or federal law.

(4) “Required notice” means the notice described in subsection (d) of this section.

(c) – (h) (No change.)

*§33.54 Exemption for Registered Securities Dealers and Agents.*

(a) (No change.)

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

(1) (No change.)

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

**C.**

**Office of Consumer Credit  
Commissioner**

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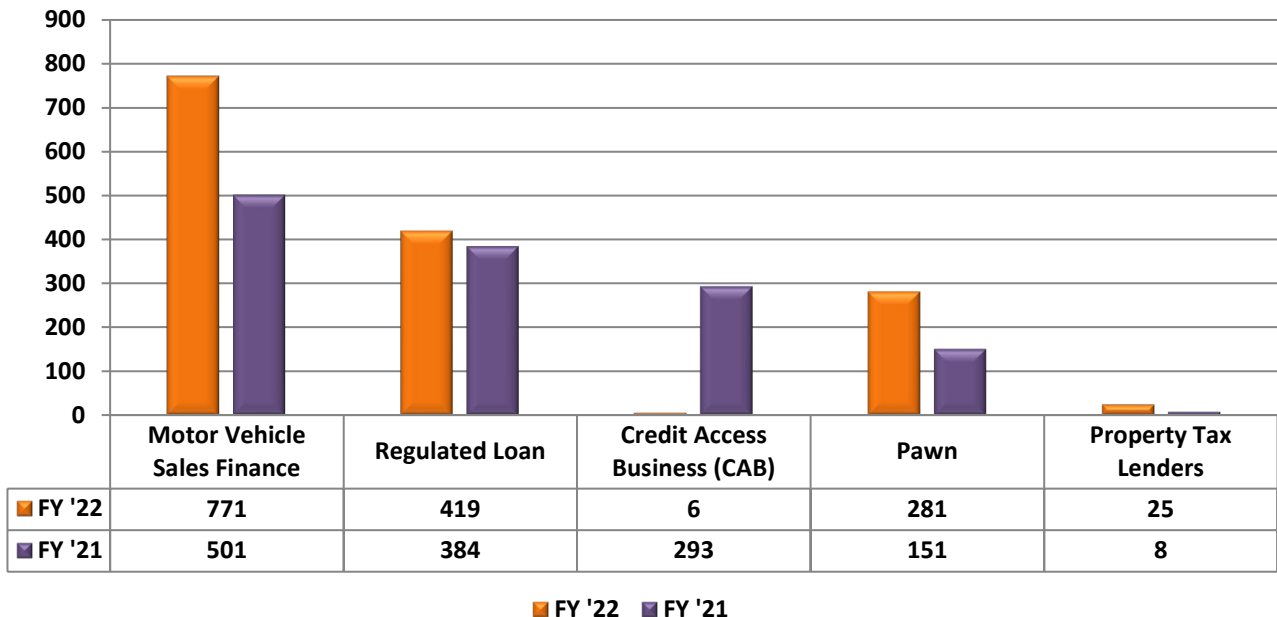
## Consumer Protection and Consumer Assistance Report

At the end of the second quarter (February 2022), the department has completed 49.7% of its targeted number of examinations. Field work continues on a large enterprise Credit Access Business Exam. This exam should finalize by May 31, 2022. Exam staff submitted the report of exam for a multi-state auto finance exam that began in November. The OCCC served as both single point of contact (SPOC) and project examiner in charge (EIC) roles on this multi-state auto finance examination.

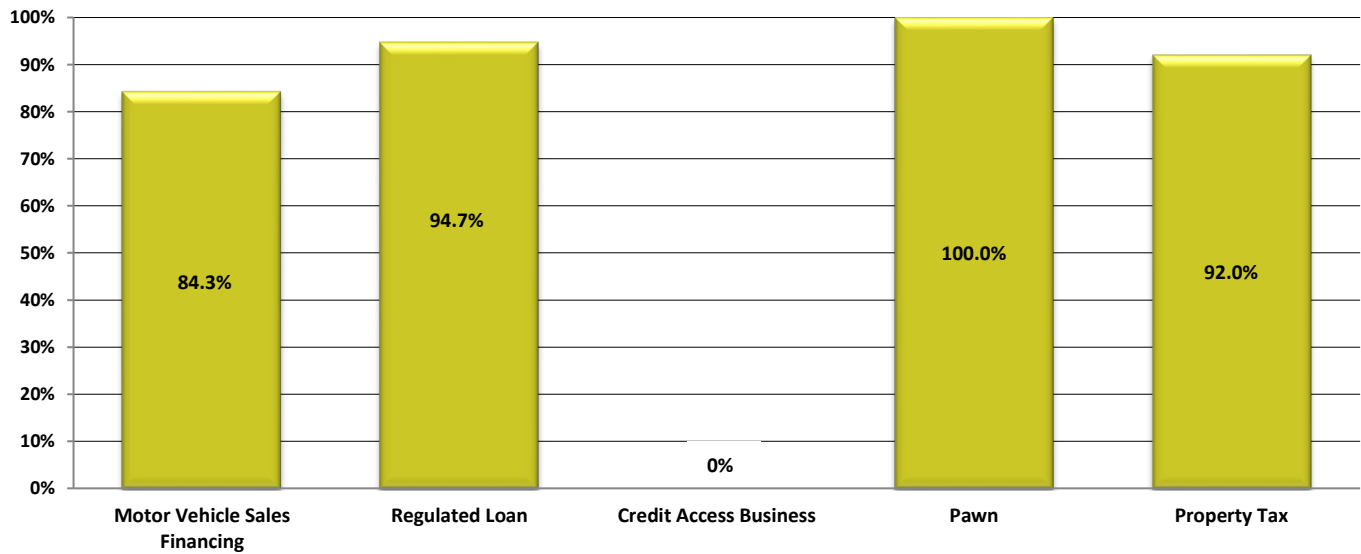
The multi-state auto finance exam that began in January is now in the report writing phase. This examination is a coordinated examination with the CFPB. As noted in the last briefing, the OCCC is in a leadership position again on this multi-state auto finance examination. The OCCC is participating in a multi-state mortgage exam that began in January. This exam is also in the report writing phase. Finally, the agency has committed to participate in a third multi-state auto finance examination that is in the planning stages.

The three Financial Examiner (FE I's) hired August 2, 2021 have been certified in motor vehicle finance exams. Examiner training and development remains the high priority focus. The department has begun planning two focused training weeks which will provide advanced examiner training in project management, credit access business exams, mortgage & property tax exams and complex regulated loan and credit insurance examinations.

### Examinations Conducted: Sept - Feb Fiscal Year Comparison

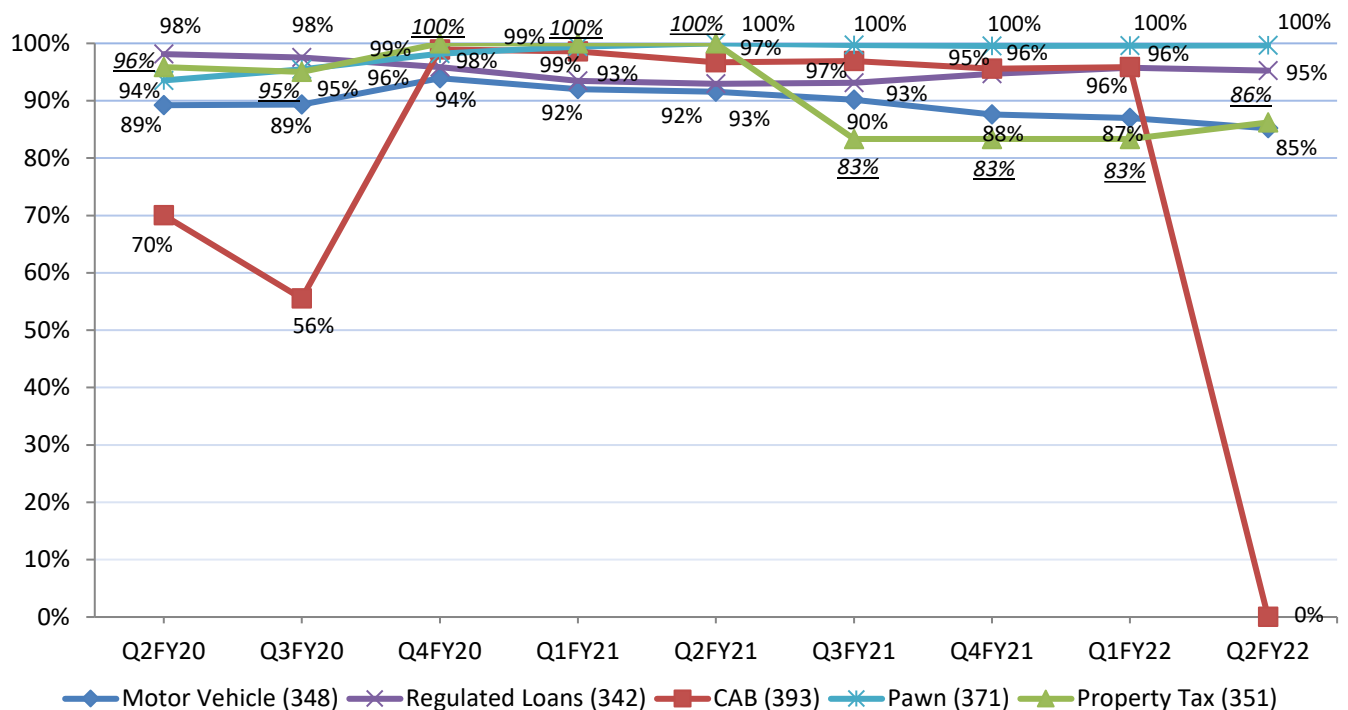


## Acceptable Level of Compliance FY '22 (Sept 2021 - Feb 2022)



During the period a small number of credit access business exams were conducted which all resulted in an unsatisfactory level of compliance. A large enterprise exam is in progress, but was not completed within this period. The following chart denotes the acceptable level of compliance on a trailing 12-month basis through the end of February 2022. The zero percent trailing 12 month compliance rating for CAB exams is the result of a large enterprise exam falling outside of the trailing 12 month time period leaving a small number of non-compliant exams.

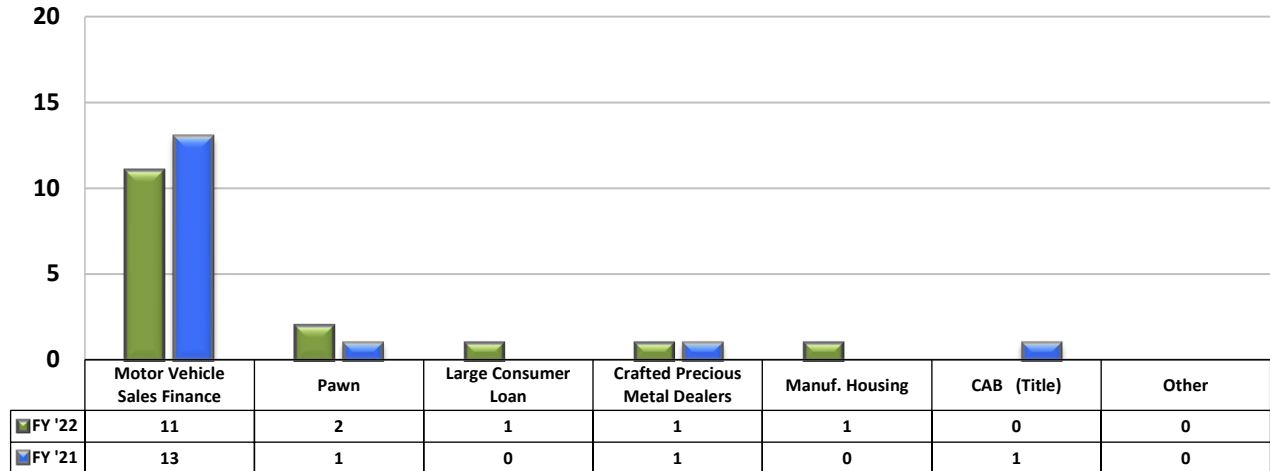
## Acceptable Compliance Levels - Trailing 12 Months (at quarter end)



Investigations

For FY 2022, the OCCC completed 16 investigations of the goal of 75. Motor Vehicle Sales Finance comprises 68.8% of the overall number of completed investigations.

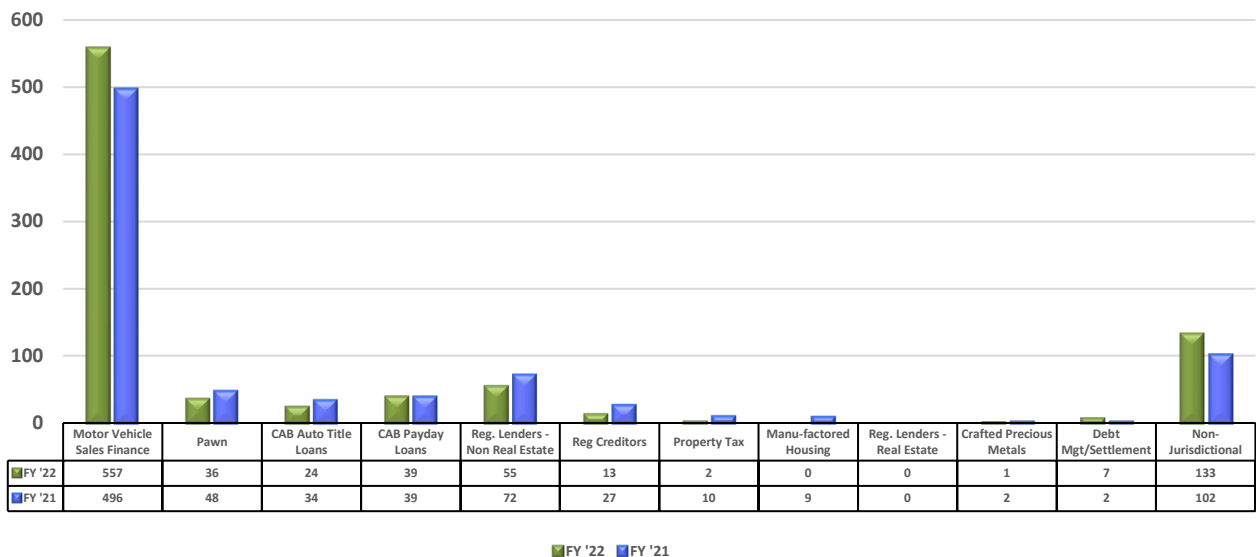
**Investigations Completed**  
**FY '22 (Sept 2021 - Feb 2022) Total: 16**  
**FY '21 (Sept 2020 - Feb 2021) Total: 16**



Consumer Assistance

Through the end of the second quarter, 867 complaints were closed, of which 133 were classified as non-jurisdictional. The top four areas of jurisdictional complaints are (1) Motor Vehicle Sales Finance (MVSF), (2) Credit Access Business (CAB), (3) Regulated Lenders Non-Real Estate, and (4) Pawn. MVSF complaints were the largest complaint category at 64.2%. The second largest category was CAB complaints at 7.3% collectively; separately, these are 4.5% for payday loans and 2.8% for title loans. The third largest category came from Regulated Lenders Non-Real Estate at 6.4%. The fourth largest category was Pawnshops at 4.2%.

**Complaints Closed**  
**FY '22: Sept 2021 - Feb 2022**  
**FY '21: Sept 2020 - Feb 2021**



**Fiscal Year 2022: Number of Complaints Closed by Source (Table 1), Subject (Table 2), and Disposition (Table 3)**

**Table 1**

Source of Complaint	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Consumer	419	355	NA	NA
Business	0	0	NA	NA
Law Enforcement	0	0	NA	NA
State or Federal Agency	23	67	NA	NA
OCCC	2	1	NA	NA
Whistleblower	0	NA	NA	NA
Other	0	NA	NA	NA
<b>Total</b>	<b>444</b>	<b>423</b>	<b>NA</b>	<b>NA</b>

**Table 2**

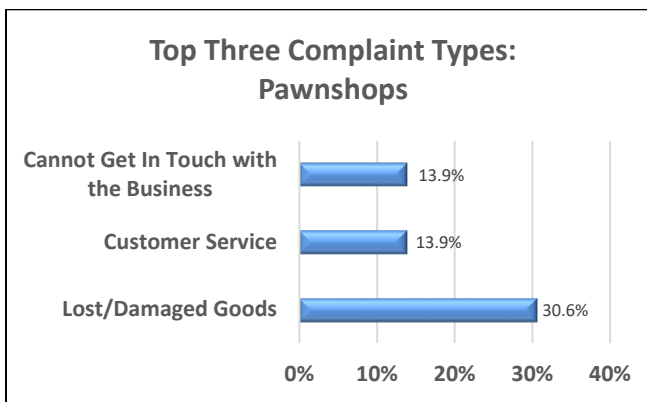
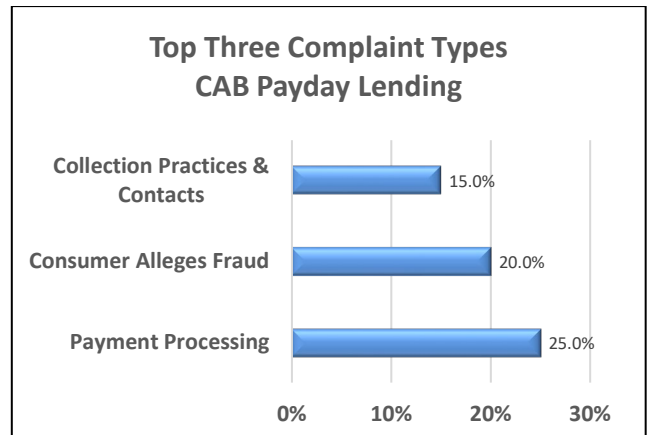
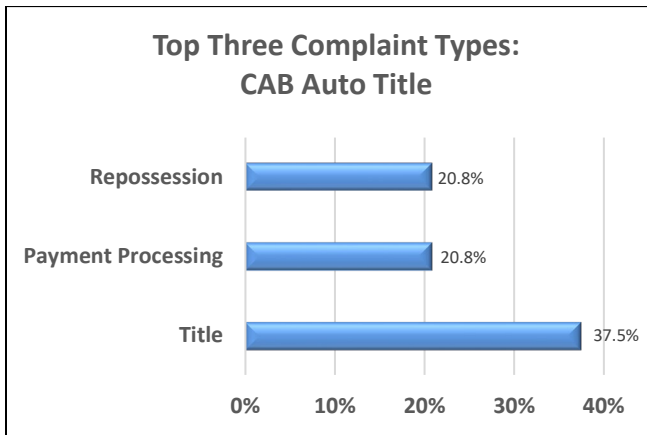
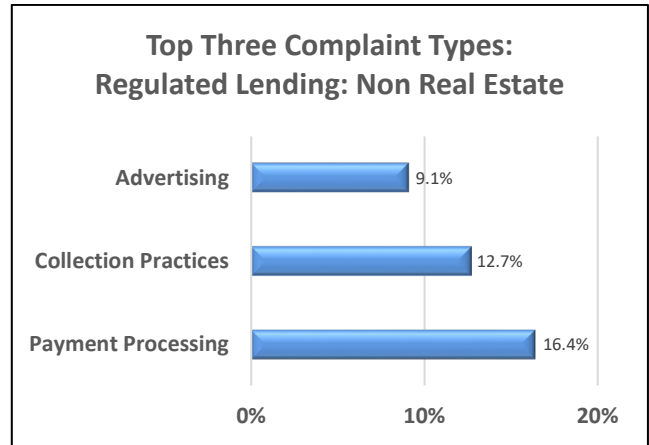
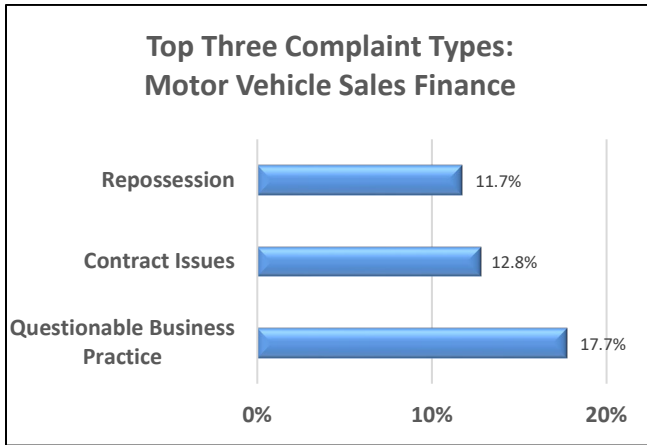
Subjects	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Motor Vehicle Sales Finance	295	263	NA	NA
CAB Payday Loans	23	17	NA	NA
CAB Auto Title Loans	12	12	NA	NA
Reg. Lenders Non-Real Estate	23	32	NA	NA
Pawn	22	14	NA	NA
Registered Creditors	7	6	NA	NA
Crafted Precious Metals Dealers	1	0	NA	NA
Mortgage Lenders: Real Estate	0	0	NA	NA
Manufactured. Housing	0	0	NA	NA
Property Tax Lenders	2	0	NA	NA
Debt Management/Settlement	3	5	NA	NA
Non-Jurisdictional	56	74	NA	NA
Refund Anticipation Loan	0	0	NA	NA
<b>Total</b>	<b>444</b>	<b>423</b>	<b>NA</b>	<b>NA</b>

**Table 3**

Disposition:	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Closed to Investigation	7	7	NA	NA
Closed to Legal	0	0	NA	NA
Closed-Action Taken	195	138	NA	NA
Closed-No Violation	88	130	NA	NA
Closed-Administratively	96	74	NA	NA
Closed-Non-Jurisdictional	58	74	NA	NA
<b>Total</b>	<b>444</b>	<b>423</b>	<b>NA</b>	<b>NA</b>



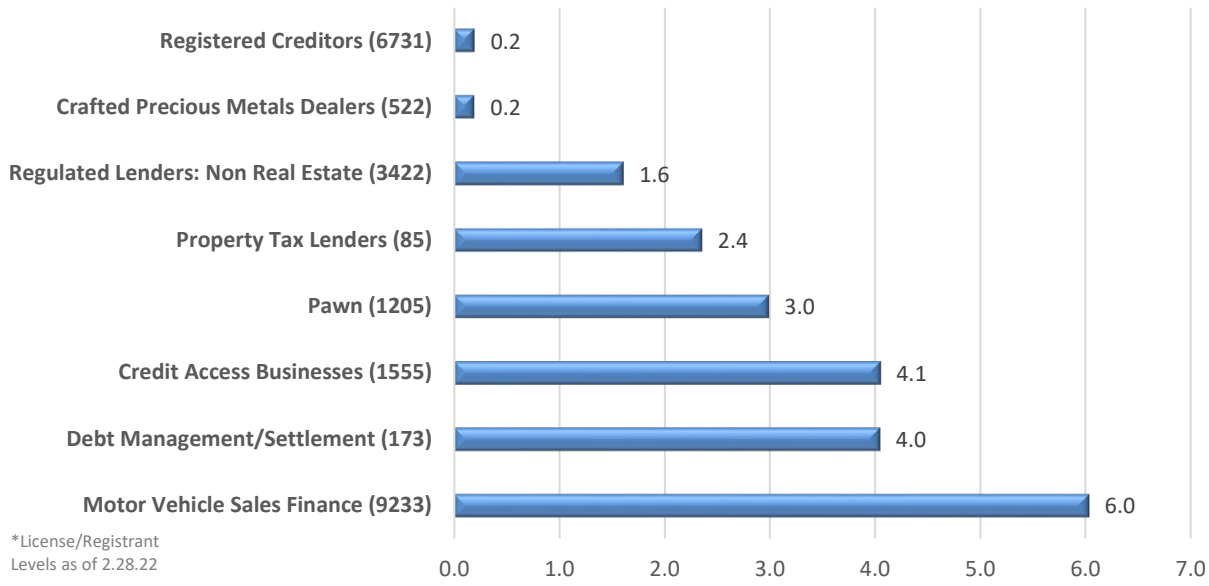
The following charts represent the top three complaint areas per license type. In the Motor Vehicle Sales Finance chart, the category *Questionable Business Practice* primarily relates to consumer complaints where there were allegations that the motor vehicle dealer would not accept outside financing. There were 100 complaints in this category; 88 were complaints alleging that dealers would not accept outside financing, 47 of those complaints were specific to outside financing from credit unions.



Production Targets and Priorities	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Percentage Written Complaints Closed within 90 days	93.7%	90.7%	NA	NA
Average Number of Days to Close a Complaint	38.9	41.4	NA	NA
Number of Complaints Closed	444	423	NA	NA

Comparison of complaints processed to the number of active license or registrant population is noted on the chart below. For this reporting period, the highest ratio of complaints to active license/registrants was Motor Vehicle Sales Finance, followed by Debt Management/Debt Settlement, Credit Access Businesses, and Pawn. This is a slight change from the previous reporting period wherein the highest ratio of complaints to active license/registrants was Motor Vehicle Sales Finance, followed by Credit Access Businesses, Property Tax Lenders, and Pawn.

**Ratio of Complaints Closed to Total Active License or Registrants\***  
**FY '22 (Sept 2021 - Feb 2022)**



## CAB Reporting Update

Summaries of CAB reports through 2021 are available on the OCC website. Presented are selected statistics of year-end totals from both the Annual and Quarterly reports compared with previous years. In 2021, the number of CAB loans and refinances declined. Total customers, total amount of fees and total dollar amount loaned all increased around 6%-9%. Total repossessions increased 14% from the previous year. More information on repossessions and the decline in number of loans is provided on additional graphs.

<b>Data Highlights (All Loan Types) Calendar Year</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>
Number of Payday Loans and Refinances <sup>1</sup>	2,173,359	2,385,287	3,676,280	3,859,893	4,351,772	4,730,285
Number of Title Loans and Refinances <sup>1</sup>	706,806	805,739	1,074,630	1,107,258	1,059,411	1,168,041
Number of vehicles repossessed under all Auto Title Loans	39,569	34,629	42,878	37,777	32,347	32,077
Total Customers <sup>2</sup>	1,101,031	1,016,820	1,611,367	1,505,212	1,499,599	1,651,278
Total \$ fees accrued on all transactions	\$1.49 B	\$1.39 B	\$2.03 B	\$1.86 B	\$1.76 B	\$1.63 B
Total \$ Loaned by All Licensees (in billions)	\$2.09 B	\$1.92 B	\$3.14 B	\$3.33 B	\$3.27 B	\$3.60 B
Total \$ Loaned by Out of State Licensees (in millions)	\$524 M	\$664 M	\$1005 M	\$851 M	\$839 M	\$813 M

<b>Payday Loans Calendar Year</b>	<b>Single Installment</b>			<b>Multiple Installment</b>		
	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>
Average loan amount	\$498	\$459	\$453	\$569	\$607	\$667
Average fee per \$100 borrowed	\$24.72	\$23.32	\$22.67	\$127.03	\$142.66	\$139.81
Average original term (in days)	21	22	22	143	153	151
Average Fee Converted to a Daily Rate <sup>3</sup>	1.18%	1.08%	1.05%	0.89%	0.93%	0.93%
Estimated transactions per borrower <sup>4</sup>	5.0	4.9	5.2	1.8	1.9	1.7

<b>Title Loans Calendar Year</b>	<b>Single Installment</b>			<b>Multiple Installment</b>		
	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>
Average loan amount	\$1,807	\$1,524	\$1,650	\$1,630	\$1,321	\$1,267
Average fee per \$100 borrowed	\$15.18	\$15.11	\$15.23	\$104.59	\$110.14	\$114.99
Average original term (in days)	31	30	30	161	158	157
Average Fee Converted to a Daily Rate <sup>3</sup>	0.50%	0.50%	0.51%	0.65%	0.70%	0.73%
Estimated transactions per borrower <sup>4</sup>	8.0	9.1	7.7	2.3	2.6	2.4

<sup>1</sup>Number of loans and refinances are the sum of quarterly report #10F.

<sup>2</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.

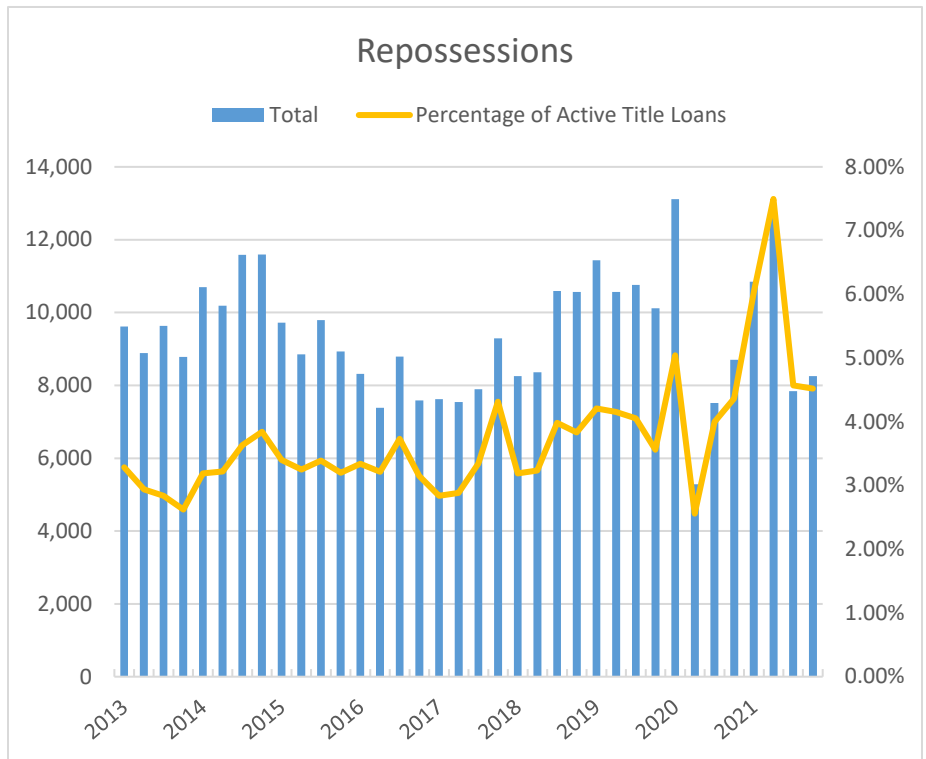
<sup>3</sup>Based on averages, per dollar borrowed a consumer would pay this percentage per day. The APR could be approximated by multiplying this rate by 365; however, it could be significantly higher if the multiple installment loans reduce principal with each payment and the total fees remain the same.

<sup>4</sup>Equation:  $\sum$  Quarterly 10F / 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**

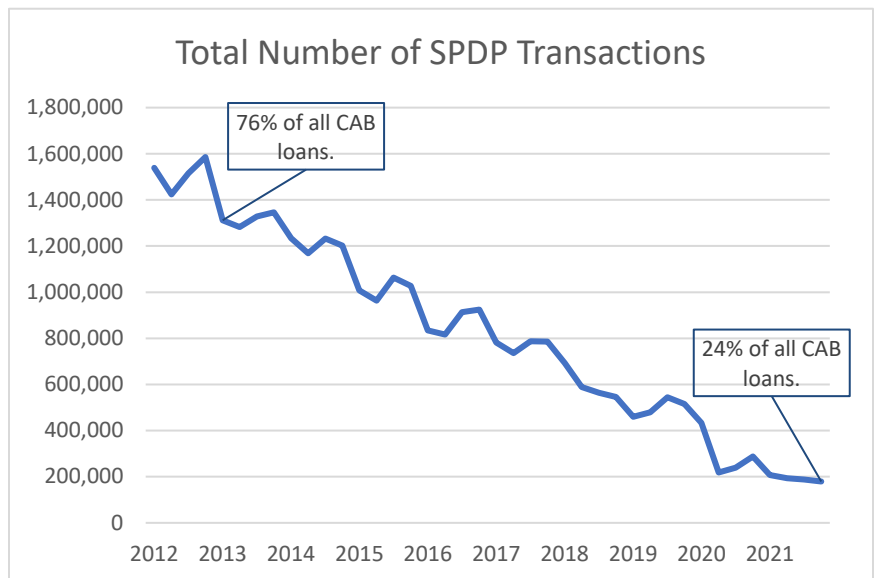
Quarterly report CAB data capturing repossessions began Jan 1, 2012. The first half of 2021 showed growth in the number of repossessions in the wake of 2020. After rising to 12,627 in Q2, repossessions in Q3 and Q4 of 2021 dropped to around 8,000. The historical average number of repossessions is 9,376 per quarter and a repossession rate of 3.73% of accounts.

The fourth quarter saw a slight increase in the number of repossessions from 7,839 to 8,257 while the repossession rate declined from 4.57% to 4.52%, remaining above the historical average.



**Additional Single-Payment Deferred Presentment Information**

Single-Payment Deferred Presentment Transactions (SPDP) originally represented the overwhelming majority of CAB transactions, making up 76% of all CAB loans in 2013. However, the total reported number of SPDP transactions has been steadily declining for a decade now; SPDP loans only accounted for 23% of all CAB loans at the end of 2021. Many cities have passed their own ordinances to regulate them, causing a drop in the number of loans made. CABs are also opting to make similar (non-CAB) loans that avoid these ordinances and are not reported to the OCCC.





## **Licensing Report- April 2022**

*Mirand Diamond, Director of Licensing, Finance & HR*

*Kanisha Daniels, Licensing Team Lead*

### **Renewals**

In the coming weeks the department will begin preparing for annual renewal of pawn shops and pawn employees. The department plans on opening renewal in ALECS for in early May. During the renewal period pawnshops will be able to opt-in or opt-out of the optional pawn employee licensing program.

### **Applications Processing**

During the 2<sup>nd</sup> quarter the team received an average of 145 applications monthly to be processed, higher than Q2 of FY 2021. While the receipt of applications remains high, processing of applications has lagged somewhat due to difficulty in replacing a specialist position. The team is still within reach of meeting the annual processing benchmark for the department. The department continues to hold monthly meetings to collaborate on ways to increase applications processed by specialists.

Pawn employee applications processed has declined this quarter, so the team is working to increase productivity in the rest of FY 2022.

### **Other Updates**

The department has had a vacancy for a license and permit specialist III position for an extended period. To broaden the applicant pool and better meet the needs of the department, the vacancy has been re-classified as a customer service representative. The goal is to be fully-staffed by the end of May.

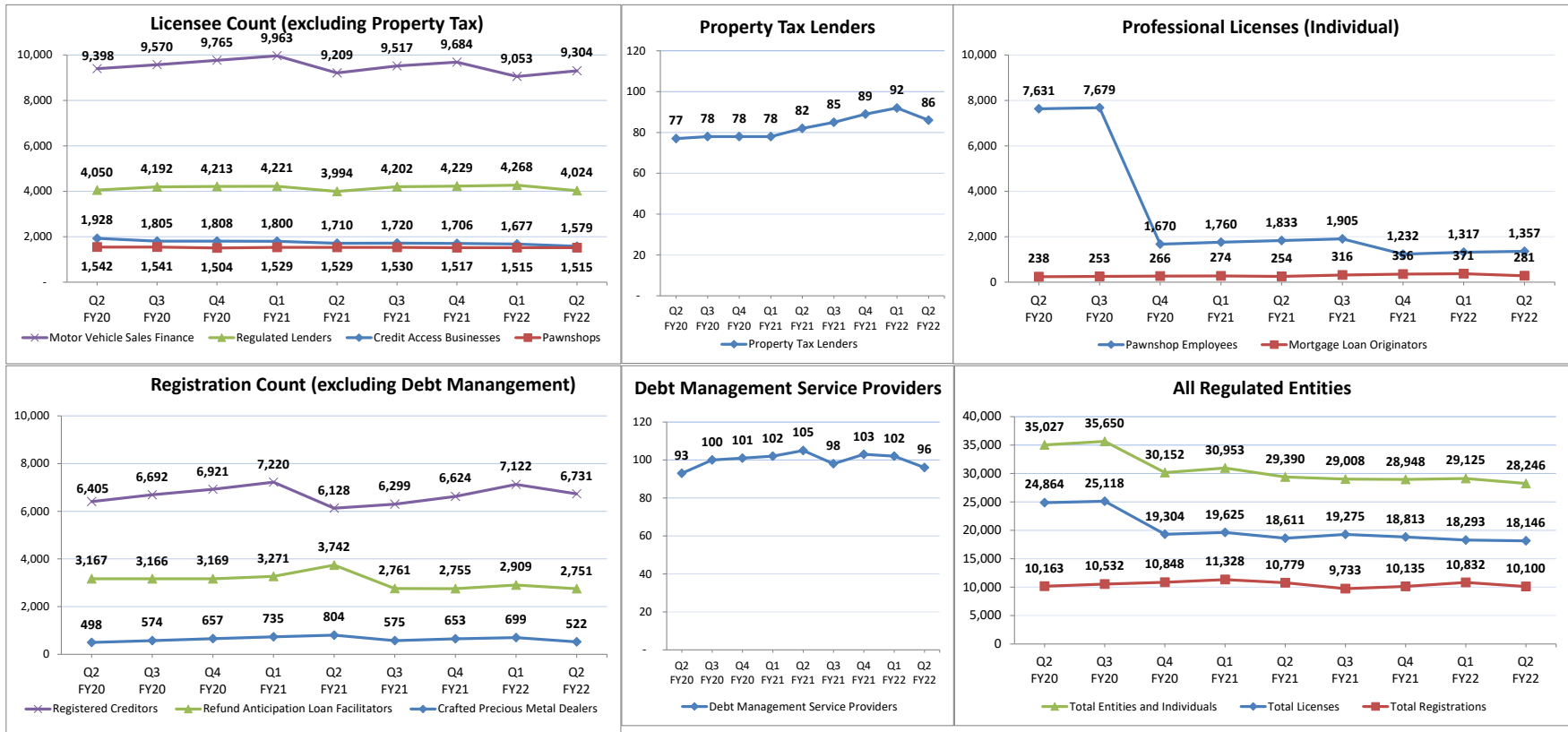
The licensing department is wrapping up the first phase of imaging and verifying. The second phase is scheduled to begin by mid-April. The department will keep this project at the forefront until all files have been imaged and verified.

Lastly, the Department of Public Safety issued a notice that state agencies receiving criminal history record information by rap back will now have to be validated. The department has successfully completed this task along with unsubscribing to rap backs for all principals whose debt management and settlement providers registration has cancelled.

### **Regulated Entity Population Trends**

The following charts reflect the number of OCCC regulated entities at the end of each quarter in fiscal years 2020, 2021, and 2022 to date.

## Number of OCCC Regulated Entities Quarterly Comparison of FY20-22





## **ADMINISTRATION REPORT**

### **FINANCIAL EDUCATION AND TFEE**

April is Financial Literacy month, which is a great time for the OCCC to engage in, and support programs that assist individuals in reviewing their finances. The agency is partnering with ERS for a webinar, “Taking Control of Financial Stress” on April 14<sup>th</sup> and will also visit the San Angelo Lions Club on April 21<sup>st</sup> to discuss Financial Education. Additionally, department staff are hosting a “First Time Home Buyer” webinar and are also working on a partnership with the Texas Department of Banking and the Federal Reserve Bank of Dallas for a Building Wealth Presentation.

The 4<sup>th</sup> and final semi-annual reports and reimbursement requests for the 2020-2021 TFEE grant cycle have been received. The total amount of grant funds requested for reimbursement to award recipients over the entire cycle was \$275,143.72.

### **COMMUNICATION**

As part of the Strategic Planning process, the OCCC’s Customer Service Survey was launched at the end of April in order to solicit feedback from stakeholders who have interacted with agency staff over the last six months. Additionally, staff continues to communicate with stakeholders through presentations and written publications. OCCC staff provided virtual presentations to regulated entities and other regulatory groups as follows:

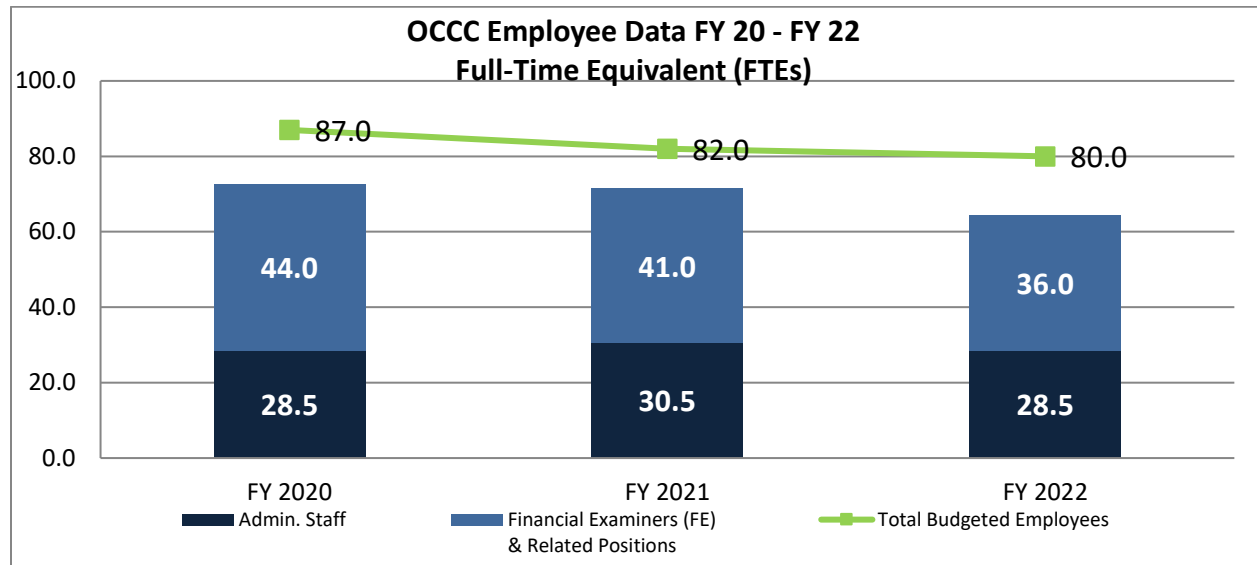
- On February 3, 2022, Financial Examiner Eric Fancher provided a presentation to automobile dealers at a webinar sponsored by the Texas Department of Motor Vehicles.
- On March 3, 2022, Financial Examiner Eric Fancher provided a presentation to automobile dealers at a webinar sponsored by the Texas Department of Motor Vehicles.
- On March 22, 2022, Commissioner Pettijohn, Deputy General Counsel Nance, Director Diamond, Assistant General Counsel Spalding, Licensing Lead Daniels, and Senior Paralegal Harmon hosted an RMLO Rule Review Webinar.
- On March 22, 2022, Commissioner Pettijohn, Deputy General Counsel Nance, Assistant General Counsel Spalding, and Senior Paralegal Harmon hosted a Motor Vehicle Records Privacy Rule Webinar.

**HUMAN RESOURCES**

During this reporting period from end of January 2021 to the end of March 2022, the OCCC was staffed with a total of 64.5 FTEs. Currently OCCC has the following open positions:

Vacancy	Status
Customer Service Representative II/III	Open - 2
Program Specialist III – Financial Education, Grant, & Communications Specialist	Open - 1
Summer Communications Internship	Open - 1
Human Resources Officer – Human Resources Specialist V – VI	Open - 1

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



The turnover rate as of March 2022 is 9.8%, and the chart below represents FY22 data.

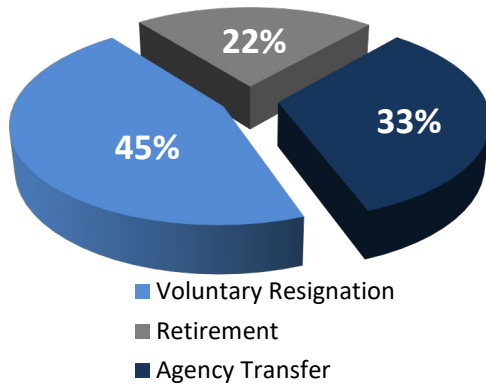


### OCCC Turnover Categories

#### FY 22 - All Employees

(09/01/2021 - 3/31/2022)

8 total - 4 Voluntary Resignations, 2 Interagency Transfers and 2 Retirements.

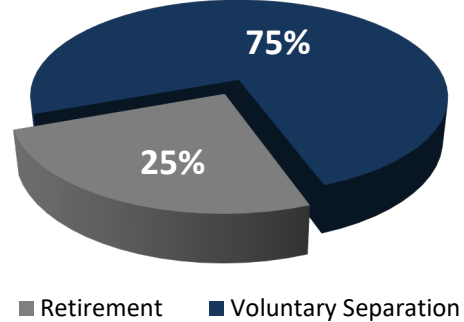


### OCCC Turnover Categories

#### FY 22 - FE Series

(09/01/2021 - 03/31/2022)

4 total - 1 Retirement, 3 Voluntary Resignations.



## INFORMATION TECHNOLOGY

### Cybersecurity

OCCC began its annual penetration test in late March through the managed security services offering within DIR's Shared Technology Services program. The testing is designed to identify system vulnerabilities and attempt to gain access to critical systems or sensitive information. Penetration testing is an effective approach to assess the security of critical resources.

IT personnel have been monitoring cyber-threat intelligence associated with the situation in Ukraine. Nothing yet has been actionable.

### Technology modernization and deployment

Internal email access has been consolidated with the credentialing system used for Windows access, allowing the older, original system to be depreciated.

A project coordinated with DIR Shared Technology Services has migrated agency assets to a different endpoint detection and response platform.

Another project coordinated with DIR Shared Technology Services is in process to improve the agency security posture. This project has a target implementation date of July. An additional project using DIR Shared Technology Services supports continuity planning and disaster recovery. This project should be complete by the end of April.

### **Training**

Agency-wide cybersecurity training has reached 172 of 180 minutes annual requirement. Awareness material regarding tax season scam opportunities was distributed in February.

IT personnel have begun reviewing a platform offered by DIR, Proofpoint, as a new source of training content.

### **Compliance**

The biannual IRDR (Information Resources Deployment Review) was completed and submitted to DIR. No items were deemed out of compliance and in need of corrective action.



## **Accounting Report- April 2022**

*Mirand Diamond, Director of Licensing & Finance*

### Staffing

The accounting department is fully staffed. The team is now working to train, cross-train and complete tasks and projects.

### CAPPS

The department is fully utilizing CAPPS-Financials for all FY 22 financial transactions. Second quarter financial statements and associated reconciliations have been completed. New procedures and processes are being documented and worked through as staff continue to learn and become more familiar with the system. Deployment activities continue for CAPPS-HR/Payroll. As of March 22, 2022, the project was 62% complete. Detailed weekly planning meetings and training sessions are underway. User Acceptance Testing will begin May 9, 2022, and continue through June 24, 2022, with agency-wide cut over and implementation scheduled for July 11, 2022.

### Procedures

The department is working to update documentation of accounts payable, purchasing, asset management, deposit and other procedures as a result of CAPPS-Financials implementation.

### Other Items

The State Auditor's Office SDSI audit for FY 21 has been completed and the final report has been published with management's responses. The audit contained no significant findings with regard to accounting processes. The accounting staff will be addressing some opportunities for improvement that were self-identified during the audit, as well as the insignificant items that the auditors identified.

The internal audit firm, Garza/Gonzalez and Associates, will begin the internal audit of regulated lender examinations in April.

Additionally, the quarterly Full Time Equivalent Employees report was timely submitted to the State Auditor's Office. The required reporting related to Statewide Cost Allocation Worksheet for FY 22 was filed with the Comptroller of Public Accounts.

Lastly, the department director is attending the Texas Fiscal Officer's Academy which is sponsored and facilitated by the State Auditor's Office. The three-week course, scheduled across a three-month time span, will conclude at the end of April.

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

*As of February 28, 2022*

	FY 2020	FY 2021	FISCAL YEAR 2022				
			1st QTR	2nd QTR	3rd QTR	4th QTR	FYTD
<b>CONSUMER PROTECTION</b>							
Monies Returned (000)	4,391	3,386	1,473	21,679			23,152
Regulated Lenders Examinations	576	656	244	175			419
Property Tax Lender Examinations	7	12	1	24			25
Pawnshop Examinations	276	415	157	124			281
Motor Vehicle Examinations	1,350	1,364	406	365			771
Credit Access Businesses Examinations	284	293	6	0			6
<b>CONSUMER ASSISTANCE</b>							
Telephone Complaints Received	459	489	119	81			200
Written Complaints Received	1,303	1,241	283	317			600
Total Complaints Closed	1,756	1,725	444	423			867
% of Written Complaints Closed within 90 Calendar Days	86.6%	96.6%	93.7%	90.7%			90.7%
<b>ADMINISTRATIVE ENFORCEMENT ACTIONS</b>							
Originated	188	224	23	18			41
Finalized	270	197	68	30			98
<b>LICENSING AND REGISTRATION</b>							
<b>Licenses</b>							
Regulated Lender Licenses	4,213	4,229	4,268	4,024			4,024
Pawnshop Licenses	1,504	1,517	1,515	1,515			1,515
Pawnshop Employee Licenses	1,670	1,232	1,317	1,357			1,357
Commercial MV Sales Fin. Licenses	54	57	55	56			56
Motor Vehicle Sales Finance Licenses	9,711	9,627	8,998	9,248			9,248
Property Tax Lender Licenses	78	89	92	86			86
Mortgage Loan Originators	266	356	371	281			281
Credit Access Business Licenses	1,808	1,706	1,677	1,579			1,579
<b>Registrations</b>							
Registered Creditors	6,921	6,624	7,122	6,731			6,731
Crafted Precious Metal Dealers	657	653	699	522			522
Debt Management Service Providers	101	103	102	96			96
Refund Anticipation Loan Facilitators	3,169	2,755	2,909	2,751			2,751
<b>Applications</b>							
Business -- New	1,621	1,579	298	464			762
Business -- Change of Ownership	87	141	8	13			21
Pawnshop Employees -- New	630	408	98	58			156
<b>HUMAN RESOURCES DATA</b>							
Field Examiners Staffing	44	40	40	38			38
Total Staffing	73	68.5	69.5	69.5			69.5

**Office of Consumer Credit Commissioner  
Actual Performance for Output Measures  
Fiscal Year 2022**

Type/Strategy/Measure	2022 Target	2022 Actual	2022 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>	1,750	444	444	25.4%
<b>Quarter 2</b>	1,750	423	867	49.5%
<b>2-1-1</b>	<b>Examination and Enforcement</b>			
	<b>1. # Examinations Completed</b>			
<b>Quarter 1</b>	3,000	814	814	27.1%
<b>Quarter 2</b>	3,000	688	1,502	50.1%
<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>	1,800	298	298	16.6% *
	The licensing department has worked to meet departmental goals, but staffing continues to be a challenge, with the license and permit specialist position remaining unfilled. There are currently no business licenses up for renewal, so staff will focus on processing pending and new applications.			
<b>Quarter 2</b>	1,800	464	762	42.3% *
	The variance is due to lower application processing in Q2 because of increased call volume and customer service contact in connection with renewal and reinstatement of regulated lenders, credit access business, and property tax licensees throughout the quarter.			
<b>FINANCIAL EDUCATION</b>				
<b>3-3-1</b>	<b>Financial Education</b>			
	<b>1. # People Receiving Direct Educational Services</b>			
<b>Quarter 1</b>	900	205	205	22.8%
<b>Quarter 2</b>	900	34	239	26.6% *
	Due to staffing issues, the Financial Education Department has been unable to conduct classes as forecasted. The agency is actively recruiting a Financial Education Specialist and anticipates an increase in classes during the month of April for Financial Literacy Month.			

\*Varies by 5% or more from target.



## **Legal Department Report**

*Michael Rigby, General Counsel*

April 2022

### **Enforcement Report**

#### **Contested Case**

The OCCC currently has one contested case pending before the State Office of Administrative Hearings (SOAH), concerning ten motor vehicle sales finance licensees (SOAH Docket No. 466-22-0322). Under the Texas Finance Code, before a motor vehicle retail seller charges a documentary fee over \$150, the seller must notify the OCCC and provide a cost analysis showing that the fee is reasonable. Duncanville N LLC and nine other Clay Cooley entities filed for documentary fees ranging from \$175 to \$299. After reviewing the cost analyses for these entities, the OCCC determined that these documentary fees were unreasonable. On September 9, 2021, the OCCC issued an Order to Reduce Documentary Fees and Make Restitution against the Clay Cooley entities. The Clay Cooley entities requested a hearing on the order. The parties have conducted discovery, and have filed motions for summary disposition requesting that the administrative law judge rule on the legal issues in the case. A hearing before SOAH is currently scheduled for April 26–28, 2022.

#### **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, 2022				
	FYTD 2022	FY 2021	FY 2020	FY 2019
<b>Injunction Actions</b>				
Crafted Precious Metal Dealer	0	0	1	0
Credit Access Business	14	33	27	53
Debt Management Provider	0	10	9	10
Manufactured Housing	0	0	0	0
Motor Vehicle Sales Finance	4	11	54	20
Motor Vehicle Sales Finance Commercial	0	1	0	0
Pawnshop	4	48	44	82
Pawnshop Employee	0	0	0	67
Property Tax Lender	0	2	1	8
Registered Creditor	0	0	1	0
Regulated Lender	39	28	49	22
Residential Mortgage Loan Originator	0	0	0	0
<b>Total Injunction Actions</b>	<b>61</b>	<b>133</b>	<b>186</b>	<b>262</b>
<b>Administrative Penalty Actions</b>				
Crafted Precious Metal Dealer	0	0	1	0
Credit Access Business	4	12	11	14
Debt Management Provider	0	2	3	0
Motor Vehicle Sales Finance	2	8	13	19
Pawnshop	6	15	29	12
Pawnshop Employee	0	0	0	0
Property Tax Lender	0	1	3	6
Regulated Lender	23	18	18	7
Residential Mortgage Loan Originator	0	0	0	0
<b>Total Administrative Penalty Actions</b>	<b>35</b>	<b>56</b>	<b>78</b>	<b>58</b>
<b>Revocation / Suspension Actions</b>				
Crafted Precious Metal Dealer	0	0	0	0
Credit Access Business	0	1	0	1
Motor Vehicle Sales Finance	2	1	2	0
Pawnshop	1	4	0	0
Pawnshop Employee	0	0	0	1
Property Tax Lender	0	0	0	0
Regulated Lender	0	0	1	0
Residential Mortgage Loan Originator	0	0	0	0
<b>Total Revocation / Suspension Actions</b>	<b>3</b>	<b>6</b>	<b>3</b>	<b>2</b>
<b>Application Denial and Protest Actions</b>				
Credit Access Business	0	0	0	0
Motor Vehicle Sales Finance	1	2	3	2
Pawnshop	0	0	0	0
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	0
<b>Total App. Denial and Protest Actions</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>2</b>
<b>Total Actions Closed</b>	<b>100</b>	<b>197</b>	<b>270</b>	<b>324</b>

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

September 1, 2021 through March 31, 2022	
Cases Opened	52
Cases Closed	100
Average Number of Days to Close an Enforcement Action	99
Contested Cases Referred to SOAH	1
Contested Cases Heard at SOAH	0
Final Orders Issued	94

The OCCC has one upcoming SOAH hearing described above.

### **Rule Actions**

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

- Adoption of amendments to 7 TAC Chapter 83, Subchapter A (relating to regulated lenders), resulting from rule review
- Readoption of Chapter 2 (relating to residential mortgage loan originators), as well as proposed amendments to this chapter, resulting from rule review
- Proposed amendments to Chapter 82 (relating to administration) relating to privacy of motor vehicle records, to implement SB 15 (2021)

In June 2022, the OCCC plans to present the following rule actions:

- Adoption of amendments to Chapter 153 (relating to home equity lending), to amend the definition of “business day”
- Readoption of Chapter 85, Subchapter A (relating to pawnshops), as well as any proposed amendments to this subchapter, resulting from rule review

### **Advisory Bulletins**

From February 1, 2022 to March 31, 2022, the OCCC issued two advisory bulletins:

- The first bulletin describes the requirement for retail sellers to register with the OCCC under Chapter 345 of the Texas Finance Code if they sell goods on credit.
- The second bulletin describes the OCCC’s use of 2020 census results for purposes of pawnshop licensing requirements.

### **Official Interpretation Requests**

From February 1, 2022 to March 31, 2022, the OCCC did not receive any requests for official interpretations of the Texas Finance Code. As of March 31, 2022, there were no pending requests for official interpretations of the Texas Finance Code.



### **Public Information Requests**

<b>February 1, 2022 through March 31, 2022</b>	
Requests Received	33
Requests Closed	29
Requests Withdrawn	3
Requests Referred to Office of Attorney General	1
Average Number of Days to Address a Public Information Request	3.3

On February 1, 2022, the OCCC referred a public information request to the Office of the Attorney General. The request asked for stakeholder comments submitted in response to the OCCC's rule review of 7 TAC Chapter 83, Subchapter A (relating to regulated lenders). The OCCC provided stakeholder comments to the requestor, except for documents that were marked by a commenter as confidential. The OCCC referred the request to the Office of the Attorney General (OAG) to make a determination of whether the information is confidential, and notified the commenter of the opportunity to submit briefing to explain why the information is confidential. On April 7, the OAG issued a ruling on the request. The OAG found that the commenter had demonstrated that the information constituted commercial or financial information whose release would cause substantial competitive harm, and instructed the OCCC to withhold the information from the requestor.

### **Gifts Received by the OCCC**

From February 1, 2022 to March 31, 2022, the OCCC received no gifts.

**C. OFFICE OF CONSUMER CREDIT COMMISSIONER**

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Chapter 83, Subchapter A, Concerning Rules for Regulated Lenders, Resulting from Rule Review

**PURPOSE:** The purpose of the amendments to 7 TAC Chapter 83, Subchapter A is to implement changes resulting from the commission's review of the subchapter under Texas Government Code, §2001.039.

**RECOMMENDED ACTION:** The agency requests that the Finance Commission approve the adoption of the amendments to 7 TAC Chapter 83, Subchapter A.

**RECOMMENDED MOTION:** I move that the Finance Commission approve the adoption of the amendments to 7 TAC Chapter 83, Subchapter A.

*Title 7. Banking and Securities*  
*Part 5. Office of Consumer Credit Commissioner*  
*Chapter 83. Regulated Lenders and Credit Access Businesses*  
*Subchapter A. Rules for Regulated Lenders*

The Finance Commission of Texas (commission) adopts amendments to §83.101 (relating to Purpose and Scope), §83.205 (relating to Loans by Mail and Internet), §83.301 (relating to Definitions), §83.308 (relating to Relocation), §83.404 (relating to Denial, Suspension, or Revocation Based on Criminal History), §83.504 (relating to Default Charges), §83.602 (relating to Default Charges), §83.703 (relating to Default Charges), and §83.834 (relating to Unclaimed Funds) in 7 TAC, Chapter 83, Subchapter A, concerning Rules for Regulated Lenders.

The commission adopts the amendments to §83.101, §83.301, §83.308, §83.504, §83.602, §83.703, and §83.834 without changes to the proposed text as published in the March 4, 2022, issue of the *Texas Register* (47 TexReg 1045).

The commission adopts the amendments to §83.205 and §83.404 with changes to the proposed text as published in the March 4, 2022, issue of the *Texas Register* (47 TexReg 1045).

The commission received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 83, Subchapter A govern regulated lenders. In general, the purpose of the rule changes to 7 TAC Chapter 83, Subchapter A is to implement changes resulting from the commission's review of the subchapter under Texas Government Code, §2001.039. In November 2021, the OCCC issued an advance notice of rule review, seeking

informal feedback on the rule review. Notice of the review of 7 TAC Chapter 83, Subchapter A was published in the *Texas Register* on December 3, 2021 (46 TexReg 8261). The commission received two official comments in response to that notice. Both of these official comments deal with whether the commission should amend the maximum administrative fee in §83.503 (relating to Administrative Fee). The OCCC intends to study this issue further.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder webinar regarding the rule changes. The OCCC received five precomments on the rule text draft. The five precomments deal with whether the commission should amend the maximum administrative fee in §83.503. The OCCC intends to study this issue further.

Amendments to §83.101 ensure that language about the scope of the rules is consistent with amendments in HB 1442, which the Texas Legislature passed in 2019. HB 1442 amended Texas Finance Code, §342.005 to state that Chapter 342 applies to a consumer loan made to a person who is located in Texas at the time the loan is made. To be consistent with this statutory amendment, the adoption adds the phrase "to a person located in Texas at the time the loan is made" in subsection (b)(1)(B). The adoption also removes the phrase "or secured by a lien on real estate" in subsection (b)(1)(C)(i). This phrase is unnecessary, because subsection (b)(1)(C)(ii) specifies that the rules apply to a secondary mortgage

loan, which is the type of real-estate-secured loan that is subject to Chapter 342 (and therefore subject to the rules).

Amendments to §83.205 ensure that language about online loans is consistent with amendments in HB 1442 (2019). HB 1442 added the words "or online" to Texas Finance Code, §342.053(b), which deals with loans by mail. As a result of the amendment, Texas Finance Code, §342.053(b) now states: "A lender may make, negotiate, arrange, and collect loans by mail or online from a licensed office." This adoption adds the words "or online" in §83.205(b) and (c), to use wording that is consistent with the statute. The adoption removes previous subsection (d), which provided that an internet loan is considered a "loan by mail," because this language is no longer necessary due to the other changes to §83.205. The adoption also amends the title of the section to replace "and Internet" with "or Online," to use wording that is consistent with the statute.

Since the proposal, a change has been made to add the phrase "or online" in the second sentence of §83.205(c), in order to ensure consistency with the changes described in the previous paragraph.

Amendments to §83.301 update the definition of "net assets." The amendment explains that debt may be subordinated to the net asset requirement under certain conditions. This ensures consistency with other OCCC rules regarding net assets. This also ensures consistency with Texas Attorney General Opinion No. DM-332 (1995).

Amendments to §83.308 relate to notifying debtors when a licensed lender relocates. Previously, §83.308(b) required licensees to mail a notice to all debtors before

relocation of an office. An amendment to §83.308(b) explains that a licensee may send this notice by email in lieu of mail if the debtor has provided an email address to the licensee and has consented in writing to be contacted at the email address. The commission believes that this change will improve licensees' ability to use electronic communication to ensure compliance. This change responds to an informal comment that proposed revising this subsection to allow electronic notice.

Amendments to §83.404 relate to the OCCC's review of the criminal history of a regulated lender applicant or licensee. The OCCC is authorized to review criminal history of regulated lender applicants and licensees under Texas Occupations Code, Chapter 53; Texas Finance Code, §14.109; and Texas Government Code, §411.095. The amendments to §83.404 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 elements 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 §83.404 implement these statutory changes from HB 1342. Other amendments to §83.404 include technical corrections, clarifying changes, and updates to citations.

Since the proposal, a change has been made to correct a citation in §83.404(d). In this subsection, an adopted amendment replaces "(f)(2)" with "(f)(1)." This technical correction is necessary because previous subsection (f)(1) is being deleted in order to implement statutory changes described in the previous paragraph.

Amendments to §83.504, §83.602, and §83.703 remove references to the Federal Reserve Board's Regulation AA. The Federal Reserve Board repealed this rule in 2016. 81 Fed. Reg. 8133 (Feb. 18, 2016). The amendments to §83.504, §83.602, and §83.703 maintain current references to the Federal Trade Commission's Credit Practices Rule, 16 C.F.R. §444.4, and therefore do not affect the current prohibition on pyramiding late charges.

Amendments to §83.834(d) make technical changes relating to the escheat of unclaimed funds. Amended text in this subsection (d) reflects that unclaimed funds are submitted to the "Unclaimed Property Division" of the Texas Comptroller of Public Accounts. Another amendment adds a reference to Texas Property Code, §74.301, in order to provide a more complete statutory reference for the requirement to pay unclaimed funds to the state after three years.

The rule changes are adopted under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 342.

*Chapter 83. Regulated Lenders and Credit Access Businesses*

*Subchapter A. Rules for Regulated Lenders*

*Division 1. General Provisions*

*§83.101. Purpose and Scope*

(a) Purpose. The purpose of this subchapter is to assist in the administration and enforcement of Texas Finance Code, Chapter 342.

(b) Scope.

(1) This subchapter applies to all persons engaged in the business of making, transacting, or negotiating loans subject to Texas Finance Code, Chapter 342. As such, this subchapter only applies to lenders and brokers in the business of making, transacting, or negotiating loans that:

(A) contract for, charge, or receive interest in excess of 10% per year;

(B) are loans extended primarily for personal, family, or household use to a person located in Texas at the time the loan is made; and

(C) are either:

(i) unsecured [~~or secured by a lien on real estate~~];

(ii) secured under a secondary mortgage loan; or

(iii) secured by personal property.

(2) This subchapter applies to term loans extended primarily for personal, family, or household purposes.

(3) This subchapter also applies to a loan broker who arranges, negotiates, or brokers loans for a lender that funds the loan. This subchapter does not apply to any loans made under Texas Finance Code, Chapters 301 - 308 or Chapter 339, including commercial and agricultural loans.

*Division 2. Authorized Activities*

*§83.205. Loans by Mail or Online [~~and Internet~~]*

(a) Definitions. The words "make," "negotiate," "arrange," and "collect" as used in Texas Finance Code, §342.053(b) are to be construed according to the definitions contained in §83.204(a) of this title (relating to Multiple Licenses).

(b) Application. Any office, wherever located, making, negotiating, arranging, or collecting loans by mail or online must be licensed. For example, if a lender receives and reviews loan applications at one office, makes the loan decision at another office, funds the loan at a third, and collects past-due payments from another, all of these offices involved in lending by mail or online must be licensed. On the other hand, an office that merely receives, records, accounts for, and processes payments need not be licensed.

(c) Authorized lenders. The following entities with offices located outside of Texas may make loans by mail or online to Texas residents and are considered to meet the definition of authorized lender as contained

in §83.102 of this title (relating to Definitions):

(1) a person who has obtained a regulated loan license from the OCCC;

(2) a bank, savings bank, savings and loan association, or credit union doing business under the laws of this state, another state, or the United States;

(3) a bank, savings bank, or savings and loan association chartered in another state and insured by the Federal Deposit Insurance Corporation; and

(4) a credit union chartered in another state and insured through the National Credit Union Share Insurance Fund.

~~[(d) Internet loans. For purposes of Texas Finance Code, §342.053(b), a loan made, negotiated, arranged, or collected by or through the Internet is considered a "loan by mail."]~~

*Division 3. Application Procedures*

*§83.301. Definitions*

Words and terms used in this subchapter that are defined in Texas Finance Code, Chapter 342, have the same meanings as defined in Chapter 342. The following words and terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) Net assets--The total value of acceptable assets used or designated as readily available for use in the business, less liabilities, other than those liabilities secured by unacceptable assets. Unacceptable assets include, but are not limited to, goodwill, unpaid stock subscriptions, lines of credit,

notes receivable from an owner, property subject to the claim of homestead or other property exemption, and encumbered real or personal property to the extent of the encumbrance. Generally, assets are available for use if they are readily convertible to cash within 10 business days. Debt that is either unsecured or secured by current assets may be subordinated to the net asset requirement pursuant to an agreement of the parties providing that the creditor forfeits its security priority and any rights it may have to current assets in the amount of \$25,000. Debt subject to such a subordination agreement would not be an applicable liability for purposes of calculating net assets.

(2) Principal party--An adult individual with a substantial relationship to the proposed lending business of the applicant. The following individuals are principal parties:

(A) a proprietor;

(B) general partners;

(C) officers of privately held corporations, to include the chief executive officer or president, the chief operating officer or vice president of operations, the chief financial officer or treasurer, and those with substantial responsibility for lending operations or compliance with Texas Finance Code, Chapter 342;

(D) directors of privately held corporations;

(E) individuals associated with publicly held corporations designated by the applicant as follows:

(i) officers as provided by subparagraph (C) of this paragraph (as if the corporation were privately held); or

(ii) three officers or similar employees with significant involvement in the corporation's activities governed by Texas Finance Code, Chapter 342. One of the persons designated must be responsible for assembling and providing the information required on behalf of the applicant and must sign the application for the applicant;

(F) voting members of a limited liability company;

(G) trustees and executors; and

(H) individuals designated as principal parties where necessary to fairly assess the applicant's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly as required by the commissioner.

*§83.308. Relocation*

(a) Filing requirements. A licensee may move the licensed office from the licensed location to any other location by paying the appropriate fees and giving notice of intended relocation to the commissioner not less than 30 calendar days prior to the anticipated moving date. Notification must be filed on the Amendment to Regulated Loan License or an approved electronic submission as prescribed by the commissioner. The notice must include the contemplated new address of the licensed office, the approximate date of relocation, a copy of the notice to debtors, and the applicable fee as outlined in §83.310 of this title (relating to Fees).

(b) Notice to debtors. Written notice of a relocation of an office, or of transactions as outlined in subsection (c) of this section, must be mailed to all debtors of record at least five calendar days prior to the date of relocation. A licensee may send notice to a debtor by email in lieu of mail if the debtor has provided an email address to the licensee and has consented in writing to be contacted at the email address. Any licensee failing to give the required notice must waive all default charges on payments coming due from the date of relocation to 15 calendar days subsequent to the mailing of notices to debtors. Notices must identify the licensee, provide both old and new addresses, provide both old and new telephone numbers, and state the date relocation is effective. The notice to debtors can be waived or modified by the commissioner when it is in the public interest. A request for waiver or modification must be submitted in writing for approval. The commissioner may approve notification to debtors by signs in lieu of notification by mail, if in the commissioner's opinion, no debtors will be adversely affected.

(c) Relocation of regulated transactions. If the licensee is only relocating or transferring regulated transactions from one licensed location to another licensed location, the licensee must comply with subsection (b) of this section and provide, if requested, a list of regulated transactions relocated or transferred. This list of relocated or transferred regulated transactions must include the loan number and the full name of the debtor.

*Division 4. License*

*§83.404. Denial, Suspension, or Revocation Based on Criminal History*

(a) Criminal history record information. After an applicant submits a complete license application, including all required fingerprints, and pays the fees required by §83.310 of this title (relating to Fees), the OCCC will investigate the applicant and its principal parties. 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 fingerprints have been initially processed.

(b) Disclosure of criminal history. The applicant must disclose all criminal history information required to file a complete application with the OCCC. Failure to provide any information required as part of the application or requested by the OCCC reflects negatively on the belief that the business will be operated lawfully and fairly. The OCCC may request additional criminal history information from the applicant, including the following:

(1) information about arrests, charges, indictments, and convictions of the applicant and its principal parties;

(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 or are current.

(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 licensee under Texas Finance Code, Chapter 342, as provided by Texas Occupations Code, §53.021(a)(1).

(1) Originating, acquiring, or servicing loans under Texas Finance Code, Chapter 342 involves or may involve making representations to consumers regarding the terms of the loan, receiving money from consumers, remitting money to third parties, maintaining accounts, repossessing property without a breach of the peace, maintaining goods that have been repossessed, collecting due amounts in a legal manner, and foreclosing on real property in compliance with state and federal law. 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 misrepresentation, deceptive practices, or making a false or misleading statement (including fraud or forgery);

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

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

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

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

(H) any offense that involves intent, attempt, aiding, solicitation, or conspiracy to commit an offense described in subparagraphs (A) - (G) of this paragraph.

(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 [s] 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) In determining whether a conviction for a crime renders an applicant or a licensee unfit to be a licensee, the OCCC will consider the following factors, 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 character and fitness. The OCCC may deny a license application if the OCCC 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 business will be operated lawfully and fairly, as provided by Texas Finance Code, §342.104(a)(1). In conducting its review of character and fitness, the OCCC will consider the criminal history of the applicant and its principal parties. If the applicant or a principal party has been convicted of an offense described by subsections (c)(1) or (f)(1) ~~[(f)(2)]~~ of this section, this reflects negatively on an applicant's character and fitness. The OCCC may deny a license application based on other criminal history of the applicant or its principal parties 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 business will be operated lawfully and fairly. The OCCC will, however, consider the factors identified in subsection (c)(2) - (3) of this section in its review of character and fitness.

(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 occupation and that was committed less than five years before the date of application, as provided by Texas Occupations Code, §53.021(a)(2);]~~

(1) [(2)] a conviction for an offense listed in Texas Code of Criminal Procedure, art. 42A.054 or art. 62.001(6), as provided by Texas Occupations Code, §53.021(a)(3)-(4) [§53.021(a)(3)-(4)];

(2) [(3)] errors or incomplete information in the license application;

(3) [(4)] a fact or condition that would have been grounds for denying the license application, and that either did not exist at the time of the application or the OCCC was unaware of at the time of application, as provided by Texas Finance Code, §342.156(3); and

(4) [(5)] any other information warranting the belief that the business will not be operated lawfully and fairly, as provided by Texas Finance Code, §342.104(a)(1) and §342.156.

#### *Division 5. Interest Charges on Loans*

##### *§83.504. Default Charges*

(a) Precomputed loans. Additional interest for default may be charged on a

precomputed loan, whether regular or irregular, or on a precomputed loan contracted for on a scheduled installment earnings method, to the extent it is authorized by Texas Finance Code, §342.203 or §342.206.

(b) Interest-bearing loans. Additional interest for default may be charged on an interest-bearing Chapter 342, Subchapter E loan as authorized under Texas Finance Code, §342.203 or §342.206.

(c) Contract required. No default charge may be assessed, imposed, charged, or collected unless contracted for in writing by the parties.

(d) Default period. A default charge may not be assessed until after the 10th day after the installment due date. For example, if the installment due date is the 1st of the month, a default charge may not be assessed until the 12th of the month.

(e) Missed payment covered by insurance. When any payment or partial payment in default is later paid by some form of insurance, such as credit disability insurance, unemployment insurance, or collateral protection insurance, any prior assessment of additional interest for default must be waived.

(f) Pyramidizing prohibited. An authorized lender seeking to assess additional interest for default on a precomputed loan under Texas Finance Code, §342.203 or §342.206 must comply with the prohibition on the pyramidizing of late charges provided by the Federal Trade Commission's Credit Practices Rule at 16 C.F.R. §444.4 ~~[or in Regulation AA, 12 C.F.R. Part 227, promulgated by the Board of Governors of the Federal Reserve System, as applicable]~~.

(g) Default charge on final installment of multiple payment loan. A default charge is allowed on the final installment of a multiple installment loan.

(h) Default charge on single payment loan. A default charge under Texas Finance Code, §342.203(d) or §342.206(b) is not allowed on a single payment loan. After maturity interest may be contracted for, charged, and collected on a single payment loan.

*Division 6. Alternate Charges for Consumer Loans*

*§83.602. Default Charges*

(a) Precomputed loans. Additional interest for default may be charged on a Texas Finance Code, Chapter 342, Subchapter F precomputed loan to the extent it is authorized by Texas Finance Code, §342.257.

(b) Subchapter F loans less than \$100. If the cash advance of the loan is less than \$100, an authorized lender may assess, charge, and collect a default charge equal to 5% of the scheduled installment amount if any part of the installment remains unpaid after the 10th day after the date on which the installment is due, including Sundays and holidays.

(c) Subchapter F loans equal to or greater than \$100. If the cash advance of the loan is equal to or greater than \$100, an authorized lender may contract for a default charge:

(1) that does not exceed 5% of the scheduled installment amount if any part of the installment remains unpaid after the 10th day after the date on which the installment is due, including Sundays and holidays; or

(2) that does not exceed 5% of the scheduled installment amount or \$10, whichever is greater, if any part of the installment remains unpaid after the 10th day after the date on which the installment is due, including Sundays and holidays.

(d) Contract required. No default charge may be assessed, imposed, charged, or collected unless contracted for in writing by the parties.

(e) Default period. A default charge may not be assessed until after the 10th day after the installment due date. For example, if the installment due date is the 1st of the month, a default charge may not be assessed until the 12th of the month.

(f) Pyramiding prohibited. An authorized lender seeking to assess additional interest for default on a precomputed loan under Texas Finance Code, §342.257 must comply with the prohibition on the pyramiding of late charges provided by the Federal Trade Commission's Credit Practices Rule at 16 C.F.R. §444.4 [~~or in Regulation AA, 12 C.F.R. Part 227, promulgated by the Board of Governors of the Federal Reserve System, as applicable~~].

(g) Default charge on final installment of multiple payment loan. A default charge is allowed on the final installment of a multiple installment loan.

(h) Default charge on single payment loan. A default charge under Texas Finance Code, §342.257 is not allowed on a single payment loan. After maturity interest may be contracted for, charged, and collected on a single payment loan.

*Division 7. Interest and Other Charges on Secondary Mortgage Loans*

*§83.703. Default Charges*

(a) Precomputed loans. Additional interest for default may be charged on a precomputed secondary mortgage loan, whether regular or irregular, or on a secondary mortgage loan that employs the scheduled installment earnings method, to the extent it is authorized by Texas Finance Code, §342.302 or §342.305.

(b) Interest-bearing loans. Additional interest for default may be charged on an interest-bearing Texas Finance Code, Chapter 342, Subchapter G loan as authorized under Texas Finance Code, §342.302.

(c) Contract required. No default charge may be assessed, imposed, charged, or collected unless contracted for in writing by the parties.

(d) Default period. A default charge may not be assessed until after the 10th day after the installment due date. For example, if the installment due date is the 1st of the month, a default charge may not be assessed until the 12th of the month.

(e) Missed payment covered by insurance. If any payment or partial payment in default is later paid by some form of insurance, such as credit disability insurance or collateral protection insurance, any prior assessment of additional interest for default must be waived.

(f) Pyramiding prohibited. An authorized lender seeking to assess additional interest for default on a precomputed secondary mortgage loan under Texas Finance Code,

§342.302 or §342.305 must comply with the prohibition on the pyramiding of late charges provided by the Federal Trade Commission's Credit Practices Rule at 16 C.F.R. §444.4 [~~or in Regulation AA, 12 C.F.R. Part 227, promulgated by the Board of Governors of the Federal Reserve System, as applicable~~].

*Division 10. Duties and Authority of Authorized Lenders*

*§83.834. Unclaimed Funds*

(a) Escheat suspense account. The licensee must transfer any amounts due a borrower not paid within one year, i.e., unclaimed funds, to an escheat suspense account. The transfer must be noted on the account record of the borrower.

(b) Required information. Evidence of a bona fide attempt to pay a refund to a borrower must be kept in the records of the borrower. The licensee must place with the records of the borrower any information received by the licensee that indicates the borrower has died leaving no will or heirs, or has left the community and the borrower's whereabouts are unknown. If deemed necessary with respect to a specific borrower, a licensee may be required to send the unclaimed funds by registered or certified mail to the last known address of the borrower.

(c) Use of unclaimed funds. Use of unclaimed funds within the business until such time as paid to the borrower, to the estate of the borrower, or to the State of Texas is not prohibited; however, funds transferred to an escheat suspense account must not be commingled with the funds of the business.

(d) Escheat to state. At the end of three years, the unclaimed funds must be paid to

the State of Texas Comptroller of Public Accounts, Unclaimed Property [~~Treasury~~] Division, as required by Texas Property Code, §72.101 and §74.301, or must be paid to the appropriate state or other governmental entity under the time period provided by the other state's or entity's applicable law.

(e) Record retention. The records of the escheat suspense account must be retained for a period of 10 years.

### **Certification**

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas on April 22, 2022.

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

**C. OFFICE OF CONSUMER CREDIT COMMISSIONER**

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

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

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

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

*Title 7. Banking and Securities*

*Part 1. Finance Commission of Texas*

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

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

Notice of the review of 7 TAC Chapter 2 was published in the February 4, 2022, issue of the *Texas Register* (47 TexReg 541). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

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

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



**C. OFFICE OF CONSUMER CREDIT COMMISSIONER**

4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, 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.

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

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

*Title 7, Texas Administrative Code*

*Part 1. Finance Commission of Texas*

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

The Finance Commission of Texas (commission) proposes amendments to §2.106 (relating to Denial, Suspension, or Revocation Based on Criminal History) and §2.202 (relating to Maintaining Contact Information), in 7 TAC, Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

The rules in 7 TAC Chapter 2 govern residential mortgage loan originators (RMLOs) regulated by the OCCC. In general, the purpose of the proposed amendments to 7 TAC Chapter 2 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 2 was published in the *Texas Register* on February 4, 2022 (47 TexReg 541). 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 no informal precomments on the rule text draft.

Proposed amendments to §2.106 would specify that the OCCC will receive criminal history information about an RMLO applicant through the NMLS system. Under Texas Finance Code, §180.055(a), the OCCC is authorized to consider an RMLO

applicant's criminal history in determining whether to issue a license. Under Texas Finance Code, §180.054, RMLO applicants are required to submit fingerprints to NMLS, and the OCCC is authorized to use NMLS as a channeling agent for obtaining criminal history information. The proposed amendments to §2.106(a) would clarify that the OCCC receives criminal history information through NMLS.

Proposed amendments to §2.202 would specify requirements for RMLOs to maintain current contact information. Currently, §2.202 requires an RMLO to notify the OCCC if there is a change to the RMLO's address, name, or employer. Proposed subsection (a) would specify a 30-day deadline for providing updated information, similar to other OCCC rules that contain a 30-day deadline for licensees to provide updated contact information. Proposed subsection (b) would explain that it is a best practice for RMLOs to regularly review contact information on file with the OCCC to ensure that it is current and correct, similar to other OCCC rules specifying this as a best practice. The OCCC requires current and correct information about RMLO licensees in order to carry out its responsibilities under Texas Finance Code, Chapter 180.

Mirand Diamond, Director of Licensing and Finance, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

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 ensure that the OCCC maintains updated information on licensees.

The OCCC does not anticipate economic costs to persons who are required to comply with the rule changes as proposed.

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

The proposal would expand current §2.202 by specifying that licensees are required to provide certain updated contact information to the OCCC within 30 calendar days of a change. The proposal would 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 the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule amendments are proposed under Texas Finance Code, §180.061, which authorizes the commission to adopt rules relating to criminal background checks for RMLOs, as well as rules relating to amending an RMLO license. In addition, Texas Finance Code, §180.004 authorizes the commission to implement rules to comply with Texas Finance Code, Chapter 180.

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

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

*Subchapter A. Application Procedures*

*§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 through NMLS [~~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) - (f) (No change.)

*Subchapter B. Operational Requirements*

*§2.202. Maintaining Current Information*

(a) Requirement to maintain current information. An RMLO must maintain current information with NMLS. If any of the following items change, an [~~An~~] RMLO must notify the OCCC by filing a license amendment through NMLS within 30 calendar days after the RMLO has knowledge of the change [~~, if any of the following items change~~]:

- (1) address;
- (2) name; or
- (3) employer.

(b) Best practice. It is a best practice for RMLOs to regularly review contact

information on file with the OCCC to ensure that it is current and correct.

**Certification**

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

Issued in Austin, Texas on April 22, 2022.

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

**C. OFFICE OF CONSUMER CREDIT COMMISSIONER**

5. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 5, Chapter 82, Concerning Administration

**PURPOSE:** The purpose of the proposed rule changes to 7 TAC Chapter 82 are to implement recent legislative amendments to Texas Transportation Code, Chapter 730, and to provide clarity to public information requestors about the agency's response to requests for motor vehicle records.

**RECOMMENDED ACTION:** The OCCC requests that the Finance Commission approve the amendments to 7 TAC Chapter 82 for publication in the *Texas Register*.

**RECOMMENDED MOTION:** I move that we approve for publication and comment the amendments to 7 TAC Chapter 82.

*Title 7. Banking and Securities*  
*Part 5. Office of Consumer Credit Commissioner*  
*Chapter 82. Administration*

The Finance Commission of Texas (commission) proposes amendments to §82.2 (relating to Public Information Requests; Charges) in 7 TAC, Chapter 82, concerning Administration.

In general, the purpose of the proposed rule changes to 7 TAC Chapter 82 are to implement recent legislative amendments to Texas Transportation Code, Chapter 730, and to provide clarity to public information requestors about the agency's response to requests for motor vehicle records.

The Office of Consumer Credit Commissioner (OCCC) distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held an online webinar regarding the proposed changes. The OCCC received no informal precomments on the rule text draft.

In 2021, the Texas Legislature enacted SB 15 (the Texas Consumer Privacy Act Phase I). SB 15 amended Texas Transportation Code, Chapter 730 (the Motor Vehicle Records Disclosure Act), which governs the disclosure of motor vehicle records by state agencies. In particular, SB 15 added new Texas Transportation Code, §730.0121, stating: "An agency by rule shall require a requestor to delete from the requestor's records personal information received from the agency under this chapter if the requestor becomes aware that the requestor is not an authorized recipient of that information."

Proposed amendments to §82.2 would implement SB 15 and describe how the OCCC handles requests for motor vehicle

records. In subsection (a), proposed amendments would add definitions of "Motor vehicle record" and "Personal information in a motor vehicle record." These definitions are consistent with existing definitions in Texas Transportation Code, Chapter 730, and are intended to provide clarity to public information requestors. The amendments would also add a new subsection (g) to §82.2 describing requests for motor vehicle records. The new subsection explains that personal information in a motor vehicle record may be disclosed only to an authorized person described by Texas Transportation Code, Chapter 730. The new subsection also requires a requestor who learns that the requestor is not an authorized recipient of personal information in a motor vehicle record to delete the information from the requestor's records. The new subsection would ensure consistency with new Texas Transportation Code, §730.0121 (as added by SB 15).

Mirand Diamond, Director of Licensing and Finance, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

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 persons required to comply with the rules, and will be consistent with legislation recently passed by the Texas Legislature.

The OCCC does not anticipate economic costs to persons who are required to comply with the rule changes as proposed.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and 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 proposal would not create a new regulation. The proposal would expand current §82.2 to address requests for motor vehicle records and implement recent legislation. The proposal would 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 Audrey Spalding, Assistant 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 the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commissions.

The rule changes are proposed under Texas Transportation Code, §730.014 and §730.0121, which authorize state agencies to adopt rules to implement and administer requirements for the disclosure of motor vehicle records. In addition, Texas Government Code, §552.230 authorizes governmental bodies to adopt reasonable rules of procedure under which public information may be inspected and copied.

The statutory provisions affected by the proposal are contained in Texas Transportation Code, Chapter 730.

*Chapter 82. Administration*

*§82.2. Public Information Requests; Charges*

(a) Definitions. The following words and terms, when used in this section, will have the following meanings, unless the context clearly indicates otherwise.

(1) Agency or OCCC--The Office of Consumer Credit Commissioner of the State of Texas.

(2) Commissioner--The Consumer Credit Commissioner of the State of Texas.

(3) Motor vehicle record--Has the meaning provided by Texas Transportation Code, §730.003(4).

(4) Personal information in a motor vehicle record--Has the meaning provided by Texas Transportation Code, §730.003(6).

(5) [~~(3)~~] Public information request--  
A written request made for public information pursuant to Texas Government Code, Chapter 552 (the Texas Public Information Act). Another name for a "public information request" is an "open records request," and these terms may be used synonymously.

(6) [~~(4)~~] Readily available information--Public information that already exists in printed form, or information that is stored electronically, and is ready to be printed or copied without requiring any programming, but not information that is located in two or more separate buildings that are not physically connected with each other or information that is located in a remote storage facility as per Texas Government Code, §552.261.

(7) [~~(5)~~] Standard paper copy--A printed impression on one side of a piece of paper that measures up to 8 1/2 inches by 14 inches. A piece of paper that is printed on both sides will be counted as two copies.

(b) - (f) (No change.)

(g) Motor vehicle records.

(1) Generally. Requests for motor vehicle records are subject to Texas Transportation Code, Chapter 730 (the Motor Vehicle Records Disclosure Act).

(2) Disclosure of personal information in a motor vehicle record. Personal information in a motor vehicle record may be disclosed only to an authorized recipient. A requestor is an authorized recipient if the requestor is the subject of the information, has the consent of the person who is the subject of the information, or meets the criteria in Texas Transportation Code, §730.005 or §730.007.

(3) Unauthorized receipt of personal information in a motor vehicle record. If a requestor becomes aware that the requestor is not an authorized recipient of personal information in a motor vehicle record received from the OCCC, then the requestor must delete the information from the requestor's records, as provided by Texas Transportation Code, §730.0121.

### **Certification**

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

Issued in Austin, Texas on April 22, 2022.

Audrey Spalding  
Assistant General Counsel  
Office of Consumer Credit Commissioner



**D.**

**Department of Savings and  
Mortgage Lending**

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## D. Department of Savings and Mortgage Lending

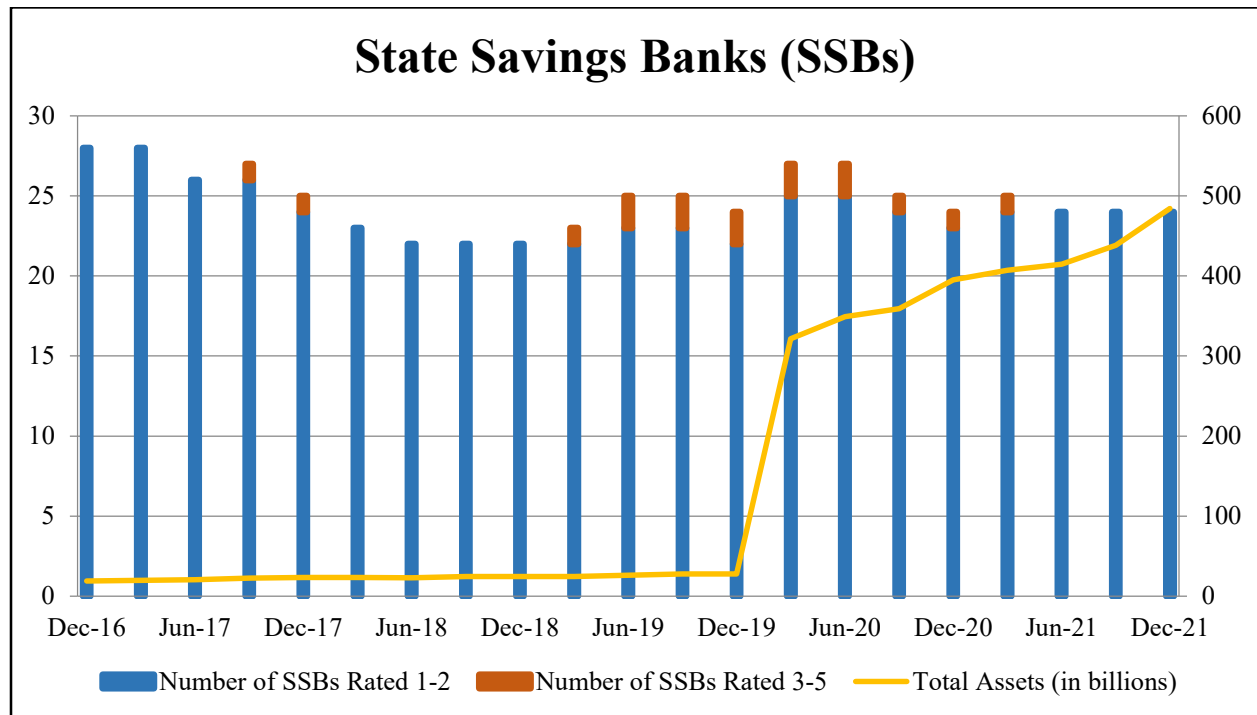
### 1. Industry Status and Departmental Operations: a) Thrift Regulation Division Activities; b) Mortgage Regulation Division Activities; c) Operations Division Activities; d) Legal Division Activities, including Consumer Complaints and Gift Reporting; and e) Legislative Activities

#### a) Thrift Regulation Division Activities

##### Industry Status

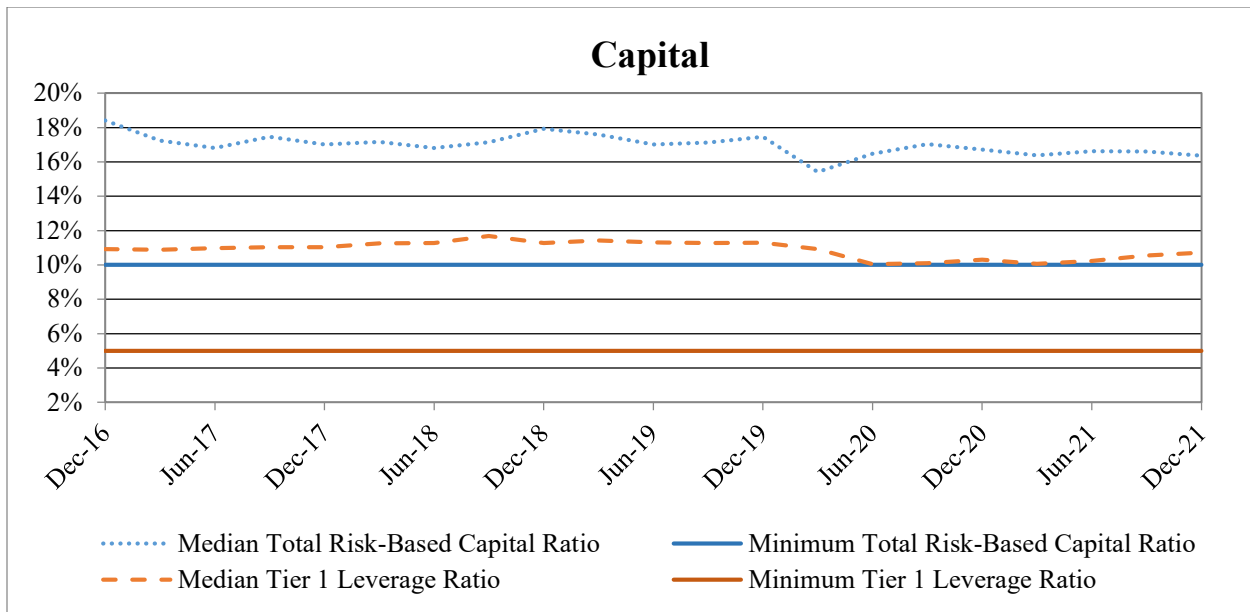
The Department continues to monitor various local, state, and national data sources to understand the risks facing the industry and individual savings banks.

The Department conducts bank examinations to ensure confidence in the banking system using the Uniform Financial Institutions Rating System (UFIRS). Banks with a UFIRS rating of 1 or 2 are considered well rated. The industry consists of 24 state savings banks with assets totaling \$484.5 billion as of December 31, 2021. On January 1, 2022, Texas Exchange Bank, ssb converted reducing assets by \$3.2 billion. The industry remains sound with all banks being well rated. As of December 31, 2021, no supervisory actions are in place.

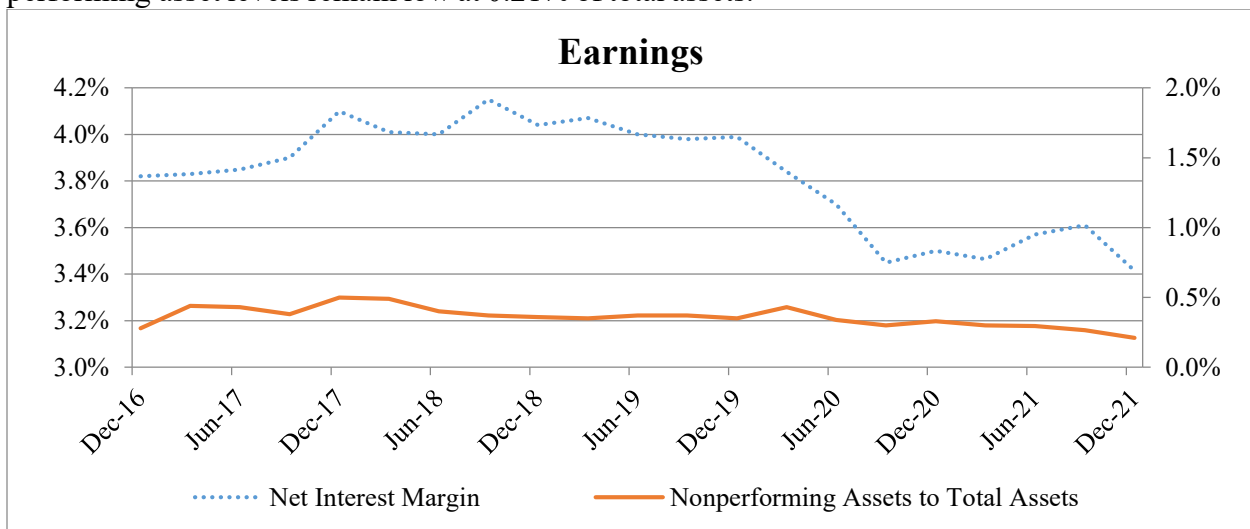


All SSBs are subject to quarterly offsite reviews. Those with the highest risk profiles receive enhanced scrutiny, as warranted, with targeted visitations, accelerated examinations, and/or corrective actions. Below are specific areas that the Department monitors in relation to changes in the state and national economic environment.

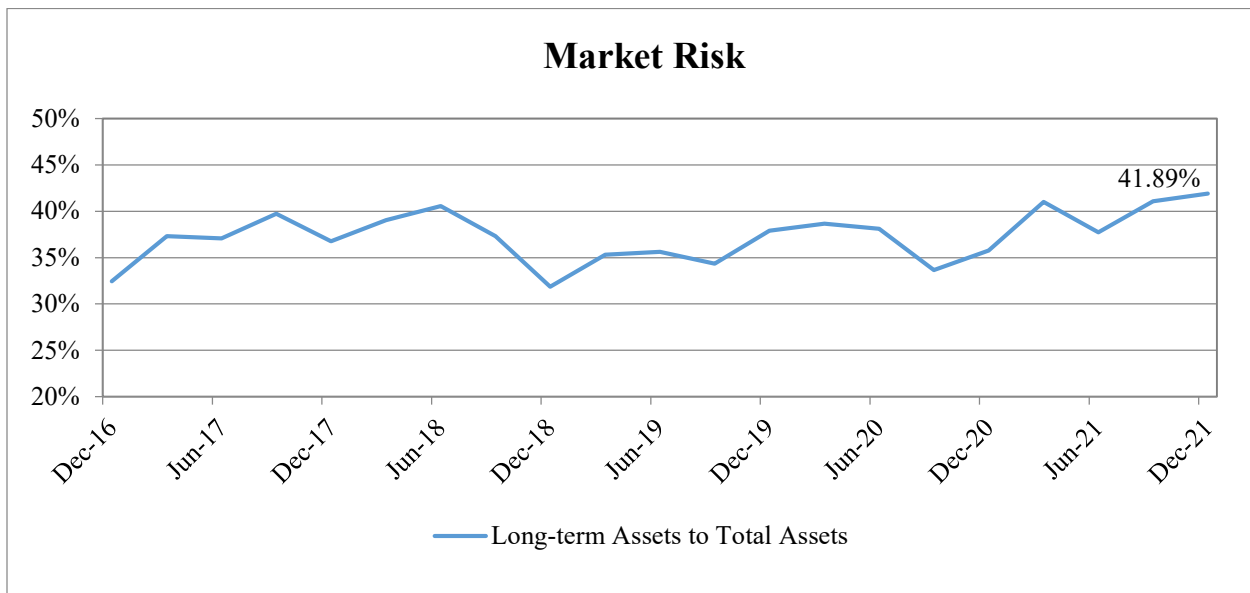
Bank capital performs several very important functions, including absorbs losses, promotes public confidence helps restrict excessive asset growth and provides protection to the depositors. Regulatory capital standards are designed to strengthen the quality and quantity of bank capital and promote a stronger financial industry that is more resilient to economic stress. As of December 31, 2021, all SSBs remain well above regulatory capital minimums. The portfolio median total risk-based capital ratio and median leverage capital protection have remained generally consistent and are now 16.36% and 10.72%, respectively.



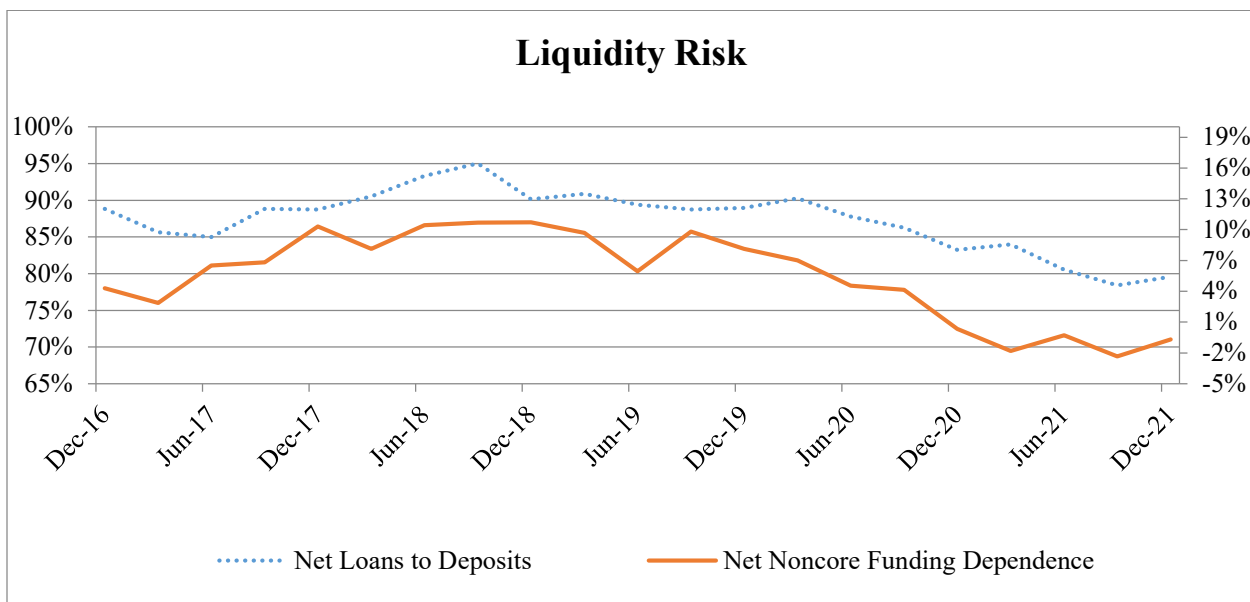
Earnings is the initial safeguard against the risk of engaging in the banking business, and is the first line of defense against capital depletion resulting from shrinkage in asset value. Earnings performance should allow the bank to remain competitive by providing the resources required to implement management’s strategic initiatives. The net interest or profit margin is 3.42%. Non-performing asset levels remain low at 0.21% of total assets.



Market risk primarily reflects exposures to changing interest rates over time. Long-term asset exposure can be an indicator of the degree of market risk taken by a state savings bank. As of December 31, 2021, long-term assets to total assets ratio increased to 41.89%.



Liquidity risk reflects the bank’s ability to fund assets and meet financial obligations under various scenarios, including adverse conditions. Liquidity risk continues to decline. The Net Noncore Funding Dependence (NNCFD) Ratio, a measure of the funding of long-term assets using short-term funding strategies, is negative 0.68%. The loan-to-deposit ratio, a measure of the use of deposits to fund lending activities, is 79.60%.



### **Thrift Examination Activity Report**

On-site examination activities have resumed on a limited basis.

### **Thrift Supervision Activity Report**

Thrift Supervision section continues to receive and process various requests for approval, including branch, subsidiary, and holding company applications.

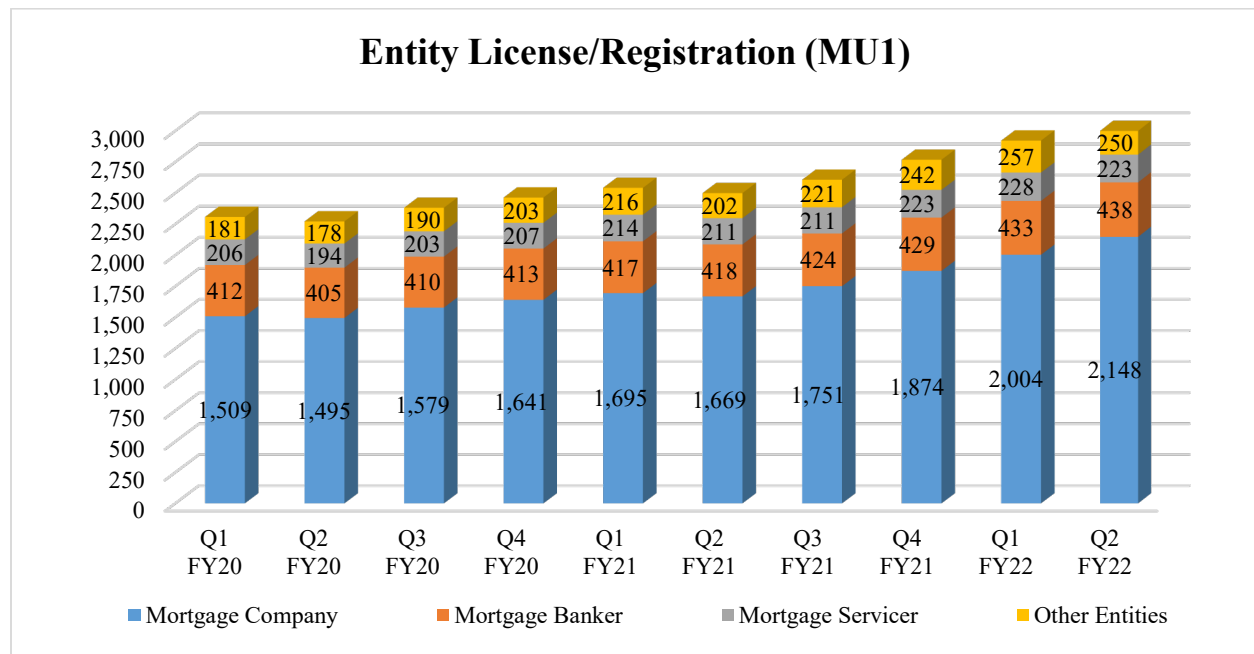
No merger activity was received, approved, or effective since the February 2022 Finance Commission meeting.

### **b) Mortgage Regulation Division Activities**

#### **Industry Status**

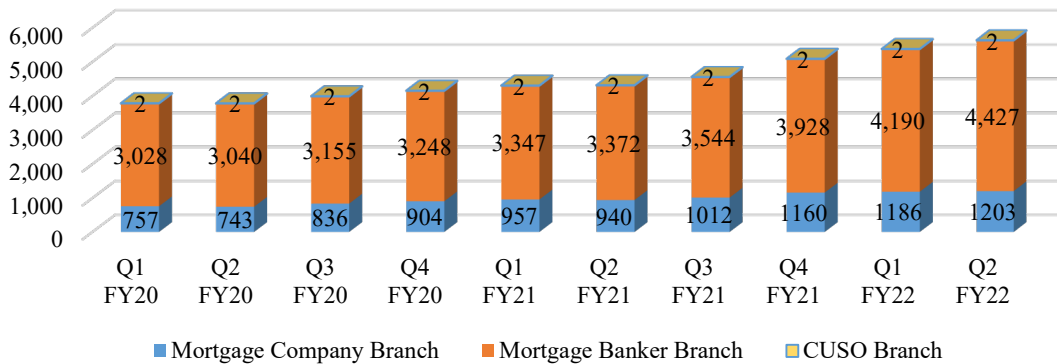
The Department continues to monitor various local, state, and national data sources closely in order to keep track of interest rate changes, housing supply and demand, and trends in homeownership for any impact on the mortgage industry.

The charts below reflect historical information regarding the number of licenses and registrations in an approved status.

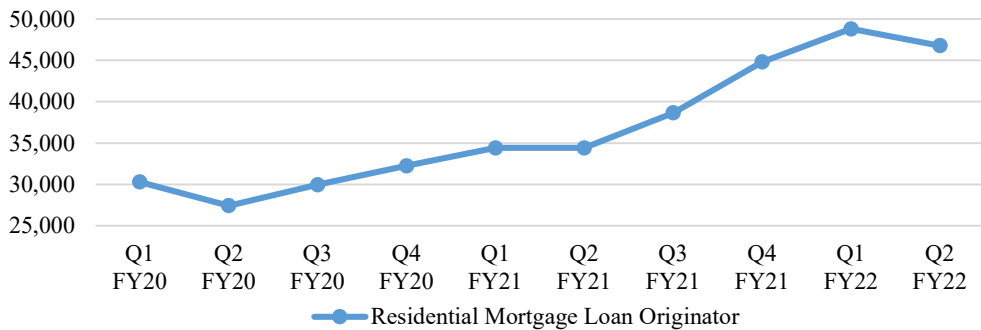


Other entities include Auxiliary Mortgage Loan Activity Company, Credit Union Subsidiary Organization (CUSO), Financial Services Company, and Independent Contractor Processor/Underwriter Company.

### Branch License/Registration (MU3)



### Individual License (MU4)

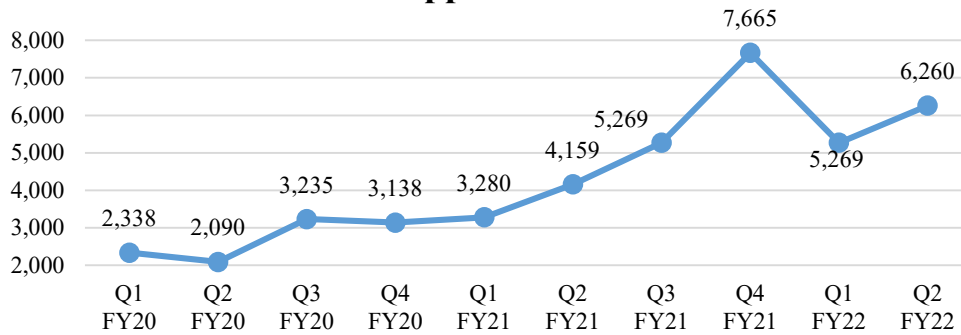


### Licensing Activity Report

During the second quarter of FY2022, the Mortgage Licensing section processed 6,260 applications and approved 5,553 of them, including 261 mortgage entities, 662 branch offices, and 4,630 residential mortgage loan originators. The remaining 707 applications were either withdrawn by the applicant, or denied by the Department.

The chart below reflects historical information of the total number of applications processed by the Department.

### Number of Applications Processed



According to NMLS Data Analytics for the second quarter of FY2022, the Mortgage Licensing section processed 38,708 license amendments, 19,649 credit report reviews, 4,574 sponsorship removals, and 8,107 sponsorship requests.

The renewal reinstatement period ran from January 1, 2022, through February 28, 2022. During this time, licensees and registrants that did not renew timely are allowed the ability to request reinstatement for the calendar year 2022. If an entity or individual did not renew timely, the license status was changed to “Terminated – Failed to Renew” which prohibits the company or individual from originating residential mortgage loans. Companies or individuals that failed to reinstate before February 28, 2022, will have to restart the application process.

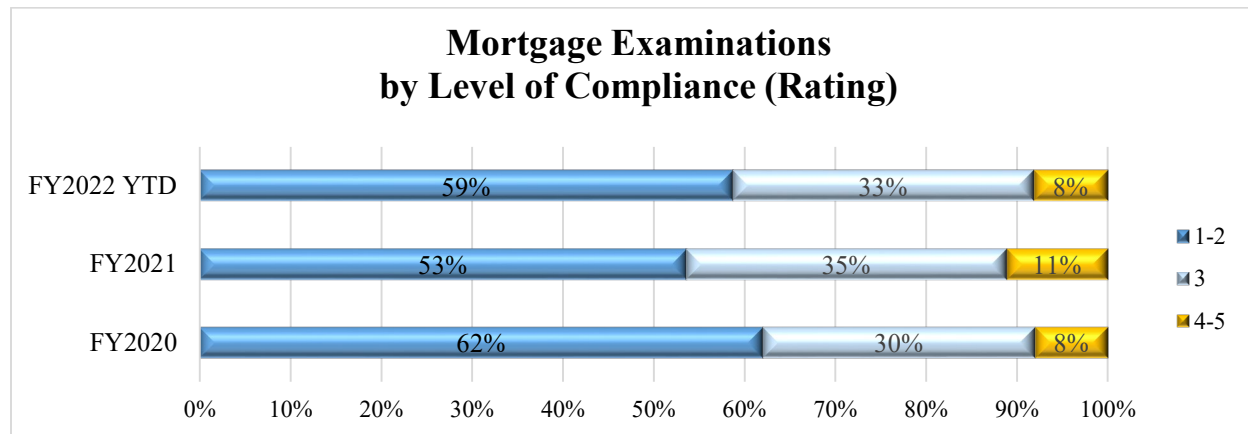
For the entire 2022 renewal season including the reinstatement period, 48,558 out of the 55,467 licenses/registrations eligible for renewal (87.50%) requested a renewal of their license or registration.

At the conclusion of the renewal season, 6,909 companies, branches, and individual residential mortgage loan originators (111 companies, 262 branches, and 6,536 residential mortgage loan originators) either failed to renew or declined to renew their licenses and registrations. The Department processed over 98.50% of the renewal requests before the end of the renewal season.

**Mortgage Examination Activity Report**

During the second quarter of FY2022, the Mortgage Examination section conducted 95 examinations covering 6,840 individual licensees. The overall number of examinations conducted is 13% higher when compared to the same reporting period in FY2021 (95 to 84 examinations). The number of individual licensees examined is significantly higher when compared to the same reporting period in FY2021 (6,840 versus 2,052), as the Department accepted the issuance of a multi-state mortgage examination report involving a substantial number of residential mortgage loan originators.

Below is a breakdown of mortgage examination results by compliance rating for the first half of FY2022. As shown in the chart below, the stratification of examination ratings during the past six months reflects an improving trend in the combined 1 & 2 rating categories when compared to FY2021.





The examinations revealed violations related to unlicensed independent loan processors, unlicensed residential mortgage loan originators, inadequate recordkeeping, failure to maintain adequate policies and procedures (e.g. Anti-Money Laundering Programs, Identity Theft Prevention Programs, Information Security Program and Remote Work Policies), non-compliant social media advertisements, and non-compliant Conditional Pre-Qualification/Conditional Approval Letters.

### **Outreach and Training**

During the week of February 20, 2022, Director of Mortgage Regulation William Purce, Manager of Licensing Chris Osuna, Chief Mortgage Examiner Ellena Meier, Supervisory Compliance Examiner Justin Accola, and Licensing and Permit Specialists Maricruz Royder and Alexis Gonzales, attended the virtual 2022 NMLS Annual Conference. As part of the Conference, Chief Mortgage Examiner Ellena Meier provided a presentation relating to the accreditation process.

## **c) Operations Division Activities**

### **Risk Management**

Currently, there is no significant negative impact by the COVID pandemic on the Department's programs. All divisions remain fully functional.

### **Accounting, Budget, and Financial Reporting**

Staff has closed out the second quarter of fiscal year 2022. The reports are located elsewhere in the packet.

In compliance with the Texas Government Code, Chapter 2106, the Department submitted the Statewide Cost Allocation Worksheet for fiscal year 2022, to the Comptroller of Public Accounts.

CAPPS Implementation – The configuration phase has concluded at the end of February. Currently, staff is attending train-the-trainer sessions related to each CAPPS HR/Payroll Module. The User Acceptance Testing kickoff meeting is scheduled on April 19, 2022, and the testing will be conducted from May 9<sup>th</sup> to June 24<sup>th</sup>. During the testing phase, the Department's staff will attend weekly meeting with the CAPPS support team to work through scripts.

### **Audit**

Staff is in the process of scheduling the internal audit of the Legal and Enforcement Area with Garza/Gonzales and Associates.

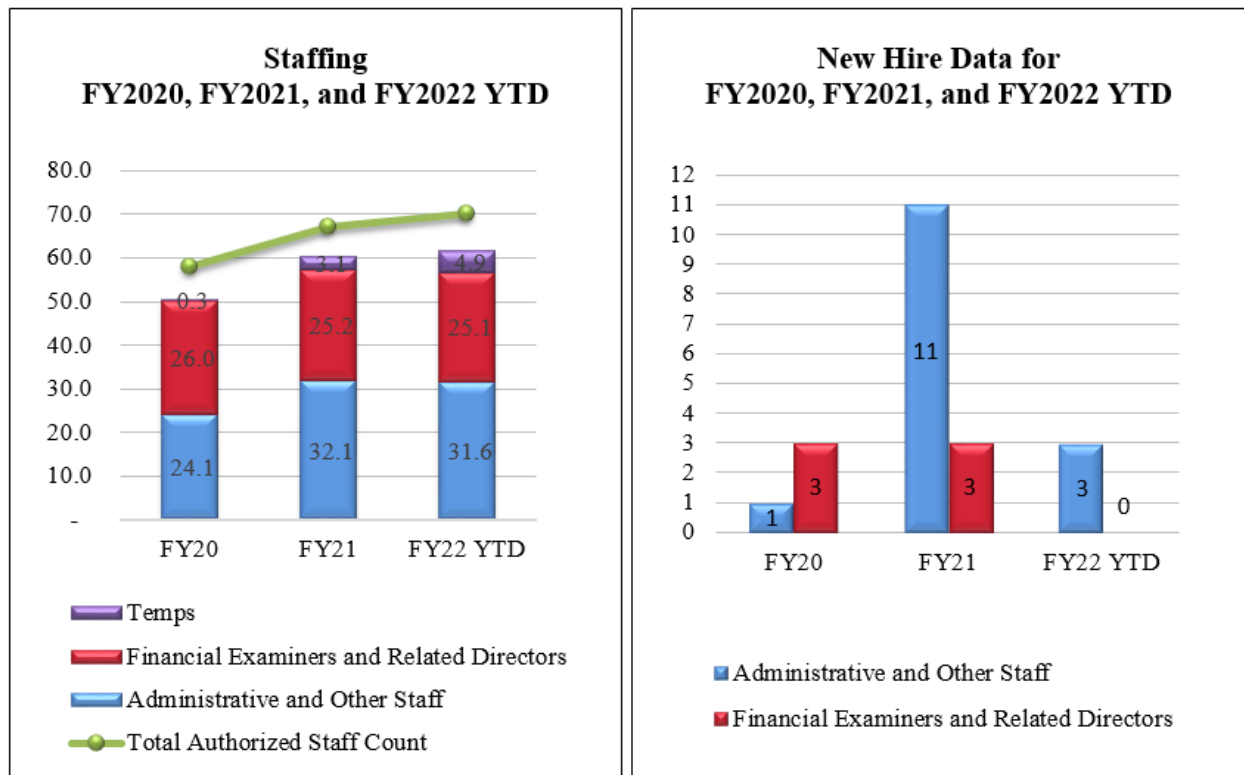
### **Human Resources**

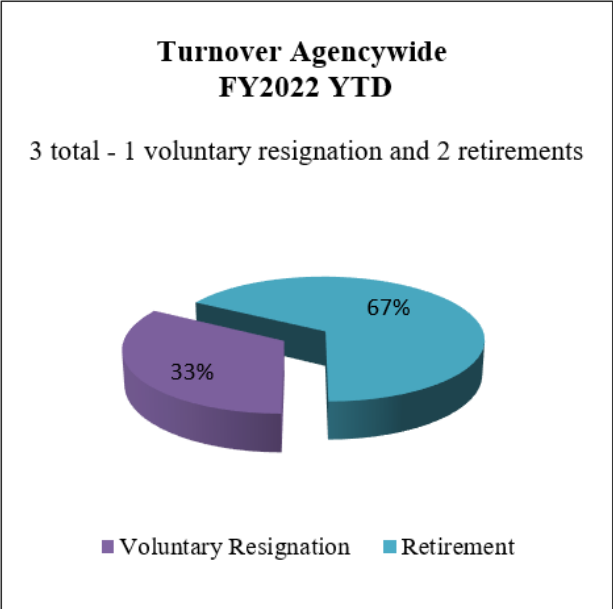
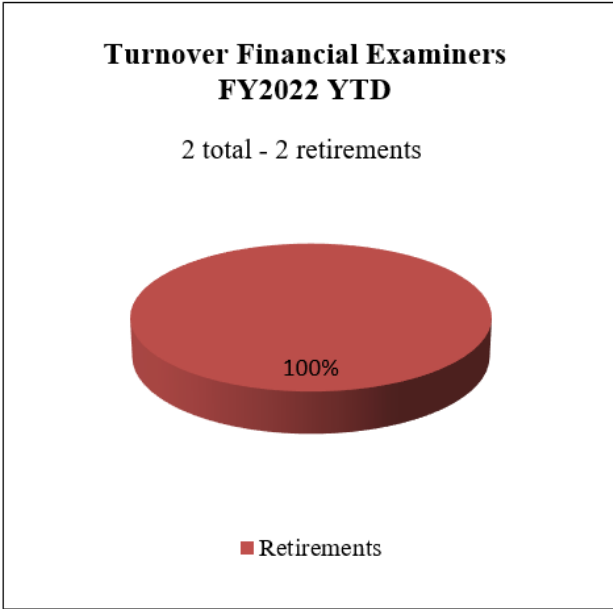
As of March 31, 2022, the Department was staffed at 58 regular full-time employees and five temporary workers. During the month of March, one Mortgage Financial Examiner was hired. Two new employees are scheduled to join the Department during the month of April.

Below is the status of the Department’s vacancies:

Vacancy Status	
Financial Examiner I/II- Mortgage Executive Assistant II/III HR Specialist V/VI	Positions Filled
Financial Examiner V – Thrift - 2 Financial Examiner VI/VII – Thrift – 3 Financial Examiner I/II- Mortgage - 1	Collecting and reviewing applications, interviewing candidates
Financial Examiner I-II -Thrift (Information Technology) Investigator II/III – Licensing Attorney I/II Administrative Assistant II/III	Collecting and reviewing applications

Staffing Charts for the Quarter Ending February 28, 2022





**Outreach and Training**

The quarterly agency-wide meeting and training was held virtually on February 24, 2022. It included agency and division updates, sessions on technical and wellness topics by external speakers, as well as internal presentations on CAPPs, Communications Policy and related procedures.

On February 24-25, 2022, Antonia Antov attended the Texas State Agency Business Administrators Association winter conference.

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

Type/Strategy/Measure	2022 Target	2022 Actual	2022 YTD	Percent of Annual Target
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**Output Measures-Key**

**1-1-1 Thrift Safety and Soundness**

**1. Number of State Chartered Savings Institution Examinations Performed**

**Quarter 1** 21 5 5 23.81%

**Quarter 2** 21 7 12 57.14%\*

\* The Department examines state chartered savings banks jointly with the FDIC and FRB, based on a priority schedule. The results for this measure may fluctuate between quarters due to the timing of individual examinations.

**2-1-1 Mortgage Regulation**

**1. Number of Applications Processed**

**Quarter 1** 18,000 5,269\*\* 5,269 29.27%

**Quarter 2** 18,000 6,260 11,529 64.05%\*

\* The number of applications received was higher than anticipated; therefore, the number of applications processed was affected in the same manner.

**2. Number of Licensees Examined**

**Quarter 1** 14,000 1,638 1,638 11.70%\*

\* 78% the examinations conducted involved 10 or less originators. The Department plans to conduct examinations involving a substantial number of originators in subsequent quarters.

**Quarter 2** 14,000 6,870 8,478 60.56%\*

\*An examination of mortgage entity with a large number of originators was issued.

**3-1-1 Consumer Responsiveness**

**1. Number of Complaints Closed**

**Quarter 1** 1,300 328 328 25.23%

**Quarter 2** 1,300 366 694 53.38%

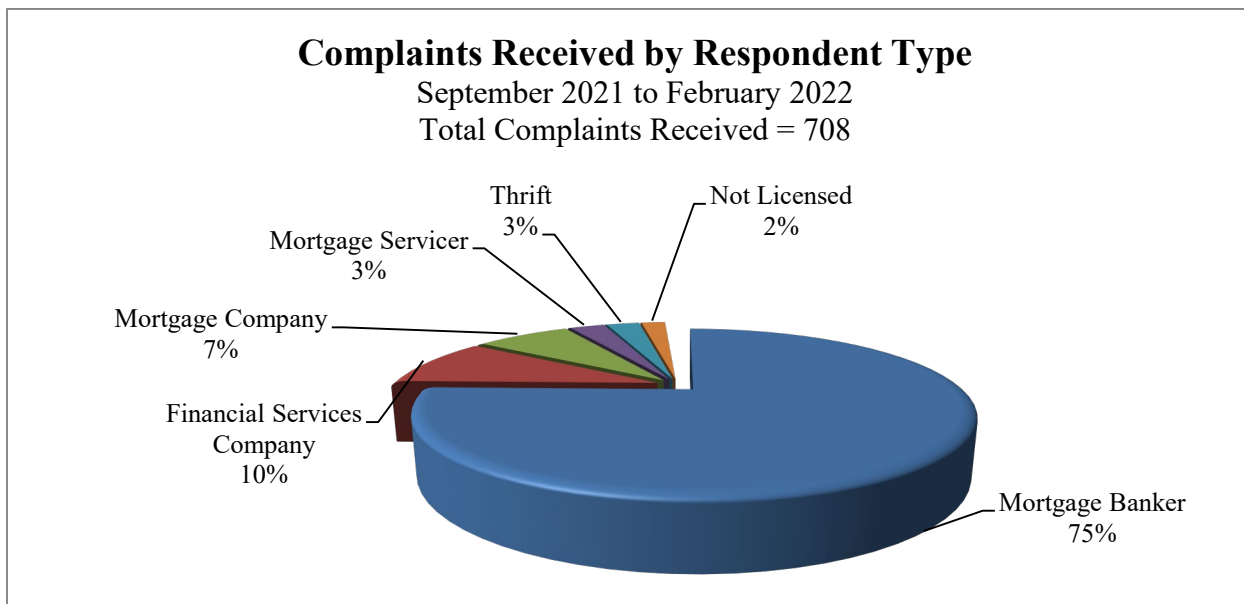
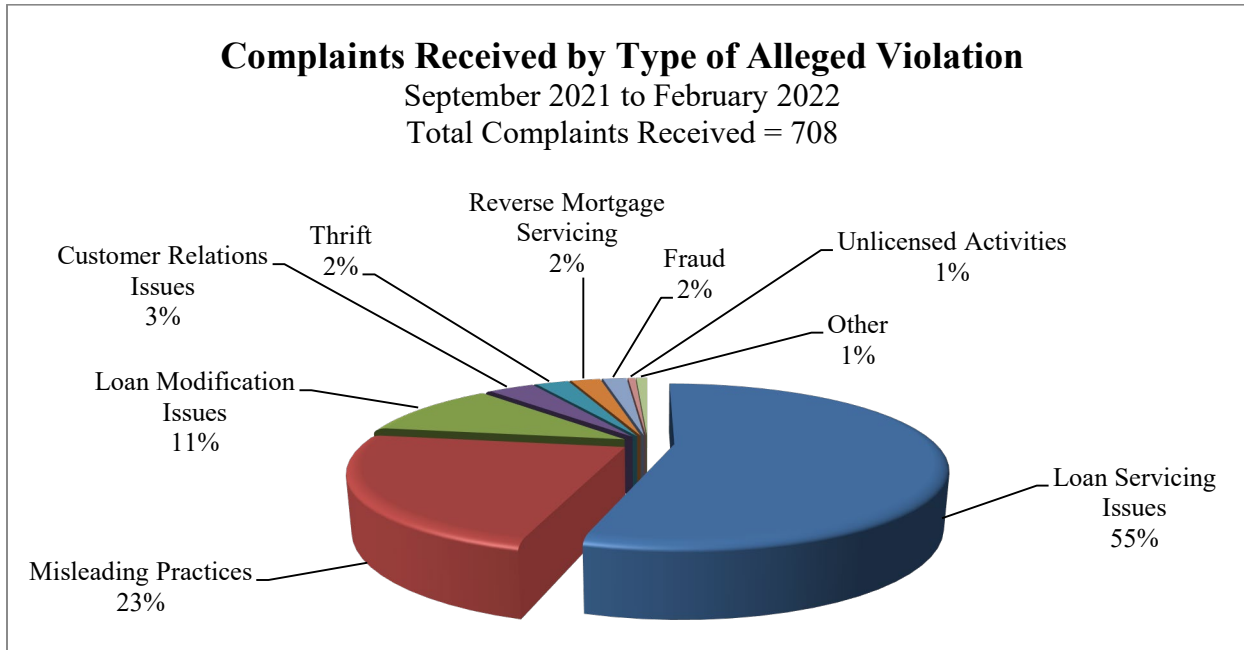
\*Varies by 5% or more from target.

\*\* Number revised; previously reported as 5,270.

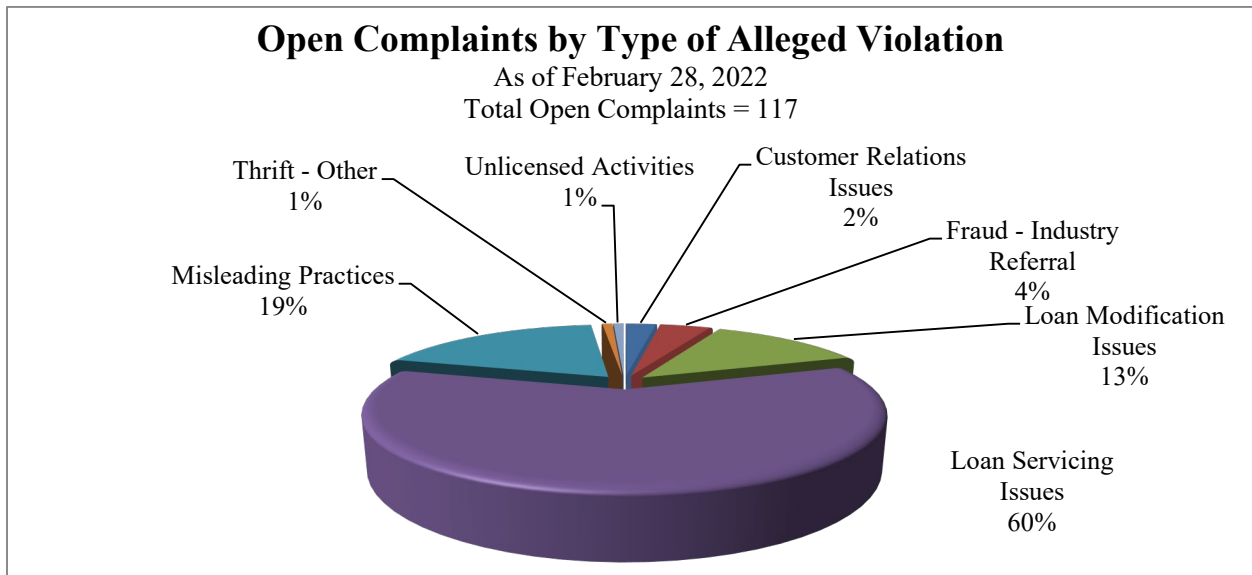
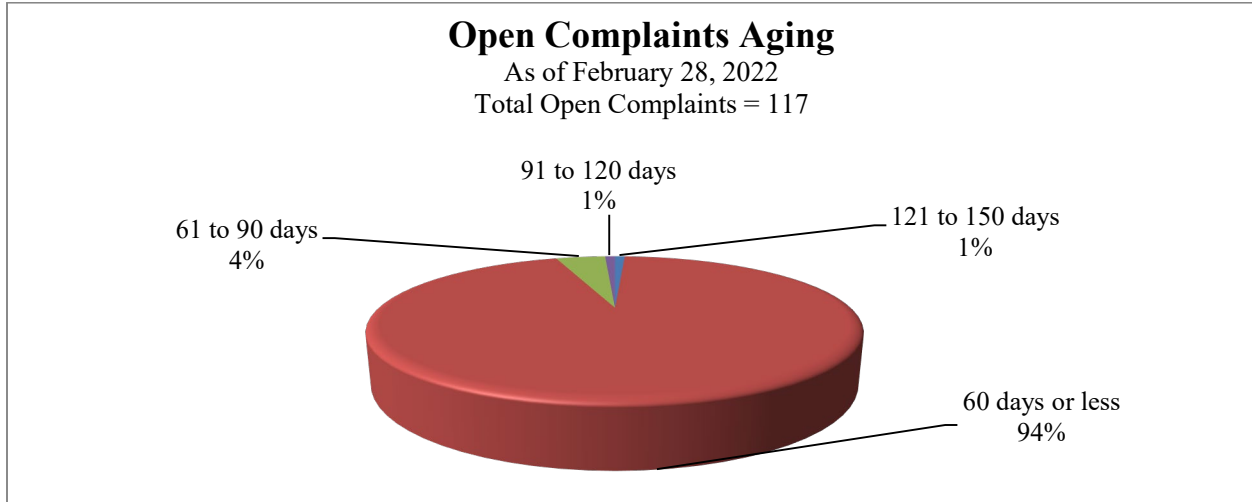
**d) Legal Division Activities, including Consumer Complaints and Gift Reporting**

**Consumer Complaints Activity Report**

During the period September to February 2022, the Department received 708 complaints, representing a 22% increase in complaints received during the same period in FY2021. Loan servicing complaints continue to be the largest complaint category, representing 55% of complaints received. Loan modification complaints have increased to 11% of all complaints received, up from 5% previously reported.



Open complaints aging remains within acceptable ranges with 98% of complaints aged 90 days or less.



Closed Complaints	FY2021	FY2022			
	Total	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
<b>Servicing Complaints</b>					
Number of Servicing Complaints Closed	878	175	198		
Average Number of Days to Close a Complaint	31	26	24		
Percentage of Complaints Closed Within 90 Days	93.6%	96.0%	96.5%		
<b>Non-Servicing Complaints</b>					
Number of Non-Servicing Complaints Closed	477	153	168		
Average Number of Days to Close a Complaint	35.7	34	22		
Percentage of Complaints Closed Within 90 Days	89.7%	92.2%	95.8%		
<b>Total Complaints Closed</b>					
	1,355	328	366		

## Legal and Enforcement Activity Report

### Enforcement Actions

Mortgage Enforcement Actions	FY2021	FY2022			
	Total	1 <sup>st</sup> Qtr	2 <sup>nd</sup> Qtr	3 <sup>rd</sup> Qtr	4 <sup>th</sup> Qtr
Advisory Letter	31	4	3		
Agreed Order to Take Affirmative Action	4	2	1		
Agreed Order to Cease and Desist	5	0	0		
Agreed Order – Other	4	0	74*		
Conditional License Agreement	1	0	0		
Final Order	1	0	0		
Letter of Reprimand	4	0	0		
Order to Cease and Desist	19	0	6		
Order to Take Affirmative Action	18	0	5		
Order Rescinding Previous Order	1	0	0		
<b>Total</b>	<b>88</b>	<b>6</b>	<b>89</b>		

\*This figure represents the enforcement actions taken against 74 loan originators in connection with the multistate taskforce participated in by the Department and 43 other state regulatory agencies across the United States concerning individual mortgage loan originators who fraudulently claimed credit for loan originator education classes they did not actually take. All such education coursework was taken through education provider Danny Yen, d/b/a Real Estate Educational Services, based in Carlsbad, California.

### Recovery Fund Applications

During the second quarter of FY2022, the Department received three recovery claim applications. One claim was resolved by agreement of the parties, one claim was approved, and one claim is under investigation.

### Contested State Office of Administrative Hearings (SOAH) Cases

*William Henry Scott Jr. (SOAH Docket No. 450-22-1643-CHI; confidential proceeding)*

Mr. Scott applied with the Department for licensure as a residential mortgage loan originator. On November 16, 2021, the Commissioner sought to deny the application based on information discovered during the application process. On November 23, 2021, Mr. Scott appealed the Commissioner's decision. On February 7, 2022, the matter was docketed at SOAH. On March 22, 2022, a final hearing on the merits was held before an Administrative Law Judge (ALJ) at SOAH. The Department awaits the ALJ's Proposal for Decision for the Commissioner to consider in making his final decision.

### Litigation

*Peter David Wagner, d/b/a Preservation of Your Home and Educational Ministries v. Texas Department of Savings and Mortgage Lending (Cause No. 03-21-00389, pending before the Texas Third Court of Appeals); Appeal of Department of Savings and Mortgage Lending v. Peter D. Wagner, d/b/a Preservation of Your Home and Educational Ministries (Cause No. D-1-GN-20-004218, before the 345<sup>th</sup> District Court, Travis County, Texas)*

This case involves a settlement agreement entered into between the Department and Mr. Wagner to resolve a contested case matter. Per the terms of the settlement agreement, Mr. Wagner was required to make restitution payments to consumers in connection with unlicensed residential mortgage loan originator activity he engaged in. In May 2020, Mr. Wagner defaulted under the terms of the settlement agreement. On August 12, 2020, at the request and on behalf of the Department, the Financial Litigation and Charitable Trusts Division of the Office of the Attorney General (OAG) filed suit against Mr. Wagner to reduce the settlement agreement to an enforceable state court judgment. On or about May 18, 2021 the Department’s Motion for Summary Judgment was granted, and judgment was entered against Mr. Wagner in the amount of \$2,106,794. In June, 2021 Mr. Wagner filed an appeal with the Third Court of Appeals. The appellant’s (Mr. Wagner’s) brief was initially due on September 23, 2021. On November 9, 2021, the Department received notice from the court stating that, unless Mr. Wagner files his appellant’s brief on or before November 19, 2021, the appeal would be subject to dismissal for want of prosecution. On November 23, 2021, Mr. Wagner filed a motion for extension of time to file the appellant’s brief. On November 29, 2021, such motion was granted, and the deadline for Mr. Wagner to file the appellant’s brief was extended to January 7, 2022. On January 4, 2022, Mr. Wagner filed a second motion for extension of time to file the appellant’s brief. On January 7, 2022, such motion was granted, and the deadline for Mr. Wagner to file the appellant’s brief was extended to January 28, 2022. On January 28, 2022, Mr. Wagner filed his appellant’s brief. On February 28, 2022, OAG, on behalf of the Department, filed a motion for extension of time to file the appellee’s brief. On February 28, 2022, such motion was granted, and the deadline to file the appellee’s brief was extended to March 30, 2022. On March 28, 2022, OAG, on behalf of the Department, files a motion for extension of time to file the appellee’s brief. On March 29, 2022, such motion was granted, and the deadline to file the appellee’s brief was extended to April 29, 2022.

With respect to collection of the district court judgment, on October 13, 2021, OAG, on behalf of the Department, filed an Abstract of Judgment in the Travis County real property records (Mr. Wagner’s last known county of residence) to create a judgment lien on any non-exempt real property he may own in such county. To the extent judgment is not overturned on appeal, OAG will undertake further collections efforts on the judgment.

**Public Information Requests**

During the second quarter of FY2022, the Department responded promptly to the received public information requests in compliance with the Public Information Act. No requests were sent to the Attorney General’s Office for a ruling.

During the first quarter of FY2022 one request was sent to the Office of the Attorney General (OAG) for a ruling. The Department received a response from OAG on December 14, 2021, and the matter was closed on December 15, 2021.

Public Information Requests	FY2021	FY2022			
	Total	1 <sup>st</sup> Qtr	2 <sup>nd</sup> Qtr	3 <sup>rd</sup> Qtr	4 <sup>th</sup> Qtr
Requests Received	91	33	31		



## Rulemaking

SML Future Rule Activity		
Rule	Rulemaking Action	Projected Date for Presentation
Chapter 51, Charter Applications	Adoption of Proposed Rule Changes Resulting from Rule Review	June 2022
Chapter 52, Department Administration	Adoption of Proposed Rule Changes Resulting from Rule Review	June 2022
Chapter 75, Applications	Adoption of Rule Review; Proposed Rule Changes Resulting from Rule Review	June 2022
Chapter 76, Miscellaneous	Adoption of Rule Review; Proposed Rule Changes Resulting from Rule Review	June 2022
Chapter 77, Loans, Investments, Savings, and Deposits	Adoption of Rule Review; Proposed Rule Changes Resulting from Rule Review	June 2022
Chapter 75, Applications	Adoption of Proposed Rule Changes Resulting from Rule Review	August 2022
Chapter 76, Miscellaneous	Adoption of Proposed Rule Changes Resulting from Rule Review	August 2022
Chapter 77, Loans, Investments, Savings, and Deposits	Adoption of Proposed Rule Changes Resulting from Rule Review	August 2022

## Gift Reporting

Department staff members, Maricruz Royder and Alexis Gonzales, received scholarship funds in the form of fee waivers from the Conference of State Bank Supervisors to attend the 2022 NMLS Annual Conference and Training program. The fees waived were in the amount of \$250 each, or \$500 total.

### e) Legislative Activities

The Department monitors federal legislation, executive orders, agency regulations, and other developments that might affect the Texas mortgage and thrift industries. Areas of interest include ESG (Environmental, Social, and Governance), cryptocurrency, cybersecurity, personal/data privacy, FinTech, IRS reporting requirements, DEI (Diversity, Equity, and Inclusion), and hemp and legal cannabis industries.

## State

### *Interim Charges*

Lt. Governor Dan Patrick and House Speaker Dade Phelan each issued their interim charges for each respective chamber's committees to take up and consider in advance of the upcoming 88<sup>th</sup> Legislative Session. Notable charges are listed below (the list does not include charges related to monitoring or implementation of legislation already enacted).

### Senate Business and Commerce Committee

- **Blockchain and Virtual Currencies:** Study current state and federal regulations surrounding blockchain and virtual currencies. Examine how these technologies impact industries such as banking, business, and electricity. Make recommendations to protect consumers while encouraging innovation.
- **Cybersecurity:** Review current state and federal laws regarding cybersecurity protections and requirements for local governments, state agencies, and critical industries of our state. Make recommendations for legislation to improve resilience and protection against cybersecurity attacks and ensure the privacy protection of the citizens of Texas.
- **State Workforce:** Study where state employees are located and the benefits and drawbacks of remote working. Evaluate the impact of the potential growth of remote work and proximity of employees to their place of employment on traffic studies over the next 10 years. Study and make recommendations for establishing uniform statewide standards for remote work. Study possible implications and standards for statewide recruitment and employment of remote state employees from all parts of the state.

## Federal

### Congress

- H.R.2561 — Promoting Access to Capital in Underbanked Communities Act of 2021: *A bill to require the appropriate federal banking agencies to establish a 3-year phase-in period for de novo financial institutions to comply with federal capital standards, to provide relief for de novo rural community banks*
- H.R.2270 — Bank Service Company Examination Coordination Act of 2021: *A bill to amend the Bank Service Company Act to provide improvements with respect to state banking agencies*
- S.910 — Cannabis-related SAFE Banking Act of 2021: *A bill to create protections for financial institutions that provide financial services to cannabis-related legitimate businesses and service providers for such businesses*
- H.R.1996 — Cannabis-related SAFE Banking Act of 2021: *An act to create protections for financial institutions that provide financial services to cannabis-related legitimate businesses and service providers for such businesses*
- S.3206 (cryptocurrency reporting requirements): *A bill to repeal the provisions of the Infrastructure Investment and Jobs Act that impose new information reporting requirements with respect to digital asset transfers*
- S.3249 (cryptocurrency reporting requirements): *A bill to revise the rules of construction applicable to information reporting requirements imposed on brokers with respect to digital assets*

- H.R.6006 (cryptocurrency reporting requirements): *A bill to amend the Internal Revenue Code of 1986 to clarify the definition of broker*
- S.2499 — SAFE DATA Act: *A bill to establish data privacy and data security protections for consumers in the United States*

Presidential Executive Orders

- EO 14067, March 9, 2022 — Ensuring Responsible Development of Digital Assets

**2. *Discussion of and Possible Vote to Take Action on the Adoption of a New Rule and the Repeal of §80.204 in 7 TAC, Part 4, Chapter 80, Concerning Residential Mortgage Loan Companies***

**PURPOSE:** The purpose of the new rule and the repeal of 7 TAC §80.204 is to clarify the requirements concerning the books and records that a mortgage company must maintain in order to facilitate inspection of a licensed mortgage company by the Department's commissioner. An explanation of and justification for the rules is contained in the proposed preamble for the rule adoption.

**RECOMMENDED ACTION:** The Department requests that the Finance Commission approve adoption of the new rule and repeal of 7 TAC §80.204.

**RECOMMENDED MOTION:** I move that the Finance Commission approve adoption of the new rule and repeal of 7 TAC §80.204.

**TITLE 7. BANKING AND SECURITIES**

**PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

**CHAPTER 80. RESIDENTIAL MORTGAGE LOAN COMPANIES**

**SUBCHAPTER C. DUTIES AND RESPONSIBILITIES**

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), adopts the repeal of 7 TAC §80.204, Books and Records. The commission further adopts a new rule concerning the same or similar subject matter at 7 TAC §80.204, Books and Records. The commission's proposal was published in the March 11, 2022 issue the *Texas Register* (47 TexReg 1145). The rules are adopted without changes to the proposed text as published in the *Texas Register* and will not be republished.

**Explanation of and Justification for the Rules**

The rules in 7 TAC Chapter 80 implement Finance Code Chapter 156, Residential Mortgage Loan Companies (Chapter 156). The department, under Chapter 156, licenses residential mortgage loan companies that originate residential mortgage loans (a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other security interest on a dwelling or residential real estate) made to consumers (for purposes of the adopted rules, "residential mortgage loan company" has the meaning assigned by Finance Code §156.002; mortgage company). A mortgage company acts by and through one or more individuals licensed by the department as a residential mortgage loan originator under Finance Code Chapters 157 and 180 (originator).

*Books and Recordkeeping Changes*

Pursuant to Finance Code §156.301(a), the department's commissioner (commissioner) may conduct inspections (including examinations) of a mortgage company or an originator sponsored by a mortgage company (sponsored originator) to determine compliance with the requirements of Chapter 156 and the rules adopted thereunder. Inspections include inspection of the mortgage company's or sponsored originator's "books, records, documents, operations, and facilities . . . and access to any documents required under rules adopted under [Chapter 156]" (Finance Code §156.301(a)). Pursuant to Finance Code §156.301(b), the commissioner, upon receipt of a signed written complaint against a mortgage company, "shall investigate the actions and records" of the mortgage company or its sponsored originator. Pursuant to Finance Code §156.301(e), the commission "by rule shall . . . determine the information and records to which the commissioner may demand access during an inspection or an investigation." Pursuant to Finance Code §156.102(c), the commission "may adopt rules regarding books and records that a [mortgage company] is required to keep, including the location at which the books and records must be kept." Preexisting §80.204 establishes requirements concerning the books and records that a mortgage company must maintain. The adopted rules: (i) establish a new requirement concerning the location where required records must be maintained; (ii) clarify preexisting requirements concerning the mortgage transaction log a mortgage company is required to maintain under preexisting §80.204, with respect to the description of the purpose for the mortgage loan, and the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the mortgage loan; (iii) expand a preexisting

**ADOPTION OF NEW RULE AND REPEAL**

**7 TAC §80.204**

**PAGE 2 OF 10**

requirement under preexisting §80.204 by requiring that the mortgage transaction log include information concerning the type of lien anticipated after consummation of the mortgage loan (first lien, second lien, or wrap mortgage); and (iv) clarify preexisting requirements concerning the books and records that a mortgage company must maintain under preexisting §80.204 by specifically identifying certain records a mortgage company is required to maintain to comply with the requirements of applicable state law (other than the adopted rules; including in connection with wrap mortgage loans made in accordance with Finance Code Chapter 159, Wrap Mortgage Loan Financing, which became effective on January 1, 2022), and federal law.

*Other Modernization and Update Changes.*

The adopted rules make changes to modernize and update the rule including: removing unnecessary or duplicative provisions; updating terminology; and reorganizing and restating the requirements of preexisting §80.204 for clarity and to improve readability, including the insertion of explanatory headings throughout the rule.

**Summary of Public Comments**

Publication of the commission's proposal for the rules recited a deadline of 30 days to receive public comments, or April 10, 2022. A public hearing in accordance with Government Code §2001.029 was not required. No comments were received.

**7 TAC §80.204**

**Statutory Authority**

The rule repeal is adopted under the authority of Finance Code §156.102(a) and (a-1), authorizing the commission to adopt rules necessary for the

intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act, and as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (federal SAFE Act; 12 U.S.C. §5101 et seq.).

The adopted rule repeal affects the statutes contained in Finance Code Chapter 156.

*§80.204. Books and Records.*

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Iain A. Berry

Deputy General Counsel

Department of Savings and Mortgage Lending



**7 TAC §80.204**

**Statutory Authority**

The rule is adopted under the authority of: Finance Code §156.102(a) and (a-1), authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act, and as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (federal SAFE Act; 12 U.S.C. §5101 et seq.); and Finance Code §156.102(c), authorizing the commission to adopt rules regarding books and records that a person licensed under Finance Code 156 is required to keep, including the location at which the books and records must be kept. The rule is also adopted under the authority of, and to implement, Finance Code §156.301.

## ADOPTION OF NEW RULE AND REPEAL

7 TAC §80.204

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The adopted rule affects the statutes contained in Finance Code Chapter 156.

### §80.204.Books and Records.

(a) Maintenance of Records, Generally. In order to ensure a mortgage company will have all records necessary to facilitate an inspection (including an examination) of the mortgage company by the Commissioner or the Commissioner's designee, enable the Commissioner or the Commissioner's designee to investigate complaints against a mortgage company or its sponsored originators, and otherwise ensure compliance with the requirements of Finance Code Chapter 156, and this chapter, a mortgage company must maintain records as prescribed by this section.

(1) Format. The records required by this section may be maintained by using a physical, electronic, or digitally-imaged recordkeeping system, or a combination thereof. The records must be accurate, complete, current, legible, and readily accessible and sortable.

(2) Location. A mortgage company must ensure the records required by this section (or true and correct copies thereof) are maintained at or are otherwise readily accessible from either the main office of the mortgage company or the location the mortgage company has designated in its MU1 filing under "Books and Records Information" in NMLS. (For purposes of this section "main office" has the meaning assigned by §80.206 of this title (relating to Office Locations; Remote Work.)

(3) Production of Records; Disciplinary Action. All records required by this section must be maintained in good order and produced for the Commissioner or the Commissioner's designee upon request. Failure to produce records upon request after a reasonable time for compliance

may result in disciplinary action against the mortgage company, including, but not limited to, suspension or revocation of the mortgage company's license.

(4) Retention Period. All records required by this section must be maintained for 3 years or such longer period as may be required by other applicable law.

(5) Conflicting Law. If the requirements of other applicable law governing recordkeeping by the mortgage company differ from the requirements of this section, such other applicable law prevails only to the extent this section conflicts with the requirements of this section.

(b) Required Records. A mortgage company is required to maintain the following items:

(1) Mortgage Transaction Log. A mortgage transaction log, maintained on a current basis (which means all entries must be made within no more than 7 days from the date on which the matters they relate to occurred), setting forth, at a minimum:

(A) the name and contact information of each mortgage applicant;

(B) the date of the initial loan application;

(C) the full name of the originator who took the initial loan application, and his or her NMLS identification number;

(D) a description of the purpose for the loan (e.g., purchase, refinance, construction, home equity, home improvement, land lot loan, wrap mortgage loan, etc.);

## ADOPTION OF NEW RULE AND REPEAL

7 TAC §80.204

PAGE 4 OF 10

(E) a description of the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the loan (e.g., primary residence (including real estate (land lot) or a dwelling not suitable for occupancy at the time the loan is consummated but that the owner intends to occupy as their primary residence after consummation of the loan), secondary residence, or investment property (no intent to occupy as their residence));

(F) the lien type (e.g., first lien, second lien, or wrap mortgage);

(G) a description of the current status or disposition of the loan application (e.g., in-process, withdrawn, closed, or denied); and

(H) if the loan is closed, the identity of the person who initially funded and/or acquired the loan;

(2) Residential Mortgage Loan File. For each residential mortgage loan transaction or prospective residential mortgage loan transaction, a residential mortgage loan file containing, at a minimum:

(A) All Transactions. For all transactions, the following records:

(i) the initial and any final loan application (including any attachments, supplements, or addendum thereto), signed and dated by each mortgage applicant and the sponsored originator, and any other written or recorded information used in evaluating the application, as required by Regulation B, 12 C.F.R. §1002.4(c);

(ii) the initial and any revised good faith estimate (Regulation X, 12 C.F.R. §1024.7), integrated loan estimate

disclosure (Regulation Z, 12 C.F.R. §1026.37), or similar, provided to the mortgage applicant;

(iii) the final settlement statement (Regulation X, 12 C.F.R. §1024.8), closing statement, or integrated closing disclosure (Regulation Z, 12 C.F.R. §1026.19(f) and §1026.38);

(iv) the disclosure statement required by Finance Code §156.004 and §80.200(a) of this title (relating to Required Disclosures), signed and dated by each mortgage applicant and the sponsored originator;

(v) if provided to a mortgage applicant or prospective mortgage applicant, the Conditional Pre-Qualification Letter, or similar, as specified by Finance Code §156.105 and §80.201 of this title (relating to Loan Status Forms);

(vi) if provided to a mortgage applicant or prospective mortgage applicant, the Conditional Approval Letter, or similar, as specified by Finance Code §156.105 and §80.201 of this title (relating to Loan Status Forms);

(vii) each item of correspondence, all evidence of any contractual agreement or understanding, and all notes and memoranda of conversations or meetings with a mortgage applicant or any other party in connection with the loan application or its ultimate disposition (e.g., fee agreements, rate lock agreements, or similar documents);

(viii) if the loan is a "home loan" as defined by Finance Code §343.001, the notice of penalties for making a false or misleading written statement required by Finance Code §343.105, signed at closing by each mortgage applicant;



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(ix) if the transaction is a purchase money or wrap mortgage loan transaction, the real estate sales contract or real estate purchase agreement for the sale of the residential real estate;

(x) consumer reports or credit reports obtained in connection with the loan or prospective loan, and if a fee is paid by or imposed on the mortgage applicant for such consumer report or credit report, invoices and proof of payment for the purchase of the consumer report or credit report;

(xi) appraisal reports or written valuation reports used to determine the value of the residential real estate secured or designed to be secured by the loan, and if a fee is paid by or imposed on the mortgage applicant for such appraisal report or written valuation report, invoices and proof of payment for the appraisal report or written valuation report;

(xii) invoices and proof of payment for any third party fees paid by or imposed on the mortgage applicant;

(xiii) refund checks issued to the mortgage applicant;

(xiv) if applicable, the risk-based pricing notice required by Regulation V, 12 C.F.R. §1022.72;

(xv) if applicable, invoices for independent loan processors or underwriters;

(xvi) if the mortgage company or sponsored originator acts in a dual capacity as the loan originator and real estate broker, sales agent, or attorney in the transaction, the disclosure of multiple roles in a consumer real estate transaction, signed and dated by each

mortgage applicant, as required by Finance Code §156.303(a)(13) and §157.024(a)(10);

(xvii) the initial privacy notice required by Regulation P, 12 C.F.R. §1016.4 or 16 C.F.R. §313.4;

(xviii) the mortgage applicant's written authorization to receive electronic documents;

(xix) records reflecting compensation paid to employees or independent contractors in connection with the transaction;

(xx) any other agreements, notices, disclosures, or affidavits required by federal or state law in connection with the transaction; and

(xxi) any written agreements or other records governing the origination of the loan or prospective loan;

(B) Lender Transactions. For transactions where the mortgage company acted as the lender, the following records:

(i) the promissory note, loan agreement, or repayment agreement, signed by the borrower (mortgage applicant);

(ii) the recorded deed of trust, contract, security deed, security instrument, or other lien transfer document, signed by the borrower (mortgage applicant);

(iii) any verifications of income, employment, or deposits obtained in connection with the loan;

(iv) copies of any title insurance policies with endorsements or title search reports obtained in connection with the

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loan, and if a fee is paid by or imposed on the mortgage applicant for such title insurance policies or title search reports, invoices and proof of payment for the title insurance policy or title search report; and

(v) if applicable, the flood determination certificate obtained in connection with the loan, and if a fee is paid by or imposed on the mortgage applicant for such flood certificate, invoices and proof of payment for the flood determination certificate;

(C) Truth in Lending Act (TILA). For transactions that are subject to the requirements of TILA (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R. §1026.1 et seq.), the following records:

(i) the initial Truth-in-Lending statement for home equity lines of credit and reverse mortgage transactions required by Regulation Z, 12 C.F.R. §1026.19;

(ii) if the transaction is an adjustable rate mortgage transaction, the adjustable rate mortgage program disclosures;

(iii) records relating to the mortgage applicant's ability to repay the loan, as required by Regulation Z, 12 C.F.R. §1026.43(c);

(iv) if the mortgage applicant is permitted to shop for a settlement service, the written list of providers required by Regulation Z, 12 C.F.R. §1026.19(e)(1)(vi)(C);

(v) the notice of intent to proceed with the transaction required by Regulation Z, 12 C.F.R. §1026.19(e)(2)(i)(A);

(vi) if applicable, records related to a changed circumstance required by Regulation Z, 12 C.F.R. §1026.19(e)(3)(iv);

(vii) the notice of right to rescission required by Regulation Z, 12 C.F.R. §1026.15 or §1026.23;

(viii) for high-cost mortgage loans, the disclosures required by Regulation Z, 12 C.F.R. §1026.32(c);

(ix) for high-cost mortgage loans, the certification of counseling required by Regulation Z, 12 C.F.R. §1026.34(a)(5)(i); and

(x) any other notice or disclosure required by TILA or Regulation Z;

(D) Real Estate Settlement Procedures Act (RESPA). For transactions that are subject to the requirements of RESPA (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. §1024.1 et seq.), the following records:

(i) records reflecting delivery of the special information booklet required by Regulation X, 12 C.F.R. §1024.6;

(ii) any affiliated business arrangement disclosure statement provided to the mortgage applicant in accordance with Regulation X, 12 C.F.R. §1024.15;

(iii) records reflecting delivery of the list of homeownership counseling organizations required by Regulation X, 12 C.F.R. §1024.20; and

(iv) any other notice or disclosure required by RESPA or Regulation X;

(E) Equal Credit Opportunity Act - Transactions Not Resulting in Approval. For residential mortgage loan applications where a notice of incompleteness is issued, a counteroffer is made, or adverse action is taken, as provided

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by Regulation B (12 C.F.R. §1002.1 et seq.), the following records, as applicable:

(i) the notice of incompleteness required by Regulation B, 12 C.F.R. §1002.9(c)(2);

(ii) the counteroffer letter sent to the mortgage applicant in accordance with Regulation B, 12 C.F.R. §1002.9; and

(iii) the adverse action notification (a/k/a turndown letter) required by Regulation B, 12 C.F.R. §1002.9(a);

(F) Home Equity Transactions. For home equity loan or home equity line of credit transactions, the following records (references in this subparagraph to Section 50 refers to Article XVI, Section 50, Texas Constitution):

(i) the preclosing disclosures required by Section 50(a)(6)(M)(ii) and §153.13 of this title (relating to Preclosing Disclosures: Section 50(a)(6)(M)(ii); as provided by such section, the closing disclosure or account-opening disclosures required by Regulation Z fulfills this requirement);

(ii) the consumer disclosure required by Section 50(g) and §153.51 of this title (relating to Consumer Disclosure: Section 50(g));

(iii) if an attorney-in-fact executes the closing documents on behalf of the owner or owner's spouse, a copy of the executed power of attorney and any other documents evidencing execution of such power of attorney at the permanent physical address of an office of the lender, an attorney at law, or a title company, as required by §153.15 of this title (relating to Location of Closing: Section 50(a)(6)(N));

(iv) if the borrower (mortgage applicant) uses the proceeds of the loan to pay off a non-homestead debt with the same lender, a written statement, signed by the mortgage applicant, indicating the proceeds of the home equity loan were voluntarily used to pay such debt (see Section 50(a)(6)(Q)(i));

(v) notice of the right of rescission, as required by Section 50(a)(6)(Q)(viii) (as provided by §153.25 of this title (relating to Right of Rescission: Section 50(a)(6)(Q)(viii)), the notice of right of rescission required by TILA and Regulation Z fulfills this requirement);

(vi) the written acknowledgement as to the fair market value of the homestead property, as required by Section 50(a)(6)(Q)(ix) and §153.26 of this title (relating to Acknowledgement of Fair Market Value: Section 50(a)(6)(Q)(ix)); and

(vii) if the home equity loan is refinanced into a non-home equity loan, the Texas Notice Concerning Refinance of Existing Home Equity to Non-Home Equity Loan, as required by Section 50(f)(2)(D) and §153.45 of this title (relating to Refinance of an Equity Loan: Section 50(f));

(G) Wrap Mortgage Loans. For wrap mortgage loan transactions subject to the requirements of Finance Code Chapter 159, the following records:

(i) the disclosure statement required by Finance Code §159.101 and §78.101 of this title (relating to Required Disclosure), signed and dated by each mortgage applicant, and any foreign language disclosure statement required by Finance Code §159.102;

(ii) the disclosure statement required by Tex. Prop. Code §5.016

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provided to each existing lienholder (the disclosure statement required by Finance Code §159.101 and §78.101 of this title (relating to Required Disclosure) referenced in clause (i) of this subparagraph fulfills this requirement if it was provided to each existing lienholder); and

(iii) documents evidencing that the wrap mortgage loan was closed by an attorney or a title company, as required by Finance Code §159.105;

(H) Home Improvement Loans. For home improvement transactions (including repair, renovation, and new construction), the following records:

(i) the mechanic's lien contract;

(ii) documents evidencing the transfer of lien from the contractor to the lender;

(iii) the residential construction contract;

(iv) notice of the right of rescission required by Article XVI, Section 50(a)(5)(C), Texas Constitution (the notice of right of rescission required by TILA and Regulation Z fulfills this requirement); and

(v) any other notice or disclosure required by Texas Property Code Chapter 53;

(I) Reverse Mortgages. For reverse mortgage transactions, the following records:

(i) the disclosure required by Article XVI, Section 50(k)(9), Texas Constitution;

(ii) the certificate of counseling required by Article XVI, Section 50(k)(8), Texas Constitution;

(iii) the servicing disclosure statement required by Regulation X, 12 C.F.R. §1024.33(a);

(iv) the disclosures required by Regulation Z, 12 C.F.R. §1026.33(b); and

(v) any other notice or disclosure required by federal or state law to originate a reverse mortgage;

(3) General Business Records. General business records include:

(A) all checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and cancelled checks (or copies thereof) relating to residential mortgage loan origination business;

(B) complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of a mortgage applicant, including a record of the date and amount of all such payments actually made by each mortgage applicant;

(C) all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all mortgage company employees, independent contractors and all others compensated by the mortgage company in connection with residential mortgage loan origination business;

(D) all written complaints or inquiries (or summaries of any verbal complaints or inquiries) along with any correspondence,

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notes, responses, and documentation relating thereto and the disposition thereof;

(E) all contractual agreements or understandings with third parties in any way relating to a residential mortgage loan transaction including, but not limited to, any delegations of underwriting authority, any agreements for pricing of goods or services, investor contracts, or employment agreements;

(F) all reports of audits, examinations, inspections, reviews, investigations, or similar, performed by any third party, including any regulatory or supervisory authorities;

(G) all advertisements in the medium (e.g., recorded audio, video, Internet or social media site posting, or print) in which they were published or distributed; and

(H) policies and procedures related to the origination of residential mortgage loans by the mortgage company and its sponsored originators, including, but not limited to:

(i) identity theft prevention program (red flags rule; 16 C.F.R. §681.1(d));

(ii) anti-money laundering program (31 C.F.R. §1029.210);

(iii) information security program (16 C.F.R. §314.3(a));

(iv) ability-to- repay underwriting policies, if any (Regulation Z, 12 C.F.R. §1026.43(c));

(v) quality control policy, if any;

(vi) compliance manual, if any; and

(vii) personnel administration/employee policies, if any;

(4) Other Records Required by Federal Law. A mortgage company must maintain such other books and records as may be required to evidence compliance with applicable federal laws and regulations, including, but not limited to:

(A) the Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.);

(B) the Gramm-Leach-Bliley Act (15 U.S.C. §6801 et seq.) and Regulation P (12 C.F.R. §1016.1 et seq.), and the regulations of the Federal Trade Commission (16 C.F.R. §313.1 et seq.);

(C) the Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.); and

(D) Regulation N (Mortgage Acts and Practices-Advertising (MAP Rule); 12 C.F.R. §1014.1 et seq.);

(5) Other Records Designated by the Commissioner. A mortgage company must maintain such other books and records as the Commissioner or the Commissioner's designee may, from time to time, specify in writing;

(6) Records Concerning Administrative Offices. A mortgage company must maintain a list reflecting any office constituting an "administrative office" of the mortgage company for purposes of §80.206 of this title (relating to Office Locations; Remote Work); and

(7) Records Concerning Remote Work. A mortgage company must maintain records reflecting its compliance with the requirements for remote work, as provided by §80.206 of this title (relating to Office Locations; Remote Work).

(c) Records Retention After Terminating Operations. Within 10 days of termination operations, a mortgage company must provide the Department with written notice of where the records required by this section will be maintained for the prescribed period. If such records are transferred to another mortgage company licensed by the Department, the transferee must provide the Department with written notice within 10 days after receiving such records.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Iain A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending

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**3. *Discussion of and Possible Vote to Take Action on the Adoption of a New Rule and the Repeal of §81.204 in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators***

**PURPOSE:** The purpose of the new rule and the repeal of 7 TAC §81.204 is to clarify the requirements concerning the books and records that a mortgage banker and individual residential mortgage loan originator must maintain in order to facilitate inspection of a residential mortgage loan originator, and investigation of a consumer complaint against a mortgage banker, by the Department's commissioner. An explanation of and justification for the rules is contained in the proposed preamble for the rule adoption.

**RECOMMENDED ACTION:** The Department requests that the Finance Commission approve adoption of the new rule and repeal of 7 TAC §81.204.

**RECOMMENDED MOTION:** I move that the Finance Commission approve adoption of the new rule and repeal of 7 TAC §81.204.

**TITLE 7. BANKING AND SECURITIES**

**PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

**CHAPTER 81. MORTGAGE BANKERS AND RESIDENTIAL MORTGAGE LOAN ORIGINATORS**

**SUBCHAPTER C. DUTIES AND RESPONSIBILITIES**

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), adopts the repeal 7 TAC §81.204, Books and Records. The commission further adopts a new rule concerning the same or similar subject matter at 7 TAC §81.204, Books and Records. The commission's proposal was published in the March 11, 2022 issue the *Texas Register* (47 TexReg 1150). The rules are adopted without changes to the proposed text as published in the *Texas Register* and will not be republished.

**Explanation of and Justification for the Rules**

The rules under 7 TAC Chapter 81 implement Finance Code Chapter 157, Mortgage Bankers and Residential Mortgage Loan Originators (Chapter 157), and Chapter 180, Residential Mortgage Loan Originators (Texas SAFE Act), with respect to persons regulated under Chapter 157. The department, under Chapter 157, registers mortgage bankers (for purposes of the adopted rules, "mortgage banker" has the meaning assigned by Finance Code §157.002). Under Chapter 157 and the Texas SAFE Act the department also licenses individuals to act a residential mortgage loan originator (originator). Mortgage bankers and originators (acting on behalf of either a mortgage banker or a residential mortgage loan company licensed by the

department under Finance Code Chapter 156 (mortgage company)) originate residential mortgage loans (a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other security interest on a dwelling or residential real estate) made to consumers.

*Books and Recordkeeping Changes*

With respect to originators, pursuant to Finance Code §157.021(a), the department's commissioner (commissioner) may conduct inspections (including examinations) of an originator to determine compliance with Chapter 157 and the Texas SAFE Act, or the rules of the department adopted thereunder. Inspections include inspection of the originator's "books, records, documents, operations, and facilities" (Finance Code §157.021(a)). Pursuant to Finance Code §157.021(b), the commissioner, upon receipt of a signed written complaint against an originator, "shall investigate the actions and records" of the originator. Pursuant to Finance Code §157.021(e), the commission "by rule shall . . . determine the information and records [of the originator] to which the commissioner may demand access during an inspection or an investigation." Pursuant to Finance Code §157.02015(b), the commission "may adopt rules regarding books and records that [an originator] is required to keep, including the location at which the books and records must be kept." With respect to mortgage bankers, pursuant to Finance Code §157.0022, the commissioner "may request documentary and other evidence [from a mortgage banker] considered by the commissioner as necessary to effectively evaluate [a consumer] complaint, including correspondence, loan documents, and disclosures . . . [and a] mortgage banker shall promptly provide any evidence requested by the



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commissioner." In conducting an inspection of an originator the commissioner may also "request the assistance and cooperation of the sponsoring mortgage banker in providing needed documents and records" (Finance Code §157.021(a)). Preexisting §81.204 establishes requirements concerning the books and records that a mortgage banker and an originator must maintain. The adopted rules: (i) establish a new requirement concerning the location where required records must be maintained; (ii) clarify preexisting requirements concerning the mortgage transaction log an originator is required to maintain under preexisting §81.204, with respect to the description of the purpose for the mortgage loan, and the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the mortgage loan; (iii) expand a preexisting requirement under preexisting §81.204 by requiring that the mortgage transaction log include information concerning the type of lien anticipated after consummation of the mortgage loan (first lien, second lien, or wrap mortgage); (iv) clarify preexisting requirements concerning the books and records that an originator must maintain under preexisting §81.204 by specifically identifying certain records an originator is required to maintain to comply with the requirements of applicable state law (other than the adopted rules; including in connection with wrap mortgage loans made in accordance with Finance Code Chapter 159, Wrap Mortgage Loan Financing, which became effective on January 1, 2022), and federal law; and (v) establish a new requirement for a mortgage banker to maintain records concerning its general business operations, and simultaneously repeal such requirement as it pertains to originators under preexisting §81.204 as being inapplicable to an originator when considering that, in practice,

such records are actually maintained in the ordinary course of business by the mortgage banker or mortgage company sponsoring the originator.

### *Other Modernization and Update Changes.*

The adopted rules make changes to modernize and update the rule including: removing unnecessary or duplicative provisions; updating terminology; and reorganizing and restating the requirements of preexisting §81.204 for clarity and to improve readability, including the insertion of explanatory headings throughout the rule.

### Summary of Public Comments

Publication of the commission's proposal for the rules recited a deadline of 30 days to receive public comments, or April 10, 2022. A public hearing in accordance with Government Code §2001.029 was not required. No comments were received.

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#### Statutory Authority

The rule repeal is adopted under the authority of Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purpose of Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act, and as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (federal SAFE Act; 12 U.S.C. §5101 et seq.).

The adopted rule repeal affects the statutes contained in Finance Code Chapters 156 and 180.

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*§81.204.Books and Records.*

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Iain A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



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Statutory Authority

The rule is adopted under the authority of: Finance Code §157.0023(a) and (c), authorizing the commission to adopt rules necessary to implement or fulfill the purpose of Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act, and as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (federal SAFE Act; 12 U.S.C. §5101 et seq.); and Finance Code §157.02015(b), authorizing the commission to adopt rules regarding books and records that a person licensed under Finance Chapter 157 is required to keep, including the location at which the books and records must be kept. The rule is also adopted under the authority of, and to implement, Finance Code §§157.0022(b), 157.003(b)(6), and 157.021.

The adopted rule affects the statutes contained in Finance Code Chapters 156 and 180.

§81.204.Books and Records.

(a) Maintenance of Records, Generally. In order to ensure a mortgage banker or an originator will have all records necessary to facilitate an

inspection (including an examination) of an originator, enable the Commissioner or the Commissioner's designee to investigate complaints against a mortgage banker or an originator, and otherwise ensure compliance with the requirements of Finance Code Chapters 157 and 180, and this chapter, a mortgage banker and an originator must maintain records as prescribed by this section.

(1) Format. The records required by this section may be maintained by using a physical, electronic, or digitally-imaged recordkeeping system, or a combination thereof. The records must be accurate, complete, current, legible, and readily accessible and sortable.

(2) Location. A mortgage banker must ensure the records required by this section (or true and correct copies thereof) are maintained at or are otherwise readily accessible from either the main office of the mortgage banker or the location the mortgage banker has designated in its MU1 filing under "Books and Records Information" in NMLS. An originator must ensure the records required by this section (or true and correct copies thereof) are maintained at or are otherwise readily accessible from the main office of the mortgage banker or the mortgage company sponsoring the originator, or the location the mortgage banker or mortgage company has designated in its MU1 filing under "Books and Records Information" in NMLS. (For purposes of this section "main office" has the meaning assigned by §81.206 of this title (relating to Office Locations; Remote Work), with respect to a mortgage banker, and §80.206 of this title (relating to Office Locations; Remote Work), with respect to a mortgage company.)

(3) Production of Records; Disciplinary Action or Violation. All records required by this section must be maintained in good order and produced for the Commissioner or the Commissioner's designee upon request. Failure

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by an originator to produce records upon request after a reasonable time for compliance may result in disciplinary action against the originator, including, but not limited to, suspension or revocation of the originator's license. Failure by a mortgage banker to produce records upon request after a reasonable time for compliance in response to a complaint investigation conducted by the Department may be treated as a failure by the mortgage banker to provide evidence in violation of the requirements of Finance Code §157.0022(b).

(4) Retention Period. All records required by this section must be maintained for 3 years or such longer period as may be required by other applicable law.

(5) Conflicting Law. If the requirements of other applicable law governing recordkeeping by the mortgage banker or originator differ from the requirements of this section, such other applicable law prevails only to the extent this section conflicts with the requirements of this section.

(6) Compliance by the Mortgage Banker or Mortgage Company on Behalf of the Originator. An originator fulfills the requirements of subsection (b) of this section if his or her sponsoring mortgage banker or mortgage company maintains the required books and records on behalf of the originator.

(b) Required Records of an Originator. An originator is required to maintain the following items:

(1) Mortgage Transaction Log. A mortgage transaction log, maintained on a current basis (which means all entries must be made within no more than 7 days from the date on which the matters they relate to occurred), setting forth, at a minimum:

(A) the name and contact information of each mortgage applicant;

(B) the date of the initial loan application;

(C) the full name of the originator who took the initial loan application, and his or her NMLS identification number;

(D) a description of the purpose for the loan (e.g., purchase, refinance, construction, home equity, home improvement, land lot loan, wrap mortgage loan, etc.);

(E) a description of the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the loan (e.g., primary residence (including real estate (land lot) or a dwelling not suitable for occupancy at the time the loan is consummated but that the owner intends to occupy as their primary residence after consummation of the loan), secondary residence, or investment property (no intent to occupy as their residence));

(F) the lien type (e.g., first lien, second lien, or wrap mortgage);

(G) a description of the current status or disposition of the loan application (e.g., in-process, withdrawn, closed, or denied); and

(H) if the loan is closed, the identity of the person who initially funded and/or acquired the loan;

(2) Residential Mortgage Loan File. For each residential mortgage loan transaction or prospective residential mortgage loan transaction, a residential mortgage loan file containing, at a minimum:

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(A) All Transactions. For all transactions, the following records:

(i) the initial and any final loan application (including any attachments, supplements, or addendum thereto), signed and dated by each mortgage applicant and the sponsored originator, and any other written or recorded information used in evaluating the application, as required by Regulation B, 12 C.F.R. §1002.4(c);

(ii) the initial and any revised good faith estimate (Regulation X, 12 C.F.R. §1024.7), integrated loan estimate disclosure (Regulation Z, 12 C.F.R. §1026.37), or similar, provided to the mortgage applicant;

(iii) the final settlement statement (Regulation X, 12 C.F.R. §1024.8), closing statement, or integrated closing disclosure (Regulation Z, 12 C.F.R. §1026.19(f) and §1026.38);

(iv) for an originator sponsored by a mortgage banker, the disclosure statement required by Finance Code §157.0021 and §81.200(a) of this title (relating to Required Disclosures); or, for an originator sponsored by a mortgage company, the disclosure statement required by Finance Code §156.004 and §80.200(a) of this title (relating to Required Disclosures), signed and dated by each mortgage applicant and the sponsored originator;

(v) if provided to a mortgage applicant or prospective mortgage applicant, the Conditional Pre-Qualification Letter, or similar, as specified by Finance Code §157.02012 and §81.201 of this title (relating to Loan Status Forms), with respect to an originator sponsored by a mortgage banker, or Finance Code §156.105 and §80.201 of this title (relating to Loan Status Forms), with respect to an originator sponsored by a mortgage company;

(vi) if provided to a mortgage applicant or prospective mortgage applicant, the Conditional Approval Letter, or similar, as specified by Finance Code §157.02012 and §81.201 of this title (relating to Loan Status Forms), with respect to an originator sponsored by a mortgage banker, or Finance Code §156.105 and §80.201 of this title (relating to Loan Status Forms), with respect to an originator sponsored by a mortgage company;

(vii) each item of correspondence, all evidence of any contractual agreement or understanding, and all notes and memoranda of conversations or meetings with a mortgage applicant or any other party in connection with the loan application or its ultimate disposition (e.g., fee agreements, rate lock agreements, or similar documents);

(viii) if the loan is a "home loan" as defined by Finance Code §343.001, the notice of penalties for making a false or misleading written statement required by Finance Code §343.105, signed at closing by each mortgage applicant;

(ix) if the transaction is a purchase money or wrap mortgage loan transaction, the real estate sales contract or real estate purchase agreement for the sale of the residential real estate;

(x) consumer reports or credit reports obtained in connection with the loan or prospective loan, and if a fee is paid by or imposed on the mortgage applicant, invoices/receipts for the purchase of the consumer report or credit report;

(xi) appraisal reports or written valuation reports used to determine the value of the residential real estate secured or designed to be secured by the loan, and if a fee is paid by or imposed on the mortgage applicant for

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such appraisal report or written valuation report, invoices and proof of payment for the appraisal report or written valuation report;

(xii) invoices and proof of payment for third party fees paid by or imposed on the mortgage applicant;

(xiii) refund checks issued to the mortgage applicant;

(xiv) if applicable, the risk-based pricing notice required by Regulation V, 12 C.F.R. §1022.72;

(xv) if applicable, invoices for independent loan processors or underwriters;

(xvi) if the originator or the mortgage banker or mortgage company sponsoring the originator acts in a dual capacity as the loan originator and real estate broker, sales agent, or attorney in the transaction, the disclosure of multiple roles in a consumer real estate transaction, signed and dated by each mortgage applicant, as required by Finance Code §157.024(a)(10) and §156.303(a)(13);

(xvii) the initial privacy notice required by Regulation P, 12 C.F.R. §1016.4 or 16 C.F.R. §313.4;

(xviii) the mortgage applicant's written authorization to receive electronic documents;

(xix) records reflecting compensation paid to employees or independent contractors in connection with the transaction;

(xx) any other agreements, notices, disclosures, or affidavits

required by federal or state law in connection with the transaction; and

(xxi) any written agreements or other records governing the origination of the loan or prospective loan;

(B) Lender Transactions. For transactions where the mortgage banker or mortgage company sponsoring the originator acted as the lender, the following records:

(i) the promissory note, loan agreement, or repayment agreement, signed by the borrower (mortgage applicant);

(ii) the recorded deed of trust, contract, security deed, security instrument, or other lien transfer document, signed by the borrower (mortgage applicant);

(iii) any verifications of income, employment, or deposits obtained in connection with the loan;

(iv) copies of any title insurance policies with endorsements or title search reports obtained in connection with the loan, and receipts/invoices for the title insurance policy or title search report; and

(v) if applicable, the flood determination certificate obtained in connection with the loan, and if a fee is paid by or imposed on the mortgage applicant for such flood certificate, invoices and proof of payment for the flood determination certificate;

(C) Truth in Lending Act (TILA). For transactions that are subject to the requirements of TILA (15 U.S.C. §1601 et seq.) and Regulation Z (12 C.F.R. §1026.1 et seq.), the following records:

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(i) the initial Truth-in-Lending statement for home equity lines of credit and reverse mortgage transactions required by Regulation Z, 12 C.F.R. §1026.19;

(ii) if the transaction is an adjustable rate mortgage transaction, the adjustable rate mortgage program disclosures;

(iii) records relating to the mortgage applicant's ability to repay the loan, as required by Regulation Z, 12 C.F.R. §1026.43(c);

(iv) if the mortgage applicant is permitted to shop for a settlement service, the written list of providers required by Regulation Z, 12 C.F.R. §1026.19(e)(1)(vi)(C);

(v) the notice of intent to proceed with the transaction required by Regulation Z, 12 C.F.R. §1026.19(e)(2)(i)(A);

(vi) if applicable, records related to a changed circumstance required by Regulation Z, 12 C.F.R. §1026.19(e)(3)(iv);

(vii) the notice of right to rescission required by Regulation Z, 12 C.F.R. §1026.15 or §1026.23;

(viii) for high-cost mortgage loans, the disclosures required by Regulation Z, 12 C.F.R. §1026.32(c);

(ix) for high-cost mortgage loans, the certification of counseling required by Regulation Z, 12 C.F.R. §1026.34(a)(5)(i); and

(x) any other notice or disclosure required by TILA or Regulation Z;

(D) Real Estate Settlement Procedures Act (RESPA). For transactions that

are subject to the requirements of RESPA (12 U.S.C. §2601 et seq.) and Regulation X (12 C.F.R. §1024.1 et seq.), the following records:

(i) records reflecting delivery of the special information booklet required by Regulation X, 12 C.F.R. §1024.6;

(ii) any affiliated business arrangement disclosure statement provided to the mortgage applicant in accordance with Regulation X, 12 C.F.R. §1024.15;

(iii) records reflecting delivery of the list of homeownership counseling organizations required by Regulation X, 12 C.F.R. §1024.20; and

(iv) any other notice or disclosure required by RESPA or Regulation X;

(E) Equal Credit Opportunity Act - Transactions Not Resulting in Approval. For residential mortgage loan applications where a notice of incompleteness is issued, a counteroffer is made, or adverse action is taken, as provided by Regulation B (12 C.F.R. §1002.1 et seq.), the following records, as applicable:

(i) the notice of incompleteness required by Regulation B, 12 C.F.R. §1002.9(c)(2);

(ii) the counteroffer letter sent to the mortgage applicant in accordance with Regulation B, 12 C.F.R. §1002.9; and

(iii) the adverse action notification (a/k/a turndown letter) required by Regulation B, 12 C.F.R. §1002.9(a);

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(F) Home Equity Transactions. For home equity loan or home equity line of credit transactions, the following records (references in this subparagraph to Section 50 refers to Article XVI, Section 50, Texas Constitution):

(i) the preclosing disclosures required by Section 50(a)(6)(M)(ii) and §153.13 of this title (relating to Preclosing Disclosures: Section 50(a)(6)(M)(ii); as provided by such section, the closing disclosure or account-opening disclosures required by Regulation Z fulfills this requirement);

(ii) the consumer disclosure required by Section 50(g) and §153.51 of this title (relating to Consumer Disclosure: Section 50(g));

(iii) if an attorney-in-fact executes the closing documents on behalf of the owner or owner's spouse, a copy of the executed power of attorney and any other documents evidencing execution of such power of attorney at the permanent physical address of an office of the lender, an attorney at law, or a title company, as required by §153.15 of this title (relating to Location of Closing: Section 50(a)(6)(N));

(iv) if the borrower (mortgage applicant) uses the proceeds of the loan to pay off a non-homestead debt with the same lender, a written statement, signed by the mortgage applicant, indicating the proceeds of the home equity loan were voluntarily used to pay such debt (see Section 50(a)(6)(Q)(i));

(v) notice of the right of rescission, as required by Section 50(a)(6)(Q)(viii) (as provided by §153.25 of this title (relating to Right of Rescission: Section 50(a)(6)(Q)(viii)), the notice of right of rescission required by TILA and Regulation Z fulfills this requirement);

(vi) the written acknowledgement as to the fair market value of the homestead property, as required by Section 50(a)(6)(Q)(ix) and §153.26 of this title (relating to Acknowledgement of Fair Market Value: Section 50(a)(6)(Q)(ix)); and

(vii) if the home equity loan is refinanced into a non-home equity loan, the Texas Notice Concerning Refinance of Existing Home Equity to Non-Home Equity Loan, as required by Section 50(f)(2)(D) and §153.45 of this title (relating to Refinance of an Equity Loan: Section 50(f));

(G) Wrap Mortgage Loans. For wrap mortgage loan transactions subject to the requirements of Finance Code Chapter 159, the following records:

(i) the disclosure statement required by Finance Code §159.101 and §78.101 of this title (relating to Required Disclosure), signed and dated by each mortgage applicant, and any foreign language disclosure statement required by Finance Code §159.102;

(ii) the disclosure statement required by Tex. Prop. Code §5.016 provided to each existing lienholder (the disclosure statement required by Finance Code §159.101 and §78.101 of this title (relating to Required Disclosure) referenced in clause (i) of this subparagraph fulfills this requirement if it was provided to each existing lienholder); and

(iii) documents evidencing that the wrap mortgage loan was closed by an attorney or a title company, as required by Finance Code §159.105;

(H) Home Improvement Loans. For home improvement transactions (including repair, renovation, and new construction), the following records:

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(i) the mechanic's lien contract;

(ii) documents evidencing the transfer of lien from the contractor to the lender;

(iii) the residential construction contract;

(iv) notice of the right of rescission required by Article XVI, Section 50(a)(5)(C), Texas Constitution (the notice of right of rescission required by TILA and Regulation Z fulfills this requirement); and

(v) any other notice or disclosure required by Texas Property Code Chapter 53;

(I) Reverse Mortgages. For reverse mortgage transactions, the following records:

(i) the disclosure required by Article XVI, Section 50(k)(9), Texas Constitution;

(ii) the certificate of counseling required by Article XVI, Section 50(k)(8), Texas Constitution;

(iii) the servicing disclosure statement required by Regulation X, 12 C.F.R. §1024.33(a);

(iv) the disclosures required by Regulation Z, 12 C.F.R. §1026.33(b); and

(v) any other notice or disclosure required by federal or state law to originate a reverse mortgage;

(3) Other Records Required by Federal Law. An originator must maintain such other books and records as may be required to evidence compliance with applicable federal laws and regulations, including, but not limited to:

(A) the Fair Credit Reporting Act (15 U.S.C. §1681 et seq.) and Regulation V (12 C.F.R. §1022.1 et seq.);

(B) the Gramm-Leach-Bliley Act (15 U.S.C. §6801 et seq.) and Regulation P (12 C.F.R. §1016.1 et seq.), and the regulations of the Federal Trade Commission (16 C.F.R. §313.1 et seq.);

(C) the Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. §5101 et seq.) and Regulation H (12 C.F.R. §1008.1 et seq.); and

(D) Regulation N (Mortgage Acts and Practices-Advertising (MAP Rule); 12 C.F.R. §1014.1 et seq.); and

(4) Other Records of an Originator Designated by the Commissioner. An originator must maintain such other books and records as the Commissioner or the Commissioner's designee may, from time to time, specify in writing.

(c) Required Records of a Mortgage Banker. A mortgage banker must maintain the following records:

(1) General Business Records. General business records include:

(A) all checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and cancelled checks (or copies thereof) relating to residential mortgage loan origination business;



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(B) complete records (including invoices and supporting documentation) for all expenses and fees paid on behalf of a mortgage applicant, including a record of the date and amount of all such payments actually made by each mortgage applicant;

(C) all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees of the mortgage banker, independent contractors, and all others compensated by the mortgage banker in connection with residential mortgage loan origination business;

(D) all written complaints or inquiries (or summaries of any verbal complaints or inquiries) along with any correspondence, notes, responses, and documentation relating thereto and the disposition thereof;

(E) all contractual agreements or understandings with third parties in any way relating to a residential mortgage loan transaction including, but not limited to, any delegations of underwriting authority, any agreements for pricing of goods or services, investor contracts, or employment agreements;

(F) all reports of audits, examinations, inspections, reviews, investigations, or similar, performed by any third party, including any regulatory or supervisory authorities;

(G) all advertisements in the medium (e.g., recorded audio, video, Internet or social media site posting, or print) in which they were published or distributed; and

(H) policies and procedures related to the origination of residential mortgage loans by the mortgage banker and its sponsored originators, including, but not limited to:

(i) identity theft prevention program (red flags rule; 16 C.F.R. §681.1(d));

(ii) anti-money laundering program (31 C.F.R. §1029.210);

(iii) information security program (16 C.F.R. §314.3(a));

(iv) ability-to-repay underwriting policies, if any (Regulation Z, 12 C.F.R. §1026.43(c));

(v) quality control policy, if any;

(vi) compliance manual, if any; and

(vii) personnel administration/employee policies, if any;

(2) Records Concerning Administrative Offices. A mortgage banker must maintain a list reflecting any office constituting an "administrative office" of the mortgage banker for purposes of §80.206 of this title (relating to Office Locations; Remote Work); and

(3) Records Concerning Remote Work. A mortgage banker must maintain records reflecting its compliance with the requirements for remote work, as provided by §80.206 of this title (relating to Office Locations; Remote Work).

(d) Records Retention After Terminating Operations. Within 10 days of terminating operations, a mortgage banker or originator must provide the Department with written notice of where the required records will be maintained for the prescribed period. If such records are transferred to another mortgage banker registered

with the Department, the transferee must provide the Department with written notice within 10 days after receiving such records.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Iain A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending

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**4. *Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 4, Chapter 51, Concerning Charter Applications, and Chapter 52, Concerning Department Administration, Resulting from Rule Review***

**PURPOSE:** Pursuant to Texas Government Code §2001.039, the Department has completed its review of 7 TAC Chapters 51 and 52, and has determined that the reasons for initially adopting the rules contained in these chapters continue to exist.

**RECOMMENDED ACTION:** The Department recommends that the Finance Commission approve readoption of 7 TAC Chapters 51 and 52 following rule review, because the reasons for the rules continue to exist.

**RECOMMENDED MOTION:** I move that the Finance Commission approve readoption of 7 TAC Chapters 51 and 52 following rule review, because the reasons for the rules continue to exist.



Department of Savings and Mortgage Lending

**Title 7, Part 4**

The Department of Savings and Mortgage Lending (department) has completed its review of the following chapters of 7 TAC Part 4:

Chapter 51, Charter Applications (§§51.1 - 51.15); and

Chapter 52, Department Administration (§§52.10 - 52.13, 52.20, 52.30, 52.100 - 52.104, 52.200 - 52.205, 52.300 - 52.306).

The review of 7 TAC Chapters 51 and 52 was conducted in accordance with Government Code §2001.039. Notice of the review was published in the March 4, 2022 issue of the *Texas Register* (47 TexReg 1107). No comments were received in response to the notice.

The rules contained in 7 TAC Chapters 51 and 52 were initially adopted by the Finance Commission of Texas (commission) on behalf of the department.

As a result of the rule review conducted by the department, the commission has determined that certain revisions to the rules are appropriate and necessary. Those proposed rule changes are published in the Proposed Rules section in this issue of the *Texas Register*.

The commission, after considering the results of the rule review conducted by the department, finds that the reasons for initially adopting the rules reviewed continue to exist and readopts 7 TAC Chapters 51 and 52.

Iain A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending

**5. Discussion of and Possible Vote to Take Action on the Proposal an Publication for Comment of New Rules and Repeals in 7 TAC, Part 4, Chapter 51, Concerning Charter Applications, Resulting from Rule Review**

**PURPOSE:** The purpose of the new rules and repeals in 7 TAC Chapter 51 is to implement changes resulting from the Department's periodic review of its rules, conducted pursuant to Government Code §2001.039. An explanation of and justification for the rules is contained in the proposed preamble for the rule proposal.

**RECOMMENDED ACTION:** The Department recommends that the Finance Commission approve publication of the new rules and repeals in 7 TAC Chapter 51 for comment in the *Texas Register*.

**RECOMMENDED MOTION:** I move that the Finance Commission approve publication of the new rules and repeals in 7 TAC Chapter 51 for comment in the *Texas Register*.

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**TITLE 7. BANKING AND SECURITIES**

**PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

**CHAPTER 51. DEPARTMENT ADMINISTRATION**  
~~**APPLICATIONS**~~ ~~**[CHAPTER APPLICATIONS]**~~

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), proposes to repeal all existing rules in 7 TAC Chapter 51, as follows: §§51.1 - 51.15. The commission further proposes new rules in 7 TAC Chapter 51, as follows: §§51.1 - 51.4, 51.100, 51.200, 51.300 - 51.304, 51.400 - 51.405, and 51.500 - 51.506. This proposal and the rules as repealed or added as a new rule by this proposal are referred to collectively as the "proposed rules."

**Explanation of and Justification for the Rules**

*Changes Concerning the Relocation (Swapping) of 7 TAC Chapters 51 and 52*

The department's existing rules in 7 TAC Chapters 51, 53, 57, 61, 64, 65, 67, 69, 71, and 73 implement Finance Code Title 3, Subtitle B, Savings and Loan Associations, and affect savings and loan associations regulated by the department. The department's existing rules in 7 TAC Chapter 52, Department Administration, concern the administrative processes and procedures of the Department, and are therefore located among the rule chapters concerning savings and loan associations which may tend to create confusion for the reader. The department further asserts that 7 TAC Chapter 51 - the first rule chapter assigned to the department - is a more appropriate chapter for the department's rules concerning its administrative processes and procedures to reside. As a result, the department

has determined it should relocate the existing rules in 7 TAC Chapters 51 and 52 by essentially swapping the rules in such chapters. Specifically, the proposed rules, if adopted, would: (i) repeal the existing rules in 7 TAC Chapter 51 and insert new rules largely patterned after the existing rules in 7 TAC Chapter 52; and (ii) rename 7 TAC Chapter 51 to reflect the new rules inserted in such chapter.

*Changes concerning Complaint Processing Rules*

The department receives, analyzes, and investigates complaints from consumers concerning the persons it regulates. The proposed rules, if adopted, would make changes to the department's existing rules in 7 TAC Chapter 52, Subchapter A, Complaint Processing, including: (i) changes to existing §52.10, Definitions, to: add definitions for the terms "Commissioner" and "Department"; and clarify that the department will attempt to collect appropriate information to facilitate analysis or investigation of a complaint but will not treat such complaint as an inquiry for failure to include all such information; (ii) changes to existing §52.11, Complaint Processing, to: clarify that a person filing a complaint who wishes to remain anonymous must request such treatment; clarify that an inquiry concerning a person or activity the department does not regulate will be referred to the appropriate regulatory authority, if known; clarify that a complaint may not be forwarded to the entity or individual that is the subject of the complaint if notice of the complaint would jeopardize analysis or investigation of the complaint by the department; and clarify when the department provides status updates to the complainant concerning their complaint (no less often than quarterly); and (iii) changes to existing §52.12, Complaint Resolution and Disposition,

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to: clarify the department's process to close a complaint if it is outside the department's jurisdiction; clarify that, if an enforcement action is deemed to be warranted in order to address the complaint, the party to such action will be notified of the complaint being closed through such enforcement action and will not receive a separate notice; and establish a time limit of ninety days for a complainant to appeal the department's disposition of their complaint, and clarify that the department will provide written notice to the complainant of the results of a timely appeal request.

*Changes concerning the Mortgage Grant Fund grant program*

Finance Code Chapter 156, Subchapter G requires the department's commissioner to administer the mortgage grant fund. The primary purpose of the mortgage grant fund is to promote financial education relating to mortgage loans and to support other statewide financial education, activities, and programs. The proposed rules, if adopted, would make changes to the department's existing rule at 7 TAC §52.205, Grant Program, to properly align the rule's provisions concerning the grant program's programmatic schedule with the department's plans for the inaugural grant program to occur in calendar year 2023.

*Other Modernization and Update Changes.*

The proposed rules, if adopted, would make changes to modernize and update the rules including: adding and replacing language for clarity and to improve readability; removing unnecessary or duplicative provisions; and updating terminology.

**Fiscal Impact on State and Local Government**

Antonia Antov, Director of Operations for the department, has determined that for the first five-year period the proposed rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable increases or reductions in costs, or losses or increases in revenue to the state overall and that would impact the state's general revenue fund as a result of enforcing or administering the proposed rules. Implementation of the proposed rules will not require an increase or decrease in future legislative appropriations to the department because the department is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposed rules will not result in losses or increases in revenue to the state because the department does not contribute to the state's general revenue fund.

**Public Benefits**

Stephany Trotti, Deputy Commissioner and Director of Thrift Regulation for the department, has determined that for each of the first five years the proposed rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be for the department's rules concerning its administrative processes and procedures to be easier to locate by members of the public.

**Probable Economic Costs to Persons Required to Comply with the Proposed Rules**

**PROPOSED NEW RULES AND REPEALS**  
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Stephany Trotti, Deputy Commissioner and Director of Thrift Regulation for the department, has determined that for the first five years the proposed rules are in effect there are no substantial economic costs anticipated to persons required to comply with the proposed rules that are directly attributable to the proposed rules for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs).

#### One-for-One Rule Analysis

Pursuant to Finance Code §16.002, the department is a self-directed 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 rules are in effect, the department has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not require the creation of new employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do not create a new regulation (rule requirement). The proposed rules related to Changes Concerning Complaint Processing Rules establish a time limit of ninety days for a complainant to appeal the department's disposition of their complaint; (6) the proposed rules do not expand, limit, or repeal an existing regulation (rule requirement); (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

#### Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. As a result, preparation of a local employment impact statement pursuant to Government Code §2001.022 is not required.

#### Fiscal Impact on Small and Micro-Businesses and Rural Communities

The proposed rules will not have an adverse effect on small or micro-businesses, or rural communities because there are no substantial economic costs anticipated to persons required to comply with the proposed rules. As a result, preparation of an economic impact statement and a regulatory flexibility analysis as provided by Government Code §2006.002 are not required.

#### Takings Impact Assessment

There are no private real property interests affected by the proposed rules. As a result, preparation of a takings impact assessment as provided by Government Code §2007.043 is not required.

#### Public Comments

Written comments regarding the proposed rules may be submitted by mail to Iain A. Berry, Deputy General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to [rules.comments@sml.texas.gov](mailto:rules.comments@sml.texas.gov). All comments must be received within 30 days of publication of this proposal.

#### **7 TAC §§51.1 - 51.15**

#### Statutory Authority

This proposal is made under the authority of: Finance Code §11.302(a), authorizing the commission to adopt rules applicable to Texas-chartered savings associations (savings and loan associations); Finance Code §62.001,



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authorizing the commission to adopt rules concerning the information required in an application for a savings and loan association charter; and Finance Code §66.002(3), authorizing the commission to adopt rules concerning the procedures for processing, hearing, and deciding applications filed with the department's commissioner relating to the operation of a savings and loan association.

This proposal affects the statutes contained in Finance Code Title 3, Subtitle B.

*§51.1. Form and Content of Application to Incorporate; Requirements for Capital Stock and Paid-in Surplus or Savings Liability and Expense Fund; Payment before Opening for Business.*

*§51.2. Use of Approved Forms.*

*§51.3. Hearing on Charter Application; Subsequent Competing Application Filed Prior to Hearing; Amendments to Charter Applications.*

*§51.4. Publication of Notice of Charter Application.*

*§51.5. Notice to Associations.*

*§51.6. Filing Proof of Publication.*

*§51.7. Hearing When Application Not Protested.*

*§51.8. Purpose of Hearing; Post-Hearing Investigation.*

*§51.9. Time of Decision on Charter Applications.*

*§51.10. Motions for Rehearing.*

*§51.11. Definition of Community.*

*§51.12. Identification of Office Site; Temporary Location.*

*§51.13. Qualifying Management.*

*§51.14. Notice to Applicants.*

*§51.15. Appeals.*

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



SUBCHAPTER A. COMPLAINTS

**7 TAC §§51.1 - 51.4**

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Finance Code §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks; Finance Code §156.102, authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act; Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; Finance Code

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§158.003(b), authorizing the commission to adopt and enforce rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act; Finance Code §159.108, authorizing the commission to adopt and enforce rules necessary for the intent of or to ensure compliance with Finance Code Chapter 159, Subchapter C; Finance Code §180.004, authorizing the commission to implement rules necessary to comply with Finance Code Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009 (Texas SAFE Act); and Finance Code §180.061(5), authorizing the commission to adopt rules establishing requirements for investigation and examination authority for purposes of investigating a violation or complaint arising under the Texas SAFE Act. This proposal is also made under the authority of, and to implement, Finance Code §§11.307, 13.011, 156.301, 157.0022, 157.009, 157.021, 158.059, and 158.102.

This proposal affects the statutes contained in Finance Code: Title 3, Subtitles B and C; and Chapters 13, 156, 157, 158, 159, and 180.

§51.1. Definitions.

The following terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(2) "Complainant" means a person who files a complaint with the Department.

(3) "Complaint" means a signed, written communication received by the Department's division for consumer assistance that expresses

dissatisfaction with a transaction or alleges wrongful conduct. The Department will collect the following items and information regarding a complaint, if available:

(A) the complainant's name and contact information;

(B) the name of the entity or individual against whom the complaint is submitted;

(C) the date and place of the alleged misconduct, violation, or transaction;

(D) a description of the facts or conduct alleged to violate applicable statutes or rules; and

(E) any written documentation supporting the complaint.

(4) "Department" means the Department of Savings and Mortgage Lending.

(5) "Inquiry" means a written communication received by the Department's division for consumer assistance that is not a complaint.

§51.2. Complaint Processing.

(a) Complaints and inquiries filed with the Department are generally considered public information, unless a specific statutory exception applies.

(b) The Department, at the request of the complainant, will make a good faith effort to protect the complainant's identity to the extent possible.

(c) The Department will determine if a complaint or inquiry relates to an activity that the

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Department regulates, and:

(1) if the Department does not regulate the activity that is the subject of the complaint or inquiry, the Department will close the complaint or inquiry and refer the person making the complaint or inquiry to the appropriate regulatory authority, if known; or

(2) if the Department regulates the activity that is the subject of a complaint, the Department will send a copy or a summary of the complaint and appropriate supporting documentation to the entity or individual that is the subject of the complaint to request a response, unless notice of the complaint would jeopardize analysis or investigation of the complaint or the Commissioner or his or her designee otherwise determines an undercover or covert investigation is warranted.

(d) A regulated entity or individual that receives a complaint forwarded by the Department must respond within 14 calendar days from the date the request was sent by the Department, unless an extension of time is granted. If an extension of time is granted, the regulated entity or individual must respond by the deadline recited in or otherwise created by the extension of time.

(e) The Department will prioritize complaints for purposes of determining the order in which complaints are investigated, taking into account the seriousness of the allegations made in a complaint and the length of time a complaint has been pending.

(g) The Department will monitor how long each complaint is open, and will make all reasonable efforts to resolve complaints within 90 calendar days of receipt of actionable information. The Department will notify the complainant of their complaint status at least quarterly until final disposition, unless such notice would jeopardize

an ongoing complaint analysis or investigation.

§51.3. Complaint Resolution and Disposition.

(a) If the Department determines the complaint is not supported by the evidence, is not within the Department's jurisdiction, contains no violation, or is resolved to the satisfaction of the parties, the complaint will be closed.

(b) If the Department determines the complaint is sufficiently supported by the evidence and justifies enforcement action, the complaint will be closed and referred for an enforcement action.

(c) The Department will notify all parties to the complaint within 10 business days of closing the complaint (closing notice). However, if the complaint is closed with a referral for an enforcement action, the respondent in such enforcement action will be notified by and through the enforcement action only, and will not receive a separate closing notice.

(d) A complainant who disagrees with the disposition of a complaint may appeal by sending a written appeal request to the Department's division for consumer assistance within 90 calendar days after the date the closing notice was issued. Upon receipt of a timely appeal request, a senior member of the Department's division for consumer assistance or other qualified employee designated by the Commissioner will review all information and make a determination regarding the complaint. Unless such review results in a new determination, this review will be considered final and may not be appealed further with the Department. The Department will provide the complainant with written notice concerning the results of a review performed in accordance with this subsection.

§51.4. Complaint Review and Reporting.

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(a) The Department will maintain records of all complaints received in accordance with its retention policy. Such records will include the information required by Finance Code §13.011.

(b) At least quarterly, a senior member of the Department's division for consumer assistance or other qualified employee designated by the Commissioner will review a sample of complaints closed administratively due to lack of jurisdiction, lack of a violation, or for evidentiary reasons.

(c) At least quarterly, the Department will submit to the Finance Commission of Texas a report of the sources, subjects, types, and dispositions of complaint activity during the preceding period.

(d) The Department will make available on its website information describing procedures for complaint receipt, investigation, and disposition.

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



SUBCHAPTER B. HEARINGS AND APPEALS

**7 TAC §51.100**

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Government Code

§2009.051(c), authorizing a state agency to adopt alternative dispute resolution procedures by rule. This proposal is also made under the authority of, and to implement, Finance Code §13.017.

This proposal affects the statutes contained in Finance Code: Title 3, Subtitles B and C; and Chapters 13, 156, 157, 158, 159, and 180.

§51.100. Appeals, Hearings, and Informal Settlement Conferences.

(a) Alternative Resolution of Appeal. If legal or enforcement staff determines resolution of an appeal without a hearing is appropriate and possible, legal or enforcement staff may pursue settlement through negotiation, mediation, agreed order, consent order, informal settlement conference, alternative dispute resolution, or other appropriate means.

(b) Informal Settlement Conferences. Informal settlement conferences:

(1) are conducted at the discretion of legal or enforcement staff;

(2) may not be used as a delay tactic;

(3) may be primarily conducted remotely, including solely over the phone or by email; and

(4) a request for an informal settlement conference does not create any new or additional rights or obligations.

(c) Mediation. As applicable under Finance Code §13.017, the Department may, at the discretion of the Commissioner or his or her designee, arrange for the services of a qualified mediator or subject matter expert to assist in resolving complaints or other matters.

(d) Hearings. Hearings may be conducted in

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accordance with Chapter 9 of this title, with Texas Government Code Chapter 2001, and may be conducted by the State Office of Administrative Hearings (SOAH).

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



SUBCHAPTER C. ADVISORY COMMITTEES

**7 TAC §51.200**

Statutory Authority

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Government Code §2110.008, authorizing a state agency that has established an advisory committee to designate, by rule, the date on which the committee will be automatically abolished. This proposal is also made under the authority of, and to implement, Finance Code §13.018.

This proposal affects Finance Code §§13.018, 156.104, and 157.0024.

§51.200. Advisory Committees and Informal Conferences.

(a) Advisory Committees. The mortgage industry advisory committee referenced in Finance Code §§156.104 and 157.0024, as well as any advisory committees which may be created under Finance Code §13.018, shall continue in existence, and

unless continued further, shall be automatically abolished on September 1, 2031.

(b) Informal Conferences. The Commissioner, in addition to obtaining advice and guidance from an advisory committee, may use informal conferences and consultations with other interested persons to obtain advice and guidance, and assist the Commissioner in carrying out his or her duties.

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



SUBCHAPTER D. RECOVERY FUND

**7 TAC §§51.300 - 51.304**

Statutory Authority

This proposal is made under the authority of: Finance Code §156.102(a), authorizing the commission to adopt and enforce rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing Act; and Finance Code §156.102(b-1), authorizing the commission to adopt rules to promote the fair and orderly administration of the recovery fund administered by the department's commissioner under Finance Code Chapter 156, Subchapter F

This proposal affects the statutes contained in Finance Code Chapter 156.

§51.300. Purpose and Applicability.

The rules contained in 7 TAC Chapter 52,

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Subchapter D govern the Commissioner's administration of the recovery fund the Commissioner is required to establish, administer and maintain in accordance Finance Code §13.016 and Chapter 156, Subchapter F.

*§51.301. Definitions.*

The following terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) "Application" means a request, in any form, for an offer (or a response to a solicitation for an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, and/or the mortgage loan amount.

(2) "Claimant" means a mortgage applicant making or seeking to make a claim on the recovery fund in accordance with Finance Code §156.504.

(3) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(4) "Department" means the Department of Savings and Mortgage Lending.

(5) "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts an originator in response to a solicitation) to obtain a residential mortgage loan, and includes a person who has not completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Loan Application), but has submitted

financial information constituting an application as provided by paragraph (1) of this section.

(6) "Originator" has the meaning assigned by Finance Code §180.002 in defining the term "residential mortgage loan originator."

(7) "Recovery fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code §13.016 and Chapter 156, Subchapter F.

(8) "Residential mortgage loan" has the meaning assigned by Finance Code §180.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan which is secured by a structure that is suitable for occupancy as a dwelling, but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as residence.

*§51.302. Claims.*

(a) Application Required. As provided by Finance Code §156.504, a claimant seeking to recover from the recovery fund must file a sworn written application with the Department which must be made on the current form prescribed by the Commissioner and posted on the Department's website ([sml.texas.gov](http://sml.texas.gov)).

(b) Payment of Approved Claims. Upon approval of a claim made on the recovery fund, the Commissioner will issue an order disbursing funds from the recovery fund. The Commissioner will direct Department staff to cause disbursement of the funds after the date upon which such order becomes final and unappealable for purposes of Finance Code §156.504(d), or if the Department's preliminary determination under Finance Code §156.504(c)(2) was disputed and an adjudicative

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hearing required, for purposes of Government Code Chapter 2001.

(c) Cooperation by Claimant Required. The claimant must cooperate with Department staff's instructions for effectuating disbursement of an approved claim from the recovery fund. Among other things, the claimant must provide such information and complete such documentation required in order to cause the claimant to be a valid payee for purposes of the Texas Comptroller of Public Accounts.

*§51.303. Administrative Penalty Against Originator.*

If the Commissioner approves a claim made under Finance Code §156.504, the Commissioner may impose an administrative penalty on the originator whose acts or omissions caused the claim.

*§51.304. Liability for Unpaid Claims.*

(a) No Liability. The recovery fund, the Commissioner, and the Department are not liable to a claimant for a claim approved by the Commissioner under Finance Code §156.504 if the assets of the recovery fund are insufficient to pay such claim.

(b) Payment of Unpaid Claims. If the recovery fund contains insufficient assets to pay a claim approved by the Commissioner under Finance Code §156.504, the Commissioner will:

(1) record the time and date the claim was approved; and

(2) pay approved but unpaid claims for which a recordation was made under paragraph (1) as funds in the recovery fund become available, in the order of the recorded time and date of such claims.

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending

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SUBCHAPTER E. MORTGAGE GRANT FUND

**7 TAC §§51.400 - 51.405**

Statutory Authority

This proposal is made under the authority of: Finance Code §156.102(a), authorizing the commission to adopt and enforce rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing Act; and Finance Code §156.556, authorizing the commission to adopt rules to administer Finance Code Chapter 156, Subchapter G, Mortgage Grant Fund, including rules to: (i) ensure that a grant awarded from the mortgage grant fund, administered by the department's commissioner under Finance Code Chapter G (mortgage grant fund), is used for a public purpose; and (ii) provide a means of recovering money awarded from the mortgage grant fund that is not used for a public purpose.

This proposal affects the statutes contained in Finance Code Chapter 156.

*§51.400. Purpose and Applicability.*

The rules contained in 7 TAC Chapter 52, Subchapter E govern the Commissioner's administration of the Mortgage Grant Fund as provided by Finance Code Chapter 156,

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Subchapter G other than claims made against the Mortgage Grant Fund in accordance with Finance Code §156.555 which are governed by the rules contained in 7 TAC Chapter 51, Subchapter F (relating to Mortgage Grant Fund: Recovery Claims for Unlicensed Activity).

§51.401. Definitions.

The following terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) "Auxiliary mortgage loan activity company" has the meaning assigned by Finance Code §156.002.

(2) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(3) "Department" means the Department of Savings and Mortgage Lending.

(4) "Finance Commission" means the Finance Commission of Texas.

(5) "Grant Coordinator" means the individual appointed as the Grant Coordinator for purposes of §51.403 of this title (relating to Grant Coordinator).

(6) "Mortgage Grant Advisory Committee" or "MGAC" means the Mortgage Grant Advisory Committee formed to advise the Commissioner concerning administration of the fund, as provided by §51.404 of this title (relating to Mortgage Grant Advisory Committee).

(7) "Mortgage Grant Administration Manual" means the manual created by the Commissioner to reflect the various policies and procedures governing administration of the Mortgage Grant Fund grant program as provided

by §51.402 of this title (relating to Commissioner as Manager).

(8) "Mortgage Grant Fund" or "fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code Chapter 156, Subchapter G.

§51.402. Commissioner as Manager.

(a) Manager. As provided by Finance Code §156.553, the Commissioner serves as manager of the fund and administers all aspects of the fund.

(b) Periodic Reports to the Finance Commission. Unless the Finance Commission directs otherwise, the Commissioner or his or her designee (including but not limited to the Grant Coordinator) will report to the Finance Commission audit committee concerning the status and activities of the fund at each regularly called meeting of the Finance Commission audit committee, or otherwise at the request of the Finance Commission or its audit committee.

(c) Mortgage Grant Administration Manual. The Commissioner will develop and create a manual reflecting the Commissioner's policies and procedures governing administration of the fund and the Mortgage Grant Fund grant program to be known and referred to as the Mortgage Grant Administration Manual (MGAM). The MGAM, and any amendments to the MGAM, must be approved by the Finance Commission audit committee.

§51.403. Grant Coordinator.

The Commissioner may appoint an employee of the Department to serve as grant coordinator to assist the Commissioner in discharging his or her duties related to the fund. The Grant Coordinator serves under the direction of the Commissioner



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and acts as liaison between grantees and the Mortgage Grant Advisory Committee (MGAC). The Commissioner may delegate any authority of the Commissioner to act as manager of the fund to the Grant Coordinator, including any specific duties listed under Finance Code §156.553 except the authority to appear at hearings or judicial proceedings related to the fund.

§51.404. Mortgage Grant Advisory Committee.

(a) Formation. The Mortgage Grant Advisory Committee (MGAC) is created to serve in an advisory role and makes program recommendations to the Commissioner and Grant Coordinator regarding administration of the fund and the grant awards to be made from the fund. MGAC will continue in existence until the abolishment date set by §51.200 of this title (relating to Advisory Committees and Informal Conferences).

(b) Governance. MGAC will be governed by the provisions of the Mortgage Grant Administration Manual, including composition, eligibility, appointment, and membership terms.

(c) Reporting. MGAC will make and report written recommendations to the Commissioner and Grant Coordinator for review and consideration concerning all aspects of administering the fund including:

(1) evaluating grant applications to determine whether the application should be approved, and if so, a specific grant amount to award;

(2) monitoring ongoing grant awards to determine compliance;

(3) considering potential amendments to the Mortgage Grant Administration Policy Manual; and

(4) evaluating potential candidates for appointment to MGAC.

§51.405. Grant Program.

(a) Scope. This section governs the administration of and disbursements from the fund (each of which is considered a grant disbursement) for purposes of:

(1) Finance Code §156.554(b)(1), concerning grants to an auxiliary mortgage loan activity company or another nonprofit organization to promote financial education relating to mortgage loans; and

(2) Finance Code §156.554(b)(3), concerning disbursements to provide support for statewide financial education, activities, and programs specifically related to mortgage loans for consumers, or for the purposes provided by Finance Code §393.628(c).

(b) Grant Cycle. The fund may have one competitive grant cycle every two years.

(1) Funding Determination. The grant funding determination is made by the Commissioner by December 31 of each even-numbered year. The Commissioner will determine the separate funding available and allocated to each of the purposes of Finance Code §156.554(b)(1) and (3).

(2) Programming Cycle. A new fund grant programming cycle may open on January 1 of every odd-numbered year. An applicant may choose to apply for a one-year grant programming cycle, or a two-year grant programming cycle. The grant programming cycle for a one-year grantee begins on January 1 and ends on December 31 of the odd-numbered year for the applicable cycle. The grant programming cycle for a two-year grantee begins

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on January 1 of the odd-numbered year and ends on December 31 of the following even-numbered year for the applicable cycle.

(c) Eligibility. A grant made under Finance Code §156.554(b)(1) and subsection (a)(1) of this section may only be given to a company licensed by the Department as an auxiliary mortgage loan activity company, or a nonprofit organization. A grant made under Finance Code §156.554(b)(3) and subsection (a)(2) of this section may be given to a nonprofit organization, school, or for-profit entity. Grant funding is not available to entities licensed or registered by the Department other than auxiliary mortgage loan activity companies in accordance with Finance Code §156.554(b)(1) and subsection (a)(1) of this section.

(d) Grant Application. To be considered for the grant program, an applicant must complete and submit the grant application by the deadline and in accordance with the instructions for the applicable grant cycle. Late or incomplete grant applications will not be accepted. Meeting eligibility criteria and timely submission of a grant application does not guarantee award of a grant in any amount.

(e) Review and Approval. The Commissioner, upon receipt of advice from MGAC and the Grant Coordinator, will review timely and complete applications and determine the grants to be awarded.

(f) Grant Agreement. To participate in the grant program, a grantee approved by the Commissioner to receive a grant must execute the grant agreement approved by the Commissioner for the applicable grant cycle (grant agreement).

(g) Grantee Compliance. A grantee must comply with applicable financial, administrative, and programmatic terms and conditions, and exercise

proper stewardship over grant program funds. A grantee must use awarded funds in compliance with the following in effect for the applicable grant cycle:

(1) all applicable state laws and regulations;

(2) all applicable federal laws and regulations;

(3) the Mortgage Grant Administration Manual;

(4) the grant application, including all application guidelines and instructions at the time of application;

(5) the grant agreement signed by the Commissioner or the Commissioner's designee and the grantee;

(6) all reporting and monitoring requirements, as outlined in the grant agreement; and

(7) any other guidance documents posted on the Mortgage Grant Fund website for the applicable grant cycle.

(h) Reporting and Monitoring.

(1) General reporting requirements. To receive reimbursement of grant expenses a grantee must:

(A) submit periodic grant reports as provided by the grant agreement;

(B) maintain satisfactory compliance with the grant agreement and the grant activities as proposed by the grantee in its grant application;

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(C) identify, track and report performance measures; and

(D) track and report participant demographic information.

(2) Progress Reports. A grantee must submit progress reports that demonstrate performance outcomes and financial information over the term of the grant in accordance with and by the deadlines set forth in the grant agreement.

(3) Six-month Longitudinal Report. A grantee must submit a six-month longitudinal report after program completion to demonstrate program objectives.

(4) Monitoring. The Grant Coordinator or MGAC may use the following methods to monitor a grantee's performance and expenditures:

(A) Desk Review. The Grant Coordinator or MGAC may conduct a desk review of a grantee to review and compare individual source documentation and materials to summary data provided during the reporting process; or

(B) Site Visits and Inspection Reviews. The Grant Coordinator or MGAC may conduct a scheduled site visit to a grantee's place of business to review compliance and performance issues. Site visits may be comprehensive or limited in scope.

(i) Reimbursement.

(1) Eligibility. To be eligible for reimbursement, a grantee must comply with all terms of the grant agreement, as well as all other items provided in subsection (g) of this section. To ensure that grant funds are used for a public purpose as provided by Finance Code

§156.556(1), grant funds will only be awarded on a cost reimbursement basis for all actual, allowable, and allocable costs incurred by a grantee pursuant to the grant agreement. Expenses that were incurred before the beginning or after termination of the grant agreement are not eligible for reimbursement.

(2) Procedure. To request reimbursement for work performed on grant activities, a grantee must submit a grant reimbursement report in accordance with and by the deadlines set forth in the grant agreement. A grantee must submit a detailed expense report with supporting documentation to justify the reimbursement request. The Department will review and approve requests for reimbursement that satisfy the requirements and promptly disburse funds in response to approved requests.

(j) Misuse of Grant Funds. The Commissioner may require a refund of grant funds already disbursed to the grantee and may cancel the grant agreement or disqualify the grantee from receiving future grants from the fund if:

(1) grant funds are not used for a public purpose allowable under Finance Code §156.554;

(2) grant funds are used in an illegal manner;

(3) the grantee violates the terms or conditions of the grant agreement or otherwise violates the requirements of subsection (g) of this section; or

(4) the Commissioner discovers the grantee made any material misrepresentations in obtaining the grant or in seeking reimbursement of grant funds.

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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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



SUBCHAPTER F. MORTGAGE GRANT FUND: RECOVERY CLAIMS FOR UNLICENSED ACTIVITY

**7 TAC §§51.500 - 51.506**

Statutory Authority

This proposal is made under the authority of: Finance Code §156.102(a), authorizing the commission to adopt and enforce rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing Act; and Finance Code §156.556, authorizing the commission to adopt rules to administer Finance Code Chapter 156, Subchapter G, Mortgage Grant Fund, including rules to: (i) ensure that a grant awarded from the mortgage grant fund, administered by the department's commissioner under Finance Code Chapter G (mortgage grant fund), is used for a public purpose; and (ii) provide a means of recovering money awarded from the mortgage grant fund that is not used for a public purpose.

This proposal affects the statutes contained in Finance Code Chapter 156.

§51.500. Purpose and Applicability.

The rules contained in 7 TAC Chapter 52, subchapter F govern the Commissioner's administration of Finance Code §156.555,

allowing for claims to be made against the Mortgage Grant Fund to compensate persons for actual out-of-pocket damages incurred because of fraud committed by an individual who acted as a residential mortgage loan originator but who did not hold the required license issued under Finance Code Chapter 157.

§51.501. Definitions.

The following terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) "Application" means a request, in any form, for an offer (or a response to a solicitation for an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, and/or the mortgage loan amount.

(2) "Claimant" means a mortgage applicant making or seeking to make a claim on the Mortgage Grant Fund in accordance with Finance Code §156.555.

(3) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(4) "Department" means the Department of Savings and Mortgage Lending.

(5) "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts an originator or an individual acting or attempting to act in the capacity of an originator in response to a solicitation) to obtain a residential mortgage loan, and includes a person who has not

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completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Loan Application), but has submitted financial information constituting an application as provided by paragraph (1) of this section.

(6) "Mortgage Grant Fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code Chapter 156, Subchapter G.

(7) "Originator" has the meaning assigned by Finance Code §180.002 in defining the term "residential mortgage loan originator."

(8) "Recovery fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code §13.016 and Finance Code Chapter 56, Subchapter F.

(9) "Residential mortgage loan" has the meaning assigned by Finance Code §180.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan which is secured by a structure that is suitable for occupancy as a dwelling, but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as residence.

§51.502. Claims.

(a) Application Required. As provided by Finance Code §156.555, adopting by reference the procedural requirements for making a claim on the Commissioner's recovery fund in accordance with Finance Code Chapter 156, Subchapter F, a claimant must file a sworn written application with the Department and must be made on the current form prescribed by the Commissioner and posted on the Department's website (sml.texas.gov).

(b) Payment of Approved Claims. Upon approval of a claim on the Mortgage Grant Fund for purposes of Finance Code §156.555, the Commissioner will issue an order disbursing funds from the Mortgage Grant Fund. The Commissioner will direct Department staff to cause disbursement of the funds after the date upon which such order becomes final and unappealable for purposes of Finance Code §156.504(d) (by application of Finance Code §156.555), or if the Department's preliminary determination letter under §156.504(c)(2) was disputed and an adjudicative hearing required, for purposes of Government Code Chapter 2001.

(c) Cooperation by Claimant Required. The claimant must cooperate with Department staff's instructions for effectuating disbursement of an approved claim from the Mortgage Grant Fund for purposes of Finance Code §156.555. Among other things, the claimant must provide such information and complete such documentation required in order to cause the claimant to be a valid payee for purposes of the Texas Comptroller of Public Accounts.

§51.503. Consequences for Unlicensed Individual.

(a) Administrative Penalty. If the Commissioner approves a claim made under Finance Code §156.555, the Commissioner may impose an administrative penalty on the unlicensed individual whose fraudulent acts caused the claim.

(b) Grounds for Denial. As provided by Finance Code §180.201(1), failure by the unlicensed individual to pay the administrative penalty imposed by this section is a violation of an order of the Commissioner and therefore constitutes grounds for denial of an application from such individual for a residential mortgage loan originator license under Finance Code Chapter

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157.

§51.504. Liability for Unpaid Claims.

(a) No Liability. The Mortgage Grant Fund, the Commissioner, and the Department are not liable to a claimant for a claim approved by the Commissioner under Finance Code §156.555 if the assets of the Mortgage Grant Fund are insufficient to pay such claim.

(b) Payment of Unpaid Claims. If the Mortgage Grant Fund contains insufficient assets to pay a claim approved by the Commissioner under Finance Code §156.555, the Commissioner will:

(1) record the time and date the claim was approved; and

(2) pay approved but unpaid claims for which a recordation was made under paragraph (1) as funds in the Mortgage Grant Fund become available, in the order of the recorded time and date of such claims; and, provided, the Commissioner determines in his or her sole discretion that disbursement from the Mortgage Grant Fund will not injure, hamper, or impede the Commissioner's administration of and disbursements from the Mortgage Grant Fund for purposes of Finance Code §156.554.

§51.505. Eligibility.

(a) Application of Finance Code Chapter 156, Subchapter F. Finance Code §156.555(b), adopts by reference the eligibility and procedural requirements for making a claim on the Commissioner's recovery fund in accordance with Finance Code Chapter 156, Subchapter F. This section clarifies how certain of such requirements apply to a claim made on the Mortgage Grant Fund in accordance with Finance Code §156.555.

(b) Actions by an Unlicensed Individual Acting as an Originator. To be eligible to recover from the Mortgage Grant Fund, the individual alleged to have caused harm to the claimant must have been acting or attempting to act in the capacity of an originator - actions for which a license under Finance Code Chapter 157 was required as provided by Finance Code §157.012 and §81.100 of this title (relating to Licensing - General).

(c) Fraudulent Acts. Recovery under Finance Code §156.555 is limited to acts of fraud committed by an individual who acted as a residential mortgage loan originator but who did not hold the license required by Finance Code Chapter 157. Finance Code §156.501(b), applicable to claims made on the recovery fund, provides that recovery is limited to acts by a licensed originator that constitute a violation of specific, enumerated provisions of Finance Code §§157.024(a) and 156.304(b). As a result, in order to recover under Finance Code §156.555, a claimant must establish that the acts of the unlicensed individual, had he or she been licensed as a residential mortgage loan originator at the time of such acts, would have constituted fraudulent dealings for purposes of Finance Code §157.024(a)(3).

§51.506. Statute of Limitations at Inception.

Finance Code §156.555(b) adopts by reference the statute of limitations period for making claims on the recovery fund under Finance Code Chapter 156, Subchapter F and applies it to claims made against the Mortgage Grant Fund in accordance with Finance Code §156.555. Specifically, pursuant to Finance Code §156.503, a claim made on the recovery fund may not be filed after the fourth anniversary of the date the acts causing the actual damages occurred or should reasonably have been discovered. Finance Code §156.555 and the Mortgage Grant Fund came into existence effective September 1, 2021. As a result, the earliest possible date for a claim

to have accrued for purposes of the limitations period applicable to claims made under Finance Code §156.555 is September 1, 2017, and any claim accruing prior to that date is barred.

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending

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**6. Discussion of and Possible Vote to Take Action on the Proposal an Publication for Comment of New Rules and Repeals in 7 TAC, Part 4, Chapter 52, Concerning Department Administration, Resulting from Rule Review**

**PURPOSE:** The purpose of the new rules and repeals in 7 TAC Chapter 52 is to implement changes resulting from the Department's periodic review of its rules, conducted pursuant to Government Code §2001.039. An explanation of and justification for the rules is contained in the proposed preamble for the rule proposal.

**RECOMMENDED ACTION:** The Department recommends that the Finance Commission approve publication of the new rules and repeals in 7 TAC Chapter 52 for comment in the *Texas Register*.

**RECOMMENDED MOTION:** I move that the Finance Commission approve publication of the new rules and repeals in 7 TAC Chapter 52 for comment in the *Texas Register*.



**TITLE 7. BANKING AND SECURITIES**

**PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

**CHAPTER 52. CHARTER APPLICATIONS  
~~[DEPARTMENT ADMINISTRATION]~~**

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), proposes to repeal all existing rules in 7 TAC Chapter 52, as follows: §§52.10 - 52.13, 52.20, 52.30, 52.100 - 52.104, 52.200 - 52.205, and 52.300 - 52.306. The commission further proposes new rules in 7 TAC Chapter 52, as follows: §§52.1 - 52.15. This proposal and the rules as repealed or added as a new rule by this proposal are referred to collectively as the "proposed rules."

**Explanation of and Justification for the Rules**

*Changes Concerning the Relocation (Swapping) of 7 TAC Chapters 51 and 52*

The department's existing rules in 7 TAC Chapters 51, 53, 57, 61, 64, 65, 67, 69, 71, and 73 implement Finance Code Title 3, Subtitle B, Savings and Loan Associations, and affect savings and loan associations regulated by the department. The department's existing rules in 7 TAC Chapter 52, Department Administration, concern the administrative processes and procedures of the Department, and are therefore located among the rule chapters concerning savings and loan associations which may tend to create confusion for the reader. The department further asserts that 7 TAC Chapter 51 - the first rule chapter assigned to the department - is a more appropriate chapter for the department's rules concerning its administrative processes and procedures to reside. As a result, the department has determined it should relocate the existing

rules in 7 TAC Chapters 51 and 52 by essentially swapping the rules in such chapters. Specifically, the proposed rules, if adopted, would: (i) repeal the existing rules in 7 TAC Chapter 52 and insert new rules largely patterned after the existing rules in 7 TAC Chapter 51; and (ii) rename 7 TAC Chapter 52 to reflect the new rules inserted in such chapter.

*Other Modernization and Update Changes.*

The proposed rules, if adopted, would make changes to modernize and update the rules including: adding and replacing language for clarity and to improve readability; removing unnecessary or duplicative provisions; and updating terminology.

**Fiscal Impact on State and Local Government**

Antonia Antov, Director of Operations for the department, has determined that for the first five-year period the proposed rules are in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rules. Antonia Antov has further determined that for the first five-year period the proposed rules are in effect there are no foreseeable increases or reductions in costs, or losses or increases in revenue to the state overall and that would impact the state's general revenue fund as a result of enforcing or administering the proposed rules. Implementation of the proposed rules will not require an increase or decrease in future legislative appropriations to the department because the department is a self-directed, semi-independent agency that does not receive

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legislative appropriations. The proposed rules will not result in losses or increases in revenue to the state because the department does not contribute to the state's general revenue fund.

#### Public Benefits

Stephany Trotti, Deputy Commissioner and Director of Thrift Regulation for the department, has determined that for each of the first five years the proposed rules are in effect the public benefit anticipated as a result of enforcing or administering the proposed rules will be for the department's rules affecting savings and loan associations regulated by the department to be easier to locate by members of the public.

#### Probable Economic Costs to Persons Required to Comply with the Proposed Rules

Stephany Trotti, Deputy Commissioner and Director of Thrift Regulation for the department, has determined that for the first five years the proposed rules are in effect there are no substantial economic costs anticipated to persons required to comply with the proposed rules that are directly attributable to the proposed rules for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs).

#### One-for-One Rule Analysis

Pursuant to Finance Code §16.002, the department is a self-directed 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 rules are in effect, the department has determined the following: (1) the proposed rules do not create or eliminate a government program; (2) implementation of the proposed rules does not

require the creation of new employee positions; (3) implementation of the proposed rules does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rules do not require an increase or decrease in fees paid to the agency; (5) the proposed rules do not create a new regulation (rule requirement); (6) the proposed rules do not expand, limit, or repeal an existing regulation (rule requirement); (7) the proposed rules do not increase or decrease the number of individuals subject to the rules' applicability; and (8) the proposed rules do not positively or adversely affect this state's economy.

#### Local Employment Impact Statement

No local economies are substantially affected by the proposed rules. As a result, preparation of a local employment impact statement pursuant to Government Code §2001.022 is not required.

#### Fiscal Impact on Small and Micro-Businesses and Rural Communities

The proposed rules will not have an adverse effect on small or micro-businesses, or rural communities because there are no substantial economic costs anticipated to persons required to comply with the proposed rules. As a result, preparation of an economic impact statement and a regulatory flexibility analysis as provided by Government Code §2006.002 are not required.

#### Takings Impact Assessment

There are no private real property interests affected by the proposed rules. As a result, preparation of a takings impact assessment as provided by Government Code §2007.043 is not required.

#### Public Comments

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Written comments regarding the proposed rules may be submitted by mail to Iain A. Berry, Deputy General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to rules.comments@sml.texas.gov. All comments must be received within 30 days of publication of this proposal.

**SUBCHAPTER A. COMPLAINTS**

**7 TAC §§52.10 - 51.13**

**Statutory Authority**

This proposal is made under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This proposal affects the statutes contained in Finance Code: Title 3, Subtitles B and C; and Chapters 13, 156, 157, 158, 159, and 180.

*§52.10. Definitions.*

*§52.11. Complaint Processing.*

*§52.12. Complaint Resolution and Disposition.*

*§52.15. Complaint Review and Reporting.*

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



~~[SUBCHAPTER A. COMPLAINTS]~~

**7 TAC §§52.1 - 52.15**

**Statutory Authority**

This proposal is made under the authority of: Finance Code §11.302(a), authorizing the commission to adopt rules applicable to state savings associations (savings and loan associations); Finance Code §62.001, authorizing the commission to adopt rules concerning the information required in an application for a savings and loan association charter; and Finance Code §66.002(3), authorizing the commission to adopt rules concerning the procedures for processing, hearing, and deciding applications filed with the department's commissioner relating to the operation of a savings and loan association.

This proposal affects the statutes contained in Finance Code Title 3, Subtitle B.

*§52.1. Form and Content of Application to Incorporate; Requirements for Capital Stock and Paid-in Surplus or Savings Liability and Expense Fund; Payment before Opening for Business.*

(a) When the Certificate of Formation of a new association is presented to the savings and mortgage lending commissioner for approval, such Certificate of Formation shall be accompanied by an application which conforms to the statutory requirements provided in the Texas Savings and Loan Act, §62.001, and states the proposed location of the principal office of the new association and the identity and qualifications of the proposed managing officer. There shall also be submitted with the application a detailed description of each proposed loan instrument and such additional information as may be required by the proposed bylaws of the association together with such statements, exhibits, maps, plans, photographs, and other data, sufficiently detailed and comprehensive to enable the commissioner to pass upon matters set forth in the Texas Savings and Loan Act, §62.007. Such information must show that the proposed association will have and maintain

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independent quarters as considered appropriate by the commissioner with a ground floor location or its equivalent. The Certificate of Formation and all statements of fact tendered to the commissioner shall be verified as required by the Texas Savings and Loan Act, §62.001.

(b) No application to incorporate a new association shall be approved unless the application and evidence produced at hearing satisfy the commissioner that the proposed association has received subscriptions for capital stock and paid-in surplus in the case of a capital stock association, or pledges for savings liability and expense fund in the case of a mutual association, in an amount not less than the greater of the amount required to obtain insurance of deposit accounts by the Federal Deposit Insurance Corporation, if applicable, or the amount required of a national bank.

(c) No association with an approved charter shall open or do business as a savings and loan association until the commissioner certifies receipt of proof satisfactory to him or her that the above-required dollar amounts of capital stock and paid-in surplus, or the savings liability and expense fund, as applicable, have been received by the association in cash, free of encumbrance.

(d) No application to incorporate as an association for an acquisition or merger under the Texas Savings and Loan Act, §62.051, shall be approved unless the application and evidence produced at hearing satisfy the commissioner that the proposed association will be capitalized in an amount sufficient to accomplish the purposes for which incorporation is requested, which shall be an amount sufficient to insure that, after the proposed acquisition or merger, the resulting association will meet and continue to meet applicable minimum net worth requirements.

§52.2. Use of Approved Forms.

The commissioner shall furnish approved forms of application, and other information to aid in the filing of the application. After the application and its supporting data have been received by the commissioner, the commissioner shall make or cause to be made an investigation or onsite review of the application. The application form is available from the Department of Savings and Mortgage Lending, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.

§52.3. Hearing on Charter Application; Subsequent Competing Application Filed Prior to Hearing; Amendments to Charter Applications.

Within 10 days after the filing of a proper application, the commissioner shall set a date for a hearing on the application, which date shall not be more than 90 days after the date the application is deemed substantially complete. If an application for charter is filed at least 10 days before the date set for hearing of a pending charter application, for a location which, in the opinion of the commissioner, is for the same community as the pending application, such applications may be heard in one hearing to be held upon the date set for the pending application. In such cases, the proposed incorporators named in any such subsequent application shall cause the first two paragraphs of the notice required by §52.4 (relating to Publication of Notice of Charter Application) of this title to be published at least five days before the date of such hearing, and shall file proof of such publication at the hearing. In addition, the commissioner shall mail notice of such joint hearing to the parties set out in §52.5 of this title (relating to Notice to Associations). If any material change occurs in the facts set forth in, or if the applicant files any amendment of, the application filed with the commissioner under the provisions of this chapter, the amendment

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setting forth such change, together with copies of documents or other material relevant to such change shall be filed with the commissioner no less than 10 days prior to the date of hearing. Any amendment filed fewer than 10 days prior to the date of hearing shall be accepted only at the discretion of the hearing officer and the hearing officer may, upon motion of any interested party having filed notice of intention to appear at said hearing, postpone or delay the hearing to a later date if it appears that such amendment materially alters the application on file. Provided, however, no additional publication of the date of such hearing shall be required.

§52.4. *Publication of Notice of Charter Application.*

The proposed incorporators shall publish at least 20 days before the date of the hearing, in a newspaper printed in the English language of general circulation in the county where the proposed association will have its principal office, a notice in a format acceptable to the commissioner.

§52.5. *Notice to Associations.*

The commissioner shall mail notice of such hearing to at least all state and federal savings and loan associations with offices in the county of the proposed location or in any adjoining or adjacent counties within a proximity that might be served or affected by the proposed association.

§52.6. *Filing Proof of Publication.*

At least 10 days before the hearing date the proposed incorporators shall file proof of publication in the manner provided in §52.4 of this title (relating to Publication of Notice of Charter Application) with the commissioner and if 10 days before the hearing date the commissioner has received no written statements

of intention to appear in person or by attorney to protest the application from one or more parties, the hearing may be dispensed with by the commissioner. The commissioner shall notify the proposed incorporators at least five days before the date of the hearing in the event the hearing has been dispensed with.

§52.7. *Hearing When Application Not Protested.*

When requested by the proposed incorporators, a hearing may be held at the commissioner's discretion on the application even though no person has indicated a desire to be heard against it.

§52.8 *Purpose of Hearing; Post-Hearing Investigation.*

The purpose of the hearing shall be to accumulate a record of all pertinent information, testimony, records, reports, and other data in favor of or opposed to the application upon which the commissioner shall make a determination of whether the application should be granted or denied. The commissioner may, in his or her discretion, make an independent investigation of matters raised in the hearing and, in the event the commissioner desires to base his or her decision on any evidence disclosed by such investigation which is not a part of the official record, the commissioner shall make the results of such investigation a part of the official record of the hearing and permit all parties to the hearing an opportunity to be heard in respect thereto by reopening the hearing, if necessary. This shall be done within 30 days after the date of the original hearing.

§52.9 *Time of Decision on Charter Applications.*

The commissioner shall render a decision within 60 calendar days after the date the hearing is finally closed if the hearing was held in

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accordance with §52.3 of this title (relating to Hearing on Charter Application; Subsequent Competing Application Filed Prior to Hearing; Amendments to Charter Applications), or after the date on which the hearing is dispensed with, as the case may be. Provided, however, in cases of conflicting applications meeting the requirements of §62.008 of the Texas Savings and Loan Act, where one or more subsequent applications are filed before the first application is heard, the commissioner may delay his or her decision on all such competing applications until 60 days after the last such application has been heard.

§52.10 Motions for Rehearing.

In the event a motion for rehearing is filed pursuant to §61.006 of the Texas Savings and Loan Act, as a condition precedent thereto, copies of such motion shall be sent to all parties who have appeared and participated in the hearing, and certification of such fact shall be made to the commissioner at the time of filing said motion; replies to such motions for rehearing must be filed with the commissioner within 25 days after the day the decision or order is entered, and the commissioner's action upon such motion for rehearing shall be taken within 45 days after the date of the original order or decision. If the commissioner's action is not taken within 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date of rendition of the original order or decision.

§52.11 Definition of Community.

In connection with any application for charter or for an additional office, the term "community" as used in the Texas Savings and Loan Act shall be considered to mean that geographical area so situated with respect to the proposed location that persons residing in such area could patronize the proposed office in the ordinary course of their

business.

§52.12 Identification of Office Site; Temporary Location.

In connection with any application for charter or for an additional office, the proposed office site shall be identified with such particularity so as to exactly locate it within the community to be served. The commissioner may approve opening and operating a temporary facility for an approved charter or additional office, provided that such facility is within one-half mile radius of the approved permanent site and, further, provided that the operation of the temporary facility will cease immediately upon the permanent facility being completed for occupancy, but in any event no longer than 18 months, unless extended in writing by the commissioner.

§52.13 Qualifying Management.

In determining the question of "qualified full-time management" of a proposed or new association:

(1) a person shall be prima facie qualified if currently managing a savings and loan association in this state, or if at the date of filing an application shall have had, next preceding such date, at least three consecutive years of practical experience in the executive management of a savings and loan association in this state; and

(2) a person shall be prima facie disqualified if they have less than three years active experience in real estate mortgage lending or has filed for bankruptcy; has made a voluntary assignment for benefit of creditors; has been convicted of a felony; defaulted on a fidelity bond; or has had a license revoked under The Real Estate License Act, The Securities Act, or

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the Insurance Code of this state.

§52.14 Notice to Applicants.

Within 30 days of receipt of an application for any form of authorization to be granted by the commissioner pursuant to this title, and for which a filing fee is charged pursuant to Chapter 63 of this title, the commissioner shall issue a written notice to the applicant informing the applicant either that the application is complete and accepted for filing, or that the application is deficient and that specific additional information is required.

§52.15 Appeals.

(a) An applicant may appeal directly to the commissioner for a timely resolution of a dispute arising from a violation of the time periods set forth in this title. An applicant shall perfect an appeal by filing a written request therefor within 30 days of the date a decision is made on the application by the commissioner, addressed to the commissioner, requesting review of the application to determine whether the established period for the granting or denying of the application was exceeded. The commissioner shall base his decision on the written appeal filed by the applicant, the application and all data, correspondence and other information related thereto, and the record of any hearing held on such application.

(b) The commissioner shall decide the appeal in the applicant's favor if he or she determines that the time periods set forth in this title were exceeded without good cause. The commissioner shall issue a written decision to the applicant within 60 days of the filing of an appeal. If an appeal is decided in the applicant's favor, the applicant shall be reimbursed all of its application fees.

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



SUBCHAPTER B. HEARINGS AND APPEALS

**7 TAC §52.20**

Statutory Authority

This proposal is made under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This proposal affects the statutes contained in Finance Code: Title 3, Subtitles B and C; and Chapters 13, 156, 157, 158, 159, and 180.

*§52.20. Appeals, Hearings, and Informal Settlement Conferences.*

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



SUBCHAPTER C. ADVISORY COMMITTEES

**7 TAC §52.30**

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Statutory Authority

This proposal is made under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This proposal affects the statutes contained in Finance Code §§13.018, 156.104, and 157.0024.

*§52.30. Advisory Committees.*

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



**SUBCHAPTER D. RECOVERY FUND**

**7 TAC §§52.100 - 52.104**

Statutory Authority

This proposal is made under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This proposal affects the statutes contained in Finance Code Chapter 156.

*§52.100. Purpose and Applicability.*

*§52.101. Definitions.*

*§52.102. Claims.*

*§52.103. Administrative Penalty Against Originator.*

*§52.104. Liability for Unpaid Claims.*

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



**SUBCHAPTER E. MORTGAGE GRANT FUND**

**7 TAC §§52.200 - 52.205**

Statutory Authority

This proposal is made under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This proposal affects the statutes contained in Finance Code Chapter 156.

*§52.200. Purpose and Applicability.*

*§52.201. Definitions.*

*§52.202. Commissioner as Manager.*

*§52.203. Grant Coordinator.*

*§52.204. Mortgage Grant Advisory Committee.*

*§52.205. Grant Program.*

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending





SUBCHAPTER F. MORTGAGE GRANT  
FUND: RECOVERY CLAIMS FOR  
UNLICENSED ACTIVITY

**7 TAC §§52.300 - 52.306**

Statutory Authority

This proposal is made under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

This proposal affects the statutes contained in Finance Code Chapter 156.

*§52.300. Purpose and Applicability.*

*§52.301. Definitions.*

*§52.302. Claims.*

*§52.303. Consequences for Unlicensed Individual.*

*§52.304. Liability for Unpaid Claims.*

*§52.305. Eligibility.*

*§52.306. Statute of Limitations at Inception.*

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 A. Berry  
Deputy General Counsel  
Department of Savings and Mortgage Lending



## **7. Discussion of and Possible Action Regarding Anticipated and Pending Litigation**

### **Anticipated Litigation**

None

### **Pending Litigation**

None