

A.

Finance Commission

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FINANCE COMMISSION OF TEXAS

MEETING DATE**October 27, 2023**

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

FUTURE MEETING DATESDecember 15, 2023
February 16, 2024
April 19, 2024
June 21, 2024
August 16, 2024
October 25, 2024
December 20, 2024

*** 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, October 27, 2023
9:00 a.m.

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

Section A.3 will take up agenda items A1, B2, B3, C2 - C4, and D2, with NO DISCUSSION as notated in bold and italicized.

Public comment on any agenda item or issue under the jurisdiction of the Finance Commission 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 August 18, 2023 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' 2023 Fourth 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' 2023 Fourth 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 on the Final Selection of Organizations to Receive Grant Funds from the Texas Financial Education Endowment Fund

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

E. Discussion of the Activities of the Mortgage Grant Fund

F. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Selection of an Internal Auditor for the Finance Commission Agencies for Fiscal Year 2024

6. Discussion of the Condition of the Texas State Banking System Report

7. Discussion of and Possible Vote to Take Action on the Accomplishment Reports for Fiscal Year 2023 for the Commissioners of the Texas Department of Banking, the Office of Consumer Credit Commissioner and the Department of Savings and Mortgage Lending
8. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to § 551.074, Texas Government Code: Deliberations with Respect to the Duties and Compensation of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties and Compensation of Persons Holding the Position of Agency Commissioner Positions, and Other Staff
9. Discussion of and Possible Vote to Take Action Regarding Facility Planning and Real Property Matters Pursuant to § 551.072, Texas Government Code: Deliberations Regarding the Purchase, Exchange, Lease or Value of Real Property
10. Discussion of and Consultation with Attorney and Possible Vote to Take Action Pursuant to § 551.071, Texas Government Code, for the Purpose of Seeking the Advice or Attorney-client Privileged Communications from our Attorneys, Including Matters Related to the Potential Financial Exposure of the Finance Commission Agencies and Their Officers and the Finance Commission and its Officers and Including Matters of Pending and Contemplated Litigation
11. Discussion of and Consultation on Security Audit, Possible Issue Related to Confidential or Sensitive Information, Security Breach Audit and Assessment, or Security Assessments or Deployment Related to Information Resources Technology as Authorized by §§ 551.076 and 551.089, Texas Government Code
12. Discussion of Matters Made Confidential by Law Pursuant to § 551.0811, Texas Government Code, including Information Relating to the Financial Condition or Business Affairs of a Financial Institution

B. TEXAS DEPARTMENT OF BANKING

1. Industry Status and Departmental Operations: a) Current Issues Affecting Department's Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Non-Depository Supervision Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities
2. *Discussion of and Possible Vote to Take Action on the Adoption of Repeals of Certain Sections of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses*
3. *Discussion of and Possible Vote to Take Action on the Adoption of Amendments in Certain Sections of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses*
4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments in 7 TAC, Part 2, Chapter 12, Concerning Loans and Investments by State-Chartered Banks
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 in 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner*
3. *Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 85, Subchapter A, Concerning Rules of Operation for Pawnshops*

4. ***Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Chapter 83, Subchapter B, Concerning Rules for Credit Access Businesses, Resulting from Rule Review***
5. Discussion of and Possible Vote to Take Action on the Proposal of Amendments in 7 TAC, Part 5, Chapter 83, Subchapter B, Concerning Rules for Credit Access Businesses, Resulting from Rule Review
6. Discussion of and Possible Vote to Take Action on the Proposal of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Motor Vehicle Installment Sales
7. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Ernest Polk v. Texas Office of Consumer Credit Commissioner; Cause No. 01-22-00712-CV, in the First Court of Appeals, Houston, 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; and e) Legislative Activities
2. ***Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators***
3. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending; Cause No. JPC-23-02334-32, in the Justice Court, Precinct 3, Place 2, Dallas County, Texas

Julius Lamunn North v. Texas Department of Savings and Mortgage Lending; et al., Cause No. 2023-50470, in the District Court, 270th Judicial District, Harris County, Texas

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, August 18, 2023**

The Finance Commission of Texas convened at 10:43 a.m., on August 18, 2023, with the following members present:

Finance Commission Members in Attendance:

Phillip Holt, Chairman	Will Lucas
George “Cliff” McCauley, Vice Chairman	Sharon McCormick
Bob Borochoff	Vince Puente
Hector Cerna	Laura Warren
Martin “Marty” Green	

Finance Commission Members Absent:

Roselyn “Rosie” Morris

Commissioner Charles G. Cooper announced there was a quorum with nine (9) members present. *(1:17 on audio file).*

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
A. Finance Commission Matters		
1. Review and Approval of the Minutes of the June 16, 2023 Finance Committee Meeting	On Consent Agenda – Item A1 This item Approved on the Consent Agenda.	n/a
2. General Public Comment	No Action Required.	1:28 Start of Discussion
3. Consent Agenda – Items A1, B2, and D2-D6	Will Lucas made a motion to Approve Consent Agenda items A1, B2, and D2-D6. Laura Warren seconded, and the motion passed.	1:59 Start of Discussion 2:18 Vote
4. Finance Commission Operations	No Action Required.	2:37 Start of Discussion
5. Audit Committee Report		
A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies’ 2023 Third Quarter Investment Officer Reports	Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies’ 2023 Third Quarter Investment Officer Reports passed.	4:12 Start of Discussion
1. Office of Consumer Credit Commissioner		4:25 Vote
2. Department of Savings and Mortgage Lending		
3. Texas Department of Banking		

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Readoption of the Investment Policies for:</p> <ol style="list-style-type: none"> 1. Office of Consumer Credit Commissioner 2. Department of Savings and Mortgage Lending 3. Texas Department of Banking 	<p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Readoption of the Investment Policies for the Office of Consumer Credit Commissioner, Department of Savings and Mortgage Lending and Texas Department of Banking passed.</p>	<p>4:38 Start of Discussion 4:48 Vote</p>
<p>C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2023 Third Quarter Financial Statements</p> <ol style="list-style-type: none"> 1. Office of Consumer Credit Commissioner 2. Department of Savings and Mortgage Lending 3. Texas Department of Banking 	<p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Agencies' 2023 Third Quarter Financial Statements passed.</p>	<p>5:01 Start of Discussion 5:08 Vote</p>
<p>D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies Fiscal Year 2024 Operating Budgets</p> <ol style="list-style-type: none"> 1. Office of Consumer Credit Commissioner 2. Department of Savings and Mortgage Lending 3. Texas Department of Banking 	<p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Office of Consumer Credit Commissioner's Fiscal Year 2024 Operating Budget passed.</p> <p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Department of Savings and Mortgage Lending's Fiscal Year 2024 Operating Budget passed.</p> <p>Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Texas Department of Banking's Fiscal Year 2024 Operating Budget passed.</p>	<p>5:22 Start of Discussion 5:41 Vote 6:01 Vote 6:19 Vote</p>
<p>E. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Office of Consumer Credit Commissioner's 2023 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates</p>	<p>Coming upon the Recommendation from the Audit Committee, no second is required and the motion to Approve the Office of Consumer Credit Commissioner's 2023 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates passed.</p>	<p>6:32 Start of Discussion 6:42 Vote</p>
<p>F. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Department of Savings and Mortgage Lending's 2023 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates</p>	<p>Coming upon the Recommendation from the Audit Committee, no second is required and the motion to Approve the Department of Savings and Mortgage Lending's 2023 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates passed.</p>	<p>6:54 Start of Discussion 7:05 Vote</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
<p>G. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Department of Banking's 2023 Procurement/Contract Management/HUB Audit Report as Prepared and Presented by Garza/Gonzalez and Associates</p>	<p>Coming upon the Recommendation from the Audit Committee, no second is required and the motion to Approve the Texas Department of Banking's 2023 Procurement/Contract Management/HUB Audit Report as Prepared and Presented by Garza/Gonzalez and Associates passed.</p>	<p>7:16 Start of Discussion 7:28 Vote</p>
<p>H. Discussion of and Possible Vote to Recommend that the Finance Commission on the Texas Department of Banking's 2023 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates</p>	<p>Coming upon the Recommendation from the Audit Committee, no second is required and the motion to Approve the Texas Department of Banking's 2023 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates passed.</p>	<p>7:40 Start of Discussion 7:50 Vote</p>
<p>I. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Activities of the Texas Financial Education Endowment Fund</p>	<p>No Action Required.</p>	<p>n/a</p>
<p>J. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Appointment of New Texas Financial Education Endowment Fund Grant Advisory Committee Member Ashley Minaudo</p>	<p>Coming upon the Recommendation from the Audit Committee, no second is required and the motion to Approve the Appointment of New Texas Financial Education Endowment Fund Grant Advisory Committee Member Ashley Minaudo passed.</p>	<p>8:04 Start of Discussion 8:15 Vote</p>
<p>K. Discussion of the Activities of the Mortgage Grant Fund</p>	<p>No Discussion.</p>	<p>n/a</p>
<p>6. Discussion of and Possible Vote to Take Action on the Agency Priorities for Fiscal Year 2024 for the Commissioners of the Office of Consumer Credit Commissioner, Department of Savings and Mortgage Lending and Texas Department of Banking</p>	<p>Laura Warren made a motion to Approve the Agency Priorities for Fiscal Year 2024 for the Commissioners of the Office of Consumer Credit Commissioner, Department of Savings and Mortgage Lending and the Texas Department of Banking. Vince Puente seconded, and the motion passed.</p>	<p>8:31 Start of Discussion 18:34 Vote</p>
<p>7. Discussion of and Possible Vote to Take Action Regarding Personnel Matters Pursuant to §551.074, Texas Government Code: Deliberations with Respect to the Duties and Compensation of a Person Holding the Position of Executive Director of the Finance Commission, Deliberations with Respect to the Duties and Compensation of Persons Holding the Position of Agency Commissioner Positions, and Other Staff</p>	<p>No Discussion.</p>	<p>n/a</p>

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
8. 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
9. 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
10. 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	No Discussion.	n/a
11. Discussion of Matters Made Confidential by Law Pursuant to § 551.081, Texas Government Code, including Information Relating to the Financial Condition or Business Affairs of a Financial Institution	No Discussion	n/a
B. Office of Consumer Credit Commissioner		
1. Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; e) Legal Division Activities; and f) Legislative Activities	No Action Required.	19:12 Start of Discussion
2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments to 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors	On Consent Agenda - Item B2 This item Approved on the Consent Agenda.	n/a
3. Discussion of and Possible 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	Marty Green made a motion to Approve the Proposal and Publication for Comment of Amendments to 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner. Sharon McCormick seconded, and the motion passed.	31:35 Start of Discussion 34:08 Vote

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to 7 TAC, Part 5, Chapter 85 Subchapter A, Concerning Rules of Operation for Pawnshops	Laura Warren made a motion to Approve the Proposal and Publication for Comment of Amendments to 7 TAC, Part 5, Chapter 85, Subchapter A, Concerning Rules of Operation for Pawnshops. Sharon McCormick seconded, and the motion passed.	34:37 Start of Discussion 36:14 Vote
5. 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. 01-22-00712-CV</i> , in the First Court of Appeals, Houston, Texas	No Discussion.	n/a
C. 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	No Action Required.	36:43 Start of Discussion
2. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators	Marty Green made a motion to Approve the Proposal and Publication for Comment of Amendments in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers, and Residential Mortgage Loan Originators. Laura Warren seconded, and the motion passed.	48:14 Start of Discussion 51:20 Vote
3. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation <i>Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending; Cause No. JPC-23-02334-32</i> , in the Justice Court, Precinct 3, Place 2, Dallas County, Texas	No Action Required.	n/a
D. Texas Department of Banking		
1. Industry Status and Departmental Operations: a) Current Issues Affecting Department's Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Non-Depository Supervision Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities	No Action Required.	51:56 Start of Discussion

AGENDA ITEM	ACTION	LOCATION ON AUDIO FILE
2. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 6, Concerning Banking Development Districts, Resulting from Rule Review	On Consent Agenda - Item D2 This item Approved on the Consent Agenda.	n/a
3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 2, Chapter 15, Concerning Corporate Activities, Resulting from Rule Review	On Consent Agenda - Item D3 This item Approved on the Consent Agenda.	n/a
4. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 2, Chapter 17, Concerning Trust Company Regulation, Resulting from Rule Review	On Consent Agenda - Item D4 This item Approved on the Consent Agenda.	n/a
5. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 2, Chapter 19, Concerning Trust Company Loans and Investments, Resulting from Rule Review	On Consent Agenda - Item D5 This item Approved on the Consent Agenda.	n/a
6. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 2, Chapter 21, Concerning Trust Company Corporate Activities, Resulting from Rule Review	On Consent Agenda - Item D6 This item Approved on the Consent Agenda.	n/a
7. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to and Repeals of Certain Sections in 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses	Marty Green made a motion to Approve the Proposal and Publication for Comment of Repeals of Certain Sections in 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses. Sharon McCormick seconded, and the motion passed. Vince Puente made a motion to Approve the Proposal and Publication for Comment of Amendments of Certain Sections in 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses. Laura Warren seconded, and the motion passed	1:05:17 Start of Discussion 1:15:01 Vote 1:15:23 Vote
8. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation	No Discussion.	n/a

There being no further business, Chairman Phillip Holt adjourned the meeting of the Finance Commission at 11:59 a.m. (1:16:27 on the audio file).

Phillip Holt, Chairman
Finance Commission of Texas

Charles G. Cooper, Executive Director
Finance Commission of Texas

Ruth Wright, Executive Assistant
Finance Commission of Texas

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Finance Commission of Texas

Consent Agenda

October 27, 2023

A. Finance Commission Matters

1. Review and Approval of the Minutes of the August 18, 2023 Finance Commission Meeting

B. Texas Department of Banking

2. Discussion of and Possible Vote to Take Action on the Adoption of Repeals of Certain Sections of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses
3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in Certain Sections of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses

C. Office of Consumer Credit Commissioner

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner
3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 85, Subchapter A, Concerning Rules of Operation for Pawnshops
4. Discussion of and Possible Vote to Take Action on the Readoption of Amendments in 7 TAC, Chapter 83, Subchapter B, Concerning to Credit Access Businesses

D. Department of Savings and Mortgage Lending

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators

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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

MEMORANDUM

TO: Finance Commission of Texas

FROM: Charles G. Cooper, Commissioner

DATE: August 31, 2023

RE: Department of Banking Priorities End of Fiscal Year 2023 Update

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 hearings as requested.

Update:

- *Maintained contact with state and federal legislative committees.*
- *Responded to requests for information from state legislators relating to regulated financial service providers.*
- *Commissioner Cooper testified on behalf of the Texas Department of Banking at the House Pensions, Investments & Financial Services organizational hearing on March 1, 2023.*

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

Measure: Provide Finance Commission members with information on significant federal laws and policy statements and the effect on supervised entities, if any. Provide sufficient information and materials to give members an overall assessment of our regulated industries.

Update:

- *Beginning in January, weekly legislative reports were provided by email to Commission members.*
- *Commission members were provided an update on legislative matters at the December and February meetings.*

- *Finance Commission members received copies of Department press releases and industry notices.*

I.3 **Objective:** Monitor the 88th legislative session and any legislation that may affect the Department or its regulated entities. Make recommendations for state legislative changes to address areas the law does not adequately address, correct technical errors, and modernize outdated statutes.

Measure: Monitor interim charges and aid legislative committees if requested. Provide proposals for legislative improvements if requested by legislative committees. Monitor legislation and provide technical assistance and comprehensive resource materials when requested. Begin implementation of any legislation that directly affects the Department or the industries we regulate.

Update:

- *Suggestions for statutory improvements were provided to the offices of Senator Johnson, Senator Parker, and Representative Lambert.*
- *In February, met with staff members of the Pensions, Investments, and Financial Services Committee to provide information regarding the banking system.*
- *In September, met with staff members of the Business and Commerce Committee to discuss blockchain and virtual currencies interim charge.*
- *Resource information relating to bills affecting regulated entities has been provided to several legislative offices.*
- *The agency is currently tracking 459 bills and resolutions.*
- *The agency completed thirty-eight fiscal notes related to filed bills.*
- *Identified fifty-six bills enacted during the 88th legislative session which may impact the Department and/or its regulated entities and require action as a result.*

II. REGULATORY ACTIVITIES – Examination Activity and Enforcement Actions

II.1 **Objective:** Strive to ensure performance measure goals are met while working through the labor market challenges. (See Attachment A for all performance measures).

Measure: Meet or exceed the strategic planning goals for key performance measures. Report performance measure results to the Finance Commission quarterly.

Update:

- *The Bank & Trust (B&T) division actively monitors and responds to risk posed by effects of inflationary pressures, and the rapid increase in interest rates and their impact to institutions' operations. The Department maintains communication with regulated entities between examinations and performs off-site monitoring of key financial metrics.*
- *The Non-Depository Supervision (NDS) division actively monitors various risk factors affecting licensed entities, including federal and state regulations surrounding cryptocurrency. The Department also monitors critical financial*

metrics for licensed money service business (MSB) entities off-site. The majority of examinations of NDS licensed entities included an on-site component review, including multi-state examinations of out-of-state domiciled MSBs. Most examinations of NDS licensed entities were conducted in a hybrid approach with off-site examinations limited to those licensed entities with a low risk profile and/or other mitigating factors.

- *Through August 31, 2023, all B&T key performance measures were met or exceeded in Fiscal Year 2023, except for one. Although the agency met its key measure of performing bank examinations when due, the actual number of bank examinations performed of 88 was below the target figure of 93, resulting in the exception. This variance is due to the agency participating in fewer joint examinations than anticipated for the fiscal year.*
- *Through August 31, 2023, all NDS key performance measures were met or exceeded in Fiscal Year 2023, except for one. The primary reason for not meeting number of examinations output measure is due to having multiple examiners in the training phase in the fiscal year, along with not being able to fill all vacant financial examiner positions. As it relates to past due examinations, NDS continues to closely monitor various factors such as consumer complaints, compliance history of license holders, and current industry trends to ensure the examinations of higher risk license holders are prioritized.*

II.2 Objective: Remain active and involved at the national level regarding supervisory issues affecting areas of direct supervisory oversight in Texas.

Measure: Maintain active contact with other states directly and through regulatory associations (CSBS and MTRA), trade associations (IBAT and TBA) as well as frequent contact with members of Congress and federal regulators to be aware of actions and decisions and areas of actual or potential impact to the Department's regulatory functions or the industries to proactively respond as needed.

Update:

- *On August 28, 2023, Commissioner Cooper and several other staff members represented the Department at the Conference of State Bank Supervision (CSBS) Strategic Planning Meeting in Medora, North Dakota. The meeting provided an opportunity to help direct the long-term strategic direction of CSBS as well as set priorities for the coming year.*
- *Commissioner Cooper represented the Department as Chairman of the Federal Financial Institutions Examination Council's State Liaison Committee at their meeting in Washington, D.C., on June 26, 2023. Commissioner Cooper was elected Chairman of FFIEC-SLC in May 2023.*
- *In May 2023, Commissioner Cooper and staff represented the Department at the Texas Bankers Association (TBA) Annual Convention in San Antonio, Texas. Commissioner Cooper received a "50 Years in Banking" award and was part of a Fireside chat.*
- *In May 2023, Commissioner Cooper represented the Department at the CSBS Government Relations Fly-In in Washington, D.C.*

- *NDS Director Saucillo participated as a speaker at the annual convention of the Texas Cemeteries & Crematories Association held on May 1, 2023, in Round Rock, Texas. The convention discussed various concerns and issues relating to cemeteries and crematories in Texas. The conference provided an opportunity for the Department to discuss current matters impacting perpetual care cemetery owners/operators in-person.*
- *Commissioner Cooper and staff represented the Department at the CSBS IV Spring meeting in Dallas, Texas on March 22, 2023.*
- *On March 6, 2023, Commissioner Cooper and staff represented the Department at the CSBS Large Bank Supervision Forum in Dallas, Texas to discuss best regulatory practices for examination staff and cyber threats in Large Bank Supervision.*
- *On February 15, 2023, Commissioner Cooper and staff represented the Department at the Independent Bankers Association of Texas (IBAT) Community Day at the Capitol at the Hilton Garden Inn University/Capitol District in Austin, Texas.*
- *Commissioner Cooper and various staff represented the Department at two TBA and FDIC Banker Outreach Programs throughout Texas in the first six months of the fiscal year. The program covered emerging risks in a rising rate and inflationary environment, consumer protection, third-party risk management, and information technology/cybersecurity risk management.*
- *Commissioner Cooper participated as a panelist at the IBAT Winter Summit in Avon, Colorado in January 2023.*
- *Commissioner Cooper and staff represented the Department at the CSBS Board Meeting & Supervisor Symposium in New York, New York in December 2022. The event is an annual learning and networking event for senior state officials responsible for state bank and non-bank supervision and regulation.*
- *Commissioner Cooper represented the Department at the FDIC Advisory Committee of State Regulators at FDIC headquarters in Washington, D.C., on October 24, 2022.*
- *Commissioner Cooper represented the Department at the 2022 Community Banking Research Conference on September 28, 2022. The virtual conference, which was co-sponsored by CSBS, the Federal Reserve System, and the FDIC, focused on a wide variety of topics affecting community banks.*
- *Commissioner Cooper and staff represented the Department at the IBAT Annual Convention in Fort Worth on September 24, 2022. The convention focused on key issues impacting the banking industry, specifically those related to community banks.*
- *Commissioner Cooper and staff participated in the Money Transmitters Regulators Association (MTRA) Annual Conference and Regulators' School in Fort Worth, which began on September 19, 2022. The conference provided an opportunity for MTRA member states and the MSB industry to discuss topics impacting MSB regulation. Director Saucillo was a speaker in some panels and presentations that discussed current matters moving MSBs, such as the Networked Supervision approach.*
- *Commissioner Cooper and staff represented the Department at the CSBS Supervisory Strategic Planning Meeting in Big Sky, Montana on September 12,*

2022. The meeting provided an opportunity to help direct the long-term strategic direction of CSBS as well as set priorities for the coming year.

- Department staff participated in a Regulator Outreach Meeting with members from the Federal Reserve Bank of Dallas virtually on September 8, 2022. Meeting topics included payment system risk, discount window operations, management of daylight and overnight credit, and bank condition monitoring.*
- 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 Department is an active member of the Multi-State MSB Examination Taskforce (MMET). Commissioner Cooper continues to serve as the Chairman of MMET.*
- NDS staff participates in monthly North American Death Care Regulators Association (DCRA) virtual meetings to discuss matters affecting the death care industry.*
- NDS Director Saucillo continues to serve as a member of the MTRA Board of Directors.*
- NDS Director Saucillo continues to be a State Coordinating Committee (SCC) member. The SCC is responsible for coordinating the supervision of activities related to MSBs, mortgages, debt collection, and payday lending with the CFPB.*
- NDS Director Saucillo leads the MSB Enforcement Action Taskforce which was established in December 2022. The taskforce meets monthly to work with other state regulators to identify and monitor troubled MSBs to coordinate actions and responses to safety and soundness concerns.*
- Deputy Commissioner Rodriguez is a member of the CSBS Education Foundation Board of Trustees.*
- Commissioner Cooper is a member of the CSBS Board of Directors, the District IV Chair, and serves on the Regulatory Committee.*

II.3 Objective: Maintain an ongoing awareness of the risk profiles of our regulated entities and the condition of the economy in which they operate. Monitor individual or systemic conditions, including the inflationary pressure, lingering effects of the 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 regulatory counterparts, and attend training to maintain an understanding of conditions in which our entities operate. Maintain a leadership role in the effort to combat cybersecurity threats. Maintain an off-site monitoring program of the bank and trust industries while initiating appropriate regulatory responses and actions when appropriate. Research and take required actions against institutions with unacceptable profiles who have a heightened risk of becoming a problem bank to minimize the adverse impact on depositors, shareholders, and the banking system in general.

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. The Director of IT Security Examinations also attends meetings related to cybersecurity.*
- *Commissioner Cooper was re-appointed in September 2022 for a third consecutive term to serve as the state bank representative on the Financial Stability Oversight Council (FSOC). The Commissioner concluded his service on December 31, 2022, after representing state banking regulators' perspective on several important issues, including climate-related financial risk and state-federal pandemic coordination. FSOC consists of federal regulators, and an independent insurance expert that are charged with identifying risks to the financial stability of the United States; promoting market discipline; and responding to emerging risk to the stability of the United States' financial system.*
- *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 Specialist (IT), as needed.*
- *Based on available resources and certain risk factors, NDS continues to collaborate with the IT examination staff to review MSB license holder's IT systems.*
- *B&T and NDS examiners continue to attend specialized training to ensure Texas has a safe, sound, and competitive financial service system, and provide efficient and effective regulatory oversight of regulated entities.*
- *B&T division 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 with appropriate actions taken against organizations when applicable.*
- *In coordination with other states and licensees, NDS division continues to perform off-site monitoring of licensed entities, including the quarterly reviews of MSB call reports, reviews of key financial metrics, consumer complaints, and current events.*

II.4 **Objective:** Monitor emerging issues in our areas of regulation including technological advances. Determine and communicate the impact of these issues to the regulated entities.

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

Update:

- *Department staff participated in a combined total of 18 regulatory panel discussions and information technology/cybersecurity presentations with community bankers in fiscal year 2023.*
- *On August 25, 2023, issued Industry Notice 2023-03 to MBSs regard legislation impacting the industry, specifically Senate Bill (S.B.) 895 and House Bill (H.B.) 1666.*
- *On April 25, 2023, an Industry Notice was issued to state-chartered banks regarding the applicability of Texas Legal Lending Limit statutes to purchases of third-party loans and related supervisory concerns.*
- *The January 2023 edition of the [Texas Bank Report](#) featured articles on key issues, including concerns on inflation, government regulation, the cost/availability of labor, and cyberattacks. In addition, legislative priorities for the 88th session were provided.*
- *The September 2022 edition of the [Texas Bank Report](#) examined events impacting the state's banking system; specifically, the effect of a severe drought on agriculture lenders and the need to remain vigilant regarding cybersecurity.*
- *NDS staff continues to participate in various 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 participates in routine scheduling calls and meetings facilitated by the MMET to coordinate multi-state examinations as part of the Networked Supervision of MSBs and discuss current supervisory issues impacting the MSB area, including cryptocurrency-related matters.*
- *NDS staff is a member of a newly created Enforcement Action Taskforce charged with monitoring and coordinating MSB-related issues nationally. In coordination with CSBS and MTRA, the taskforce will identify and monitor troubled institutions and risky behavior, develop enforcement policies and procedures, and coordinate responses to negative news that indicates safety and soundness concerns.*
- *NDS staff is a member-at-large of the Executive Committee of the North American Death Care Regulators Association (DCRA), which strives to promote a forum for death care regulators to discuss problems affecting the public and the death care industry.*

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

Measure: Monitor 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 the 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 end of the fiscal year, these actions were taken against individuals and entities:

- *Issued six prohibition orders against bank employees.*
- *Issued fourteen consent orders against unauthorized money transmitters.*
- *Issued three consent orders against money transmission licensees resulting in the surrender or suspension of their license.*
- *Brought one case to hearing involving an unauthorized prepaid funeral contract seller.*
- *Referred two matters to the Office of the Attorney General for representation in bankruptcy proceedings involving money transmitters.*
- *The Legal Division continuously notifies MSB entities that they may be engaged in money transmission without a license; information provided in response to the notification is then reviewed by the Legal Division to determine whether further action is necessary.*

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 goals for consumer activity performance measures.

Update:

- *Consumer assistance activity reports the number and percentage of written complaints resolved in 90 days at each Finance Commission meeting.*

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 for better efficiency.

Update:

- *Issued Examiner Bulletins (XB):*
 - *XB 2023-01 – Guidelines for Imaging Examination Work Papers (January 2023)*
 - *XB 2022-02 CML – Guidelines for Procedures and Work Paper Documentation for Commercial Examinations (September 2022)*
 - *XB 2022-03 TR – Guidelines for Procedures and Work Paper Documentation for Commercial Examinations (September 2022)*
 - *XB 2022-02-IT – Guidelines for Procedures and Work Paper Documentation for Commercial Examinations (September 2022)*

- *Reviewed and revised commercial examination procedures:*
 - *Planning & Control Table of Contents*
 - *BSA/AML*
- *Reviewed and revised trust examination procedures:*
 - *Planning & Control*
 - *Planning & Control Table of Contents*
 - *Request Lists for Trust Department, Trust Company, and Exempt Trust Company*
 - *Fiduciary & Corporate Management*
 - *Fiduciary & Corporate Management Table of Contents*
 - *Operations, Internal Controls, & Audits*
 - *Operations, Internal Controls, & Audits Table of Contents*
 - *Fiduciary & Corporate Earnings*
 - *Compliance*
 - *Fiduciary Asset Management*
 - *Trust Company Capital*
 - *Trust Company Asset Quality*
 - *Trust Company Liquidity*
 - *Small Trust Department Table of Contents*
 - *BSA/AML*
- *Reviewed and revised Information Technology examination procedures:*
 - *Scope Form*
 - *Planning*
- *Reviewed and revised MSB examination procedures, primarily to incorporate changes resulting from the recently enacted S.B. 895 relating to the Money Services modernization Act, and H.B. 1666 regarding the commingling of funds by certain digital asset service providers. The procedures that were updated are:*
 - *Cybersecurity Incident*
 - *BSA/AML – Employee Training*
 - *Information Technology*
 - *Examination Notice and Request List*
 - *Virtual Currency Questionnaire*
 - *Texas-Core*
 - *Texas-Virtual Currency*
 - *Agent Work Program*
 - *Acceptance Work Program*
- *Reviewed and revised Prepaid Funeral Contract Examination Notice and Request List to clarify financial statements requirements.*
- *Updated Commercial Examination’s Bank of Anytown (September 2022)*
- *Updated examination reference materials for commercial, trust, and IT procedures (Monthly).*
- *Examiners’ Council reviewed commercial, trust, and information technology examination workpapers as required per Administrative Memorandum 2015. Report issued in timely manner. (January / February 2023)*

- *Revised and Issued Administrative Memorandum (AM):*
 - *AM 2022 and Risk Ratios – Institution Review Process for State-Chartered Banks (February 2023)*
 - *AM 2016 – Investment Policy for Funds Under the Oversight of the Guaranty Fund Advisory Council (May 2023)*
- *Issued Examiner Bulletins (XBs):*
 - *XB 2023-02 CML– Guidelines for Procedures and Work Paper Documentation for Commercial Examinations (March 2023)*
 - *XB 2023-03 TR - – Guidelines for Procedures and Work Paper Documentation for Trust Examinations (March 2023)*
 - *XB 2023-04 IT – Guidelines for Procedures and Work Paper Documentation for Information Technology Examinations (March 2023)*
- *Revised Commercial Examination Procedures:*
 - *Allowance for Credit Losses*
 - *Audit*
 - *Borrowings/Liquidity*
 - *Capital Accounts and Dividends*
 - *Earnings*
 - *Funds Management*
 - *Investment Securities*
 - *Loans and Leases*
 - *Loan Review*
 - *BSA/AML*
 - *Request Lists and Forms*
- *Revised Procedures for Reviewing Trust Company Call Reports*
- *Revised Nonbank Cybersecurity- Baseline Work Program*

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, Interpretive Statements, and Legal Opinions in a timely manner as needed.

Update:

- *Revised and issued Supervisory Memorandum (SM):*
 - *SM 1031 – Examination Frequency for Perpetual Care Cemeteries (September 2022)*

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:

- *Presented proposed amendments to and repeals of 7 TAC, Chapter 33, Concerning Money Services Businesses pursuant to the implementation of the newly adopted Chapter 152 of the Texas Finance Code at the August 2023 Finance Commission meeting.*
- *Presented at the December 2022 Finance Commission meeting, proposed amendments to 7 TAC, § 3.37, Concerning Calculation of Annual Assessments for Banks. The amendments were formally adopted at the February 2023 meeting.*
- *Reviewed 7 TAC, Chapter 26, Perpetual Care Cemetery rules in accordance with requirement in Texas Government Code, § 2001.039. Determined that chapter should continue to exist, and recommended amendments at the December 2022 Finance Commission meeting.*

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

Measure: Periodically update the Department's financial education web page and brochure. Participate in financial education webinars throughout the year.

Update:

- *On March 22, 2023, a free financial education was presented jointly by the Office of Consumer Credit Commissioner and the Texas Department of Banking. The webinar provided information on making a streetwise vehicle purchase. There were 43 participants.*
- *The January 2023 edition of the [Texas Bank Report](#) featured the financial education programs of Rio Bank and International Bank of Commerce.*
- *On November 30, 2022, a free financial education webinar was presented jointly by the Office of Consumer Credit Commissioner and Texas Department of Banking providing information on avoiding the risk of financial exploitation. There were 65 participants.*
- *The September 2022 edition of the [Texas Bank Report](#) featured the financial education programs of First Community Bank and Texas Regional Bank.*

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 career fairs (if available) and support banking programs at Texas universities. Utilize recruiting platforms that reach a wide talent pool for all positions. Promptly

post vacancies and review applications timely. Periodically review and update personnel policies and procedures with changes due to legislation or judicial decisions.

Update:

- *Forty-one positions were posted from September 1, 2022, through August 31, 2023.*
- *Hired eleven Financial Examiner I, two Financial Examiner I – Trust, and two Financial Examiner I -IT in B&T Supervision.*
- *Hired one Financial Examiner I, one Financial Examiner II, and two Financial Examiner VI in NDS.*
- *Hired two Summer Interns in B&T Supervision.*
- *Hired three Accountant V and one Accountant VII in Administrative Services.*
- *Hired one Human Resources Specialist III in Human Resources.*
- *Hired one Law Clerk, one Legal Assistant II, and two Attorney III in Legal.*
- *Hired one Financial Examiner VI and one Financial Examiner III in Corporate Activities.*
- *Hired one Administrative Assistant IV in NDS.*
- *Hired two Administrative Assistant IV in B&T Supervision.*
- *Hired one Systems Administrator V in MIS.*
- *Utilized LinkedIn, Indeed, and CAPPs Recruit to post open positions and actively recruit qualified candidates.*
- *Agency representatives attended thirty-four career fairs.*
- *Revised Administrative Memorandum 2031 to reflect staffing changes. (October 2022 and February 2023)*
- *Revised the Conflict of Interest Disclosure Statement and Vehicle Safety Certification Form.*
- *Completed CAPPs Recruit implementation in May 2023.*

IV.2 **Objective:** Strive to attain full staffing, with an emphasis on employee retention and staff diversity. Provide and promote opportunities for professional development for junior staff and offer opportunities in new responsibilities to minimize the loss of institutional knowledge as vacancies and retirements occur. Continue efforts to maintain a competitive salary structure. Obtain feedback from employees and implement changes where feasible.

Measure: Improve 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 comparable to the FDIC.

Update:

- *Agency fiscal year 2023 turnover rate through August 31, 2023, was 19.12%. Financial Examiner turnover was 13.56%.*
- *Through August 31, 2023, the agency hired forty-one employees and lost thirty-two.*
- *Promoted forty-six individuals to positions with increased responsibility and qualifications.*

- *Administered Supervisor Performance Evaluations in November 2022, and Annual Employee Performance Appraisals in February 2023 using NEOGOV Perform system.*

IV.3 **Objective:** Maintain up-to-date computer hardware and software to enhance the effectiveness, speed, and quality of the work products. Provide timely technical support and training to staff.

Measure: Provide technology tools necessary for staff to perform their job functions efficiently, effectively, and securely. Provide support for remote work in accordance with agency determined limitations. Maintain software in accordance with the Department of Information Resources guidelines. Ensure network, website, and databases function appropriately and with limited downtimes.

Update:

- *Between March and August, MIS updated and deployed three applications as required by the program areas.*
- *The Oracle Cloud Infrastructure (OCI) conversion was completed successfully in May 2023, essentially moving the agency away from the traditional data center model to a cloud-based infrastructure platform. This was a major project.*
- *The web content management system was upgraded to the latest stable version in August 2023.*
- *MIS worked with staff members to determine an updated laptop configuration and manufacturer. All replacement cycle computers were ordered and deployed by the end of the fiscal year.*
- *An upgrade to the Data Exchange (DEX) portal is underway to enhance regulated entities, federal counterparts, and employee experience.*
- *MIS maintained software patching in accordance with procedures and modified applications to be more secure.*
- *The Department worked in February 2023 to implement the Governors directive regarding banned technologies.*
- *In the first six months of FY2023, MIS updated and deployed seven applications to production as required by the program areas and approved by Information Technology Steering Committee in the first half of fiscal year 2023.*

IV.4 **Objective:** Safeguard the integrity of data and information technology networks and systems from unauthorized access or use, ensuring that access to critical systems is available during an emergency to staff.

Measure: Perform a bi-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. Perform annual intrusion testing by the Department of Information Resources and periodic vulnerability reviews for 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:

- *The Department completed its biannual Texas Cybersecurity Framework Assessment and reported results to the Finance Commission at the August meeting.*
- *The annual network and web control penetration test was conducted in August 2023.*
- *MIS conducted two tabletop exercises for Disaster Recovery exercises.*
 - *October 27, 2022*
 - *January 26, 2023*
- *The annual Information Security Training for the Department began in February 2023.*
- *MIS updated computers to remove old versions of SQL and provided updates to the latest version for staff.*

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

Measure: Provide core required training courses to financial examiners in the FE I – FE III series to progress in the financial examiner series. Adequately prepare assistant examiners to successfully complete the Bank and Trust Supervision commissioning process.

Update:

- *Twenty-six examiners in the Financial Examiner I–III series attended 22 different training courses in the last six months of fiscal year 2023.*
- *In the second half of fiscal year 2023, one examiner received their commission.*
- *The training program established for new financial examiners started in June 2023. The program has progressed better than anticipated. With the success we have seen so far, this program will continue to be held for all new hires in the future.*

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

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

Update:

- *Monthly financial statements were provided to all divisions for review and reported quarterly to the Finance Commission.*
- *Budget variances are analyzed quarterly.*

- *For fiscal year 2023, actual revenues were at 90.8% of budget and actual expenditures were at 86.4% of budget.*
- *Cash reserves are within policy guidelines of at least two months, but no more than six months.*

IV.7 **Objective:** Periodically review internal controls and processes to improve the efficiency and effectiveness of the agency. Coordinate with the Office of Consumer Credit Commissioner and Department of Savings and Mortgage Lending, when possible, to minimize duplication of duties and processes.

Measure: Report on improvements identified and implemented.

Update:

- *Updated Chapter 14 to accommodate Governors Orders – February 2023*
- *MIS Divisional Procedures Updated:*
 - *Fraudulent Website Procedures – January 2023*
 - *MIS Manual – November 2022*
 - *Critical Asset Management (Inventory) – October 2022*
 - *On-Boarding/Off-Boarding Procedures – September 2022*

IV.8 **Objective:** Work with TXDOT and the Office of the Governor on relocation of the Finance Commission agencies.

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

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 regarding the four-acre parcel on the Camp Hubbard campus. The site is anticipated to be available to the Finance Commission agencies in the second quarter of 2024.*
- *The agencies requested approval from the Office of the Governor to increase the cash reserves for long-term facility planning, as a result of the December 2021 action of the Finance Commission. In March, subsequent to the reporting period for this report, the agencies received approval to increase their cash reserves.*
- *In April 2023, the Phase I Environmental Site Assessment (Phase I ESA) was completed.*
- *The Phase II Environmental Site Assessment (ESA-II) to support the continued environmental due diligence of the Camp Hubbard property was initiated in May 2023, and completed in early Fiscal Year 2024.*

IV.9 **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 update was submitted to SORM in January 2023, and we received a favorable review. The next Plan exercise is due to SORM in January 2024.*

Office of Consumer Credit Commissioner

Agency Priorities

FY 2023 Year-End Status Report

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: *The OCCC provided weekly status reports to Finance Commission members throughout the regular legislative session. Members of the 88th legislative session filed 8,046 bills, which is 16.1% more bills than the 87th legislative session (6,927 bills). The OCCC's high-priority legislation report included 48 bills that would have directly affected the OCCC and its regulated industries. The OCCC proposed legislative changes for consistency, modernization, and technical corrections, and these changes were enacted by the legislature in SB 1371 (2023). OCCC staff provided resource support related to legislation and testified at legislative committee hearings.*

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.

Measure: Reporting on compliance by regulated industry segment.

Status as of 8/31/2023:

License Type	Examination Compliance	Enforcement Activity
<i>Pawnshop</i>	<i>99.5% acceptable level of compliance</i>	<i>16 injunctive actions 10 administrative penalty actions 1 license revocation</i>
<i>Regulated Lender</i>	<i>98.3% acceptable level of compliance</i>	<i>25 injunctive actions 19 administrative penalty actions 3 license revocations</i>

<i>Property Tax Lender</i>	<i>83.3% acceptable level of compliance</i>	<i>9 injunctive actions 1 administrative penalty action</i>
<i>Credit Access Business</i>	<i>99.6% acceptable level of compliance</i>	<i>13 injunctive actions 4 administrative penalty actions 2 license revocations</i>
<i>Motor Vehicle Sales Finance</i>	<i>87.8% acceptable level of compliance</i>	<i>16 injunctive actions 3 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 restitution instructions 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 3,185 examinations for fiscal year 2023, which is 101.1% of the target. The overall compliance rate is 94.1% for all five examination areas combined. For FY23, restitution from examinations conducted is \$13,719,625. During this period, the agency closed 125 enforcement actions concerning the five examination areas. The 125 closed cases include 79 injunctive actions, 37 administrative penalty actions, 8 license revocations, and 1 license application denial.*

2.1.3. Objective: Continue to 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 OCCC’s regulatory responsibilities or the regulated industries. Engage in and respond as appropriate to developing issues that impact the OCCC or its regulated entities.

Status: *OCCC examination and legal staff actively participated in the following committees of the National Association of Consumer Credit Administrators: Executive Committee, Auto Finance Committee (chaired by a senior OCCC examiner), Emerging Issues Committee (chaired by the OCCC’s general counsel), Consumer Finance Exams Standards Committee, Legislation Committee and Nominations Committee (chaired by*

OCCC's commissioner). These committees, along with regular monthly member calls and other association events, provide a forum for the OCCC and other state agencies to collaborate and develop solutions to emerging issues, and provide a framework for states to coordinate examinations of multistate companies.

2.1.4. Objective: Continue to 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 multistate exams in which OCCC participated.

Status: *The OCCC participated in two Multi-State Mortgage exams and Multi-State Auto Finance exams, one of which the OCCC led as both Examiner-in-Charge and Single Point of Contact. The department continues to adopt the State Examination System and has a dedicated senior staff member who coordinates and trains additional examiners on the system.*

2.2. Licensing.

2.2.1. Objective: Maintain a focus on ensuring prompt and effective customer service. Process 80% of license applications within 60 days from received date to completion date. Provide professional development and training opportunities to licensing staff once per quarter.

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

Status: *The licensing department continues to collaborate and seek out customer service training in order to provide effective customer service. The licensing department processed 48% of business license applications in 60 days or less, primarily due to staffing issues. The department has plans to substantially increase this performance in FY24. The team has conducted various quarterly collaborative meetings and training to enhance professional development including online training on problem solving and communication.*

3. POLICY AND RULE DEVELOPMENT

3.1. Rulemaking.

3.1.1. Objective: Complete the rule review for 7 TAC Chapter 90 (relating to plain language contracts for regulated lenders). 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 completed this rule review in October 2022 by readopting 7 TAC Chapter 90, with amendments proposed in a separate rule action. Before presenting the rule action to the Finance Commission, OCCC staff posted an advance notice of rule review and held a webinar to obtain input from stakeholders.*

3.1.2. Objective: Prepare any rule proposals necessary to implement 2023 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 August 2023, the Finance Commission adopted rule amendments that implemented SB 1371 (2023) by specifying registration fees under Chapters 345 and 347 of the Texas Finance Code. Also in August 2023, the Finance Commission proposed rule amendments that would implement SB 422 (2023) by specifying military licensing requirements for residential mortgage loan originators and pawnshop employees. 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: Administer the 2022-2023 TFEE grant cycle, including monitoring the progress of grant recipient's performance, reporting on grant award program progress, and processing reimbursement requests. Launch the application process for the 2023-2024 grant cycle, including expanding outreach, reviewing forms, manuals, and reimbursement procedures to ensure best practices. Coordinate Grant Advisory Committee activities, grant application reviews, recommend grant award recipients, monitor grant award recipients, and process 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 2022-2023 grant cycle will conclude on December 31, 2023. As of the third reimbursement period, just under \$343,000 out of an available \$409,000 has been reimbursed to grant award recipients. Agency staff are actively working on preparations*

for 2024-2025 grant cycle for which the Finance Commission approved enhanced funding in an aggregate amount of \$730,000. Outreach was significantly expanded and resulted in an impressive receipt of 52 applications requesting just under 4 million dollars of funding.

4.2 Financial Education

4.2.1. Objective: Identify traditionally underserved populations and locations in need of financial education. Provide and support financial education by conducting financial education events and conducting outreach to community organizations, state agencies, non-profit organizations, and consumer advocacy groups that may benefit from financial education events. Continue to collaborate with the Department of Banking in the promotion and delivery of financial education. Continue to offer financial education content by remote learning and webinar mediums while also increasing in-person events.

Measure: Report on number of people and programs reached.

Status: *During FY 2023, staff provided financial education to 1052 participants and reached out to 30 organizations to promote financial education services and support. The OCCC continues to utilize social media to promote educational classes and has partnered with the Employees Retirement System, Texas County and District Retirement System, Texas Department of Banking, and other various community, and civic organizations to provide financial education services throughout the state of Texas.*

4.3. Industry and Stakeholder Outreach

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

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

Status: *As of the end of FY23 the agency has participated in nearly 50 events to foster communications with stakeholders including a reoccurring DMV Motor Vehicle Dealer seminar, TIADA conferences, TPTLA meetings, TCFA conferences, webinars related to proposed rule actions, and NACCA events. The OCCC published 20 advisory bulletins, several financial service activity reports, and rate related charts. Agency staff serve on various boards and committees, including NACCA, the DMV Customer Service and Advisory Committee, and Texas Jump\$tart Coalition. Additionally, Financial Examiners routinely participate in training events with NACCA, AARMR, and CSBS.*

5. AGENCY MANAGEMENT

5.1. Performance Measures.

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

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

Status: *The OCCC met or exceeded the target in 8 of 11 key performance measures. One of the measures which did not meet the target related to the processing time to close an enforcement action. The legal department closed some older cases from prior fiscal years as well as several complex litigation cases that required longer processing times. Two measures related to business licensing processing times were impacted by staffing issues. As those issues have now resolved, efficiency and productivity gains are expected in the next fiscal year.*

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 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, training initiatives and retention efforts. Maintain competitive financial examiners career development and progression path.

Status: *At the end of FY 2023, the turnover rate was 12.5% compared to the projected turnover rate for FY23 of 16%. Employee retention (and the improved turnover ratio) was aided by salary adjustments, career ladder promotions for financial examiners, and training and professional development.*

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 administrative staff have additional professional or job-related training opportunities and that at least 50% receive such training.

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

Status: *Financial Examiners completed 40 hours of continuing education through the annual examiners training conference and targeted training on various industry groups. In addition to the annual training some financial examiners also attended training on Crypto Compliance, Technical Writing, sessions conducted by NACCA, as well as other topics. Training events agency-wide were held in person and via webinar throughout the year. All Austin staff received mandatory cybersecurity training in FY23. Further training for staff was offered through DPS, EAP, the Comptroller of Public Accounts, and other forums.*

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

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

Status: *The Employee Policies & Procedures Manual was updated in May 2023. Policies are regularly monitored to ensure compliance with local, state, and federal law. The Human Resources Officer will review and update the Employee Manual to include recent legislative amendments. Supervisory resources are currently under review.*

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. Evaluate additional CAPPs non-core modules for implementation in subsequent years.

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. Report on activities related to functionality and evaluation of CAPPs enhancements.

Status: *Management regularly reviewed financial performance and the OCCC presented appropriate information to the Audit Committee for review. At the end of FY23 the OCCC had approximately 3 months of operating reserves, which is within the guidelines of the Finance Commission's liquidity policy. The accounting department made improvements to internal controls to provide greater reliability and worked to provide more timely and enhanced reporting. HR staff had been evaluating the use of one additional CAPPs non-core module, CAPPs Recruit. CAPPs staff recently notified the OCCC that the module is no longer available for possible implementation. If the module becomes available at a later date, the OCCC will be notified.*

- 5.3.2 Objective:** Continue to work towards permanent relocation, in collaboration with the other Commission agencies, TxDOT and the Office of the Governor.

Measure: Report on activities related to the relocation of the Finance Commission 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 communication with TxDMV and TxDOT regarding the four-acre parcel on the Camp Hubbard campus. The site is anticipated to be available to the Finance Commission agencies in the second quarter of 2024.*

In April 2023, the Phase I Environmental Site Assessment was completed. The Phase II Environmental Site Assessment to support the continued environmental due diligence was initiated in May 2023, and completed in early fiscal year 2024.

- 5.3.3. Objective:** Periodically review internal controls and processes to improve the efficiency and effectiveness of the agency. Coordinate with the Department of Banking and Savings and Mortgage Lending Department, when possible, to minimize duplication of duties and processes.

Measure: Report on improvements identified and implemented.

Status: *The OCCC reviewed internal controls and segregation of duties in the accounting area and made corresponding adjustments in the alignment of duties. The OCCC and DOB jointly presented two consumer education webinars during the period. The FC agencies continue to seek opportunities to enhance efficiency and minimize duplication.*

5.4. Information Technology.

- 5.4.1. Objective: Productivity Cloud.** Migrate agency endpoint computers to the MS Office 365 application suite. Prevalent dispersal of O365 among other organizations in and beyond Texas means some compatibility issues will be immediately mitigated. Operations will benefit from continuity with some familiar apps (e.g., Word, Excel) and ready integration with other communications tools (MS Teams, SharePoint).

Measure: Successful, on-time migration, with anticipated implementation by March 31, 2023.

Status: *Migration to the MS Office 365 application suite successfully went live on February 1, 2023. Agency users were migrated to Outlook, Teams, the 365-generation of familiar apps like Word and Excel, SharePoint, and OneDrive. Additionally, the OCCC's intranet site (OPUS) was migrated to SharePoint. Use of Office 365 continues to expand into SharePoint, OneNote, and other facets.*

- 5.4.2 Objective: ALECS Enhancements.** Continue to refine and implement enhancements to ALECS through the change management process. ALECS requires thorough user acceptance testing with every new build, sometimes consuming massive staff resources.

Develop an automated testing protocol that would lead to efficiencies, consistency of testing protocols, and savings of costs and time.

Measure: Reporting on ALECS enhancements. Successful implementation of the automated testing program by May 31, 2023.

Status: *Good progress was made in the first half of FY23, adding new functionality for Annual Reporting and Debt Management report features. Further planned enhancements had to be postponed due to the unexpected announcement from the ALECS host vendor that the provisional TX-RAMP certification would expire and the vendor did not intend to pursue gaining permanent certification. OCCC had a tight schedule to fully migrate ALECS to a new host which did have TX-RAMP certification, along with testing ALECS operation under a newer version of the server operating system (TX-RAMP requirement). Technical issues were identified and mitigated. The project had a fully successful launch in mid-September. The critical priority of this project occupied the people who would otherwise have been working on enhancement efforts, including the automated testing protocol which was delayed until FY24.*

- 5.4.3 Objective: Technology Modernization and Security Enhancements.** Evaluate OCCC's technology posture with a focus towards keeping resources up-to-date and deploying modern technology improvements and security enhancements. Ultimately, migrate the agency to Microsoft Windows 11 as exclusive endpoint operating system in FY24 which will require modernization of a portion of the currently deployed endpoint fleet. OCCC's network stack is reliable but aging. New components will bring security improvements and mitigate against hardware faults. Deploy other projects and enhancements as appropriate.

Measure: Reporting on the phased update of endpoint computer fleet to Windows 11 compatibility without depreciating active assets unnecessarily. Successful integration of new network component units with no loss of operations or communications. Reporting on other technology modernization efforts and security enhancements.

Status: *The production fleet of endpoint computers was fully updated to Windows 11-compatible models by May 2023 (IT keeps a small number of older units for non-production purposes). No units were decommissioned unnecessarily; the agency age-out policy was maintained. Also, IT powered down several unneeded servers, which were running operating systems that were out of support or had been supporting the email system prior to Office 365.*

Agency Priorities for Fiscal Year 2023

I. Legislative – State and National Legislation

I.1 Objective: Monitor legislation throughout the 88th Legislative Session that may affect the Department or its regulated industries.

Measure: Provide regular updates to the Finance Commission regarding the status of such legislation.

Status: *During the 88th Legislature, Regular Session, the Department provided weekly updates to the Finance Commission concerning bills that would have a significant impact on the Department and its regulated industries. The Department also provided updates to the Finance Commission concerning the 88th Legislature's 1st and 2nd called special session occurring during FY2023.*

I.2 Objective: Serve as a resource for the Texas Legislature and other members of State leadership by responding promptly and accurately to any information requests and providing comprehensive resource materials.

Measure: Notify Finance Commission members about any testimony given by the Department.

Status: *The Department was not asked to provide testimony during the 88th Legislature, Regular Session; nor was the Department asked to provide testimony during the 88th Legislature's first and second special sessions. Department staff promptly responded to requests for information made by the Legislature and promptly completed fiscal notes as requested by the Legislative Budget Board.*

I.3 Objective: Monitor federal legislation and regulations that may affect the Department or its regulated entities.

Measure: Communicate relevant information to the Finance Commission and regulated industries as deemed necessary.

Status: *During FY2023, the Department monitored legislation and regulations at the federal level and reported relevant information to the Finance Commission and the Department's regulated industries when appropriate.*

II. Regulation – Thrift and Mortgage

II.1 Objective: Establish performance measures to allow for monitoring of the agency's efforts to meet Department goals effectively and efficiently.

Measure: Meet or exceed performance measures. Report performance measures quarterly to the Finance Commission.

Status: *Performance measures targets for FY2023 were established in August 2022. Actual performance is reported to the Finance Commission quarterly.*

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II.2 Objective: Monitor the Department savings banks' risk profiles to allow for understanding of how changes in the economic environment may impact the overall condition. Ensure supervisory action is appropriate to address heightened risk within the portfolio.

Measure: Complete off-site monitoring of savings banks on a quarterly basis to identify changes in risk profile of state savings banks and report overall portfolio status to Finance Commission. Initiate supervisory response when necessary.

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 and conducted additional follow-up as necessary. During FY23, the department placed three supervisory actions.*

II.3 Objective: Monitor emerging issues in the financial services industry and bring awareness to the Thrift industry as appropriate.

Measure: Participate in meetings, webinars, and other training to stay apprised of topics of interest. Report on emerging issues to the Finance Commission and the Thrift Industry.

Status: *Monthly Emerging Issues calls were held with the industry to communicate current topics and bring awareness to exam issues. In September 2022, the annual Thrift Industry Day was held in Austin, Texas covering economic trends, cybersecurity, and other current banking topics. Monthly the Thrift Division participates in various trainings to stay apprised of topics of interest.*

II.4 Objective: Evaluate processes and procedures, as well as new technologies, for added efficiencies in thrift supervision and examination.

Measure: Continue to assess, document, and communicate updates to Thrift Supervision and Examination procedures to staff.

Status: *Ongoing evaluation of process and procedures continues to allow for added efficiencies.*

II.5 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.

Status: *During FY2023, the Department has issued 493 examinations of mortgage entities covering 7,432 mortgage loan originators. The Department has largely maintained the mortgage examination schedule, as set by the Department policy, and issued formal and informal enforcement actions as deemed necessary. The Department has provided information on the top violations to the industry on the Mortgage Examination page of its website, during Emerging Issues webinars, and at various presentations to local associations.*

II.6 Objective: Initiate appropriate regulatory enforcement to ensure compliance with federal and state laws and regulations.

Measure: Report on enforcement actions.

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Status: *The Department provides reports at each meeting of the Finance Commission concerning enforcement actions taken and did so throughout FY2023.*

II.7 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 provides reports at each meeting of the Finance Commission concerning the aging of complaints and did so throughout FY2023.*
- b. *Department staff regularly reviews complaint aging to resolve complaints on a timely basis, with an emphasis on resolving complaints aged over 120 days as expeditiously as possible. As of August 31, 2023, the Department had three complaints aged over 120 days. All such complaints are now closed.*
- c. *The Department conducts consumer complaint surveys monthly and did so throughout FY2023. The Department regularly reviews survey data to identify 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.8 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: *The Mortgage Licensing section processes licensing applications and registrations in a timely manner.*

- a. *For FY2023, the Department has processed 11,927 applications and made a final decision within 60 days of the date of the application on 85.13% of the processed applications.*
- b. *The Department conducted and reviewed on a quarterly basis surveys of license applicants to identify any trends and potential areas for improvement, including opportunities for staff training and potential adjustments to processes and procedures to reduce processing times and improve overall satisfaction with the Mortgage Licensing section.*

II.9 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. *In FY2023: (i) the Joint Financial Regulatory Agencies did not initiate any rulemaking actions concerning a home equity interpretation; (ii) the Department did not receive any informal requests for an interpretation as provided by 7 TAC § 151.1(c); and (iii) no petitions for rulemaking concerning a home equity interpretation were made. As a result, no meetings of the Home Equity Lending Working Group occurred during FY2023.*

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- b. *The Department has implemented the rules and interpretations adopted by the Finance Commission concerning home equity lending.*

II.10 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 industry. 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, NMLS Policy Committee, Performance Standards Committee of the CSBS Education Foundation, and Mortgage Call Report Subcommittee. The Department reported participation in the above activities to the Finance Commission on a regular basis.*

II.11 Objective: Establish, administer, and maintain a Mortgage Grant Fund as required by Subchapter G of Chapter 156 of the Texas Finance Code.

Measure:

- a. Develop the Mortgage Grant Fund Investment Policy, program guidelines, Grant Application and Eligibility Checklist, and Grant Agreement pursuant to the 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:

- a. *During FY2023, the Department adopted an investment policy, program guidelines, and grant eligibility checklist in connection with the Mortgage Grant Fund. The 2023-2024 grant cycle for the Mortgage Grant Fund began on January 1, 2023. Each grant recipient has executed a grant agreement governing the grant award.*
- b. *During FY2023, the Commissioner appointed a Grant Coordinator as provided by 7 TAC § 51.403.*

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- c. *During FY2023, the Mortgage Grant Advisory Committee in accordance with 7 TAC § 51.404 was formed and fulfilled its duties to advise the Commissioner on the selection of grant recipients for the 2023-2024 grant cycle.*
- d. *The Department provides reports at each meeting of the Finance Commission Audit Committee concerning the status and activities of the Mortgage Grant Fund and did so during FY2023.*

II.12 Objective: Adopt and implement the use of the CSBS State Examination System (SES) for multi-state and coordinated examinations of non-depository mortgage entities.

Measure:

- a. Submit the SES Agency Interest Form to the Conference of State Bank Supervisors (CSBS).
- b. Compare the Department's standard information requests to the standard information requests found in the SES library.
- c. Develop the Department's Industry and Communication Plan to inform the mortgage industry of the Department's transition to SES for multi-state examinations.
- d. Complete the necessary training to utilize the SES.
- e. Develop examination policies, procedures, and work items for the use of SES.
- f. Provide any additional training to Financial Examiners to conduct examinations in SES.

Status: *The Department has adopted and implemented the use of the CSBS State Examination System (SES) for multi-state and coordinated examinations of non-depository mortgage entities.*

- a. *On August 23, 2022, the Department submitted the SES Agency Interest Form to the Conference of State Bank Supervisors (CSBS).*
- b. *The review of the standard information requests found in the SES library has been completed and appropriate changes to the standard information requests have been made when deemed necessary.*
- c. *The Department participated in a multi-state examination and investigation and conducted and issued a single-state examination in SES. The Department's Industry and Communication Plan to inform the mortgage industry of the Department's transition to SES for multi-state examinations will be issued in the next few months.*
- d. *Senior Mortgage Examination staff and three field examiners have completed the SES training necessary to utilize SES.*
- e. *The Mortgage Examination section is currently developing suitable examination policies, processes, procedures, and work items necessary to fully implement SES for examinations and investigations.*
- f. *In October 2023, the remaining Mortgage Examination staff will undergo training provided by CSBS and internal training necessary to use SES.*

II.13 Objective: Adopt and implement the use of electronic surety bonds in NMLS for residential mortgage loan servicers subject to Finance Code, Chapter 158.

Measure:

- a. Revise the Residential Mortgage Loan Servicer Bond to comply with all necessary requirements for an electronic surety bond (ESB).
- b. Submit the revised ESB and ESB Intent to Adopt Form to NLMS.
- c. Update the surety bond rule for residential mortgage loan servicers to permit the use of ESB.
- d. Develop and submit the Department's Conversion Plan for the transition to ESB to the NMLS State Relations Team.
- e. Review and approve SRR communication to Surety Companies and Providers alerting them of the adoption of ESB for residential mortgage loan servicers.
- f. Send communication to the Department's residential mortgage loan servicers of the ESB adoption.

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- g. Review and approve the News Item to be posted on the NMLS Resource Center.
- h. Provide training to the appropriate Mortgage Licensing staff for the adoption and implementation of the ESB process.
- i. Review and update the company checklist for residential mortgage loan servicers found on the State Licensing Checklist in NMLS.
- j. Update the License Settings and Fee System (LSFS) to reflect the adoption of ESB.
- k. Develop policies, procedures, and work items for the use of ESBs.

Status: *The Mortgage Licensing Section has adopted and implemented the use of electronic surety bonds in NMLS for residential mortgage loan servicers.*

- a. *The Mortgage Licensing and Legal section modified the Residential Mortgage Loan Servicer Bond to comply with the necessary requirements for an electronic surety bond (ESB).*
- b. *On July 25, 2022, the Department submitted its revised ESB and ESB Intent to Adopt Form to NLMS.*
- c. *Effective November 20, 2022, the Finance Commission adopted amendments to 7 TAC § 79.4, concerning Bond Requirement, that rendered the rule compatible with and enabled the use of an ESB by a residential mortgage loan servicer.*
- d. *On September 19, 2022, the Department's Conversion Plan for the transition to ESB was submitted to the NMLS State Relations Team for review and was published by NMLS on September 23, 2022.*
- e. *On September 13, 2022, the Department reviewed and approved the SRR communication to Surety Companies and Providers alerting them of the adoption of ESB for residential mortgage loan servicers by the Department.*
- f. *On September 23, 2022, the Department issued a letter to all existing residential mortgage loan servicers advising them of the ESB adoption.*
- g. *On September 13, 2022, the Department approved the News Item that was posted on the NMLS Resource Center.*
- h. *As of September 14, 2022, all designated Mortgage Licensing staff completed the prerequisite NMLS training courses to adopt and implement the ESB process.*
- i. *On September 13, 2022, the revised company checklist for residential mortgage loan servicers found on the State Licensing Checklist in NMLS was adopted and implemented.*
- j. *The necessary changes in the License Settings and Fee System (LSFS) were adopted to allow ESB.*
- k. *The Mortgage Licensing section has drafted policies, processes, procedures, and work items for the adoption and implementation of ESBs.*

III. Policy and Rule Development

III.1 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: *Effective November 20, 2022, the Finance Commission adopted new rules in 7 TAC Chapter 75 governing the Department's regulation of savings banks chartered in Texas. Effective November 20, 2022, the Finance Commission adopted amendments to 7 TAC § 79.4, concerning Bond Requirement, to render the rule compatible with and enable the use of an electronic surety bond by a residential mortgage loan servicer registered with the Department under Texas Finance Code Chapter 158. Effective July 16, 2023, the Finance Commission adopted new rules in 7 TAC Chapter 60 governing the Department's regulation of savings associations chartered in Texas.*

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III.2 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: *The Department has initiated rulemaking actions necessary to implement legislation from the 88th Legislature, Regular Session. On August 18, 2023, the Finance Commission approved publication of amendments in 7 TAC § 81.103, concerning Licensing of Military Service Members, Military Veterans, and Military Spouses, designed to implement Senate Bill 422. Adoption by the Finance Commission of the amendments is anticipated on October 27, 2023.*

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 event participation.

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

- *On September 14, 2022, Commissioner Hector Retta and Director of Mortgage Regulation William Purce provided an in-person presentation to the Houston Mortgage Bankers Association. The presentation discussed: (1) the current status of the Mortgage Licensing section; (2) common issues holding up company, branch and RMLO applications; (3) the number of examinations conducted; (4) common examination violations or findings; (5) adopted regulations including the remote work regulation and safeguarding of non-public personal information (Information Security Plan); and (6) an update on complaint issues.*
- *On October 11, 2022, Commissioner Hector Retta and Director of Mortgage Regulation William Purce provided an in-person presentation to the Texas Mortgage Bankers Association – San Antonio. The topics were generally the same topics as discussed in the Houston Mortgage Bankers Association presentation.*
- *On November 7, 2022, the Mortgage Regulation Division staff made several presentations during the 10th Annual Mortgage Industry Seminar including a presentation on the Requirements and Limitations for Texas Home Equity Loans.*
- *On April 18, 2023, Commissioner Hector Retta and Director of Mortgage Regulation William Purce provided an in-person presentation to the Greater Houston Association of Mortgage Professionals (GHAMP). The presentation discussed: (1) the current legislative bills affecting the mortgage industry; (2) the current and historical licensing trends; (3) the current and historical examination trends; (4) common examination findings; (5) current complaint issues; (6) the recently adopted regulations; and (7) cybersecurity, remote work policies, and information security plans.*
- *On May 2, 2023, Director of Mortgage Regulation William Purce and Review Examiner Justin Accola attended the 107th Texas Mortgage Bankers Association’s Annual Conference in San Antonio, Texas that included the following topics: State of the Mortgage Industry, Executive Leadership Insights, and Leveraging Technology and Data Resources.*
- *On July 12, 2023, Director of Mortgage Regulation William Purce provided an in-person presentation to the North Texas Association of Mortgage Professionals.*

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- *On July 13, 2023, Director of Mortgage Regulation William Purce and Manager of Licensing Chris Osuna attended the National Reverse Mortgage Lenders Association Southern Regional Meeting to discuss matters affecting the reverse mortgage industry.*
- *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.*

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 FY23, the Department hired twelve new employees and had nine separations of employment, including one retirement. During the same period, 100% of the personnel received job-related training.*

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

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

Status: *The Department reports its performance quarterly to the Finance Commission. As of the end of the FY2023, 7 of 11 annual key performance measures indicate better than targeted performance and 2 are within 5% of the performance targets.*

V.3 Objective: Periodically review internal controls and processes to improve the efficiency and effectiveness of the agency. Coordinate with the Office of Consumer Credit Commissioner and Department of Banking, when possible, to minimize duplication of duties and processes.

Measure: Report on improvements identified and implemented.

Status: *During FY23, an audit of the Mortgage Examinations section was completed. As of August 31, 2023, one recommendation is outstanding, however, its implementation is scheduled to be completed in October 2023. Business processes 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.*

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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 FY23, the Department migrated its servers and associated databases and applications to the Statewide Data Center and a Texas Cybersecurity Framework Assessment was performed. As deemed necessary, the Department has implemented critical patches, updates, and upgrades to the network and staff computers, updated related documentation, and provided staff training for use of the Department's information resources.*

V.6 Objective: Continue activities related to the Centralized Accounting Payroll/Personnel System (CAPPS) implementation.

Measure: Report on activities related to the CAPPS implementation

Status: *Staff has developed multiple new and updated existing procedures to reflect the CAPPS use in the Department's business processes.*

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

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

Status: *During FY23, there have not been major activities to report in this area.*

V.8 Objective: Work with TXDOT and the Office of the Governor on relocation of the Finance Commission agencies.

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

Status: *In March 2023, the agencies received an approval from the Office of the Governor to increase the cash reserves for long-term facility planning, as a result of the December 2021 action of the Finance Commission.*

B.

Texas Department of Banking


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Charles G. Cooper
Commissioner

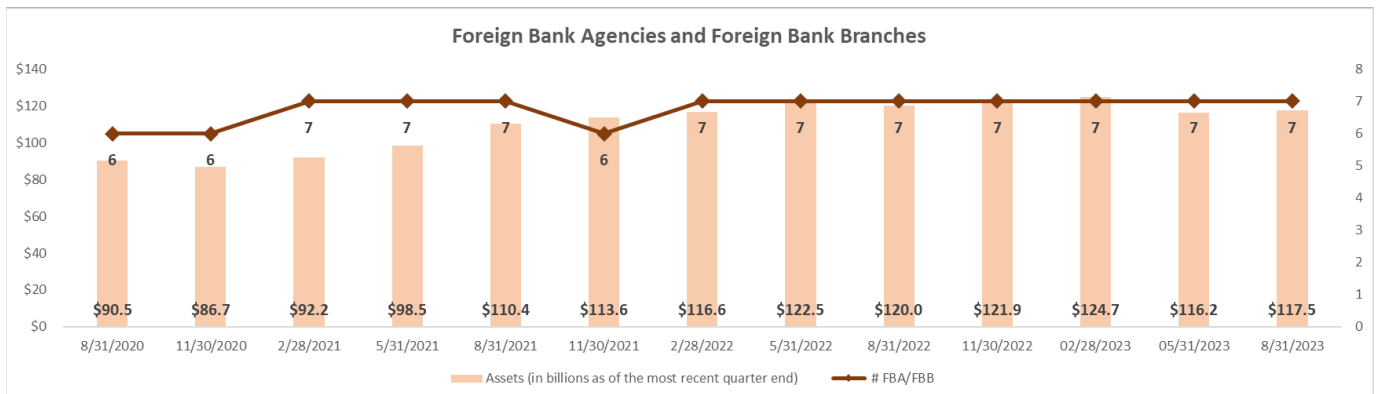
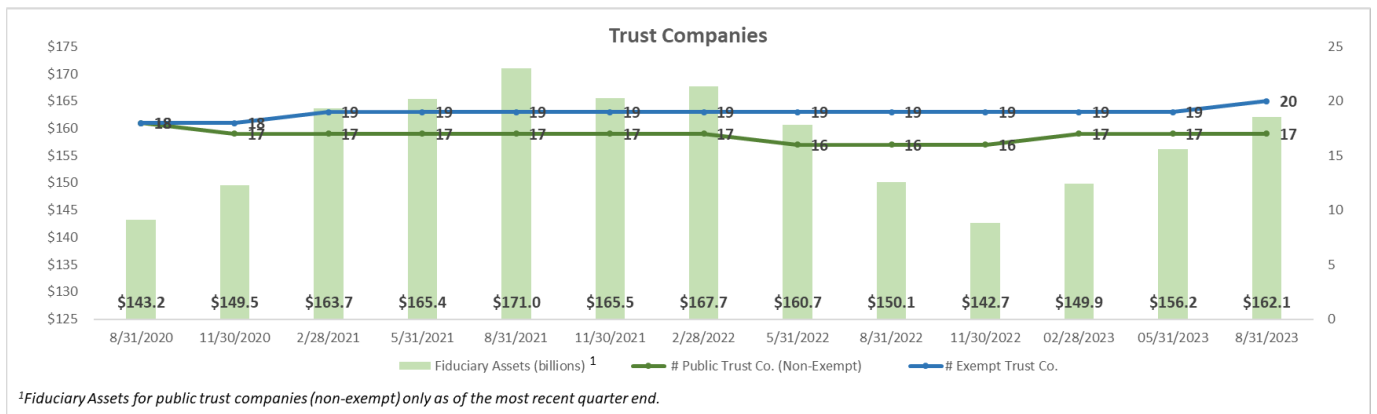
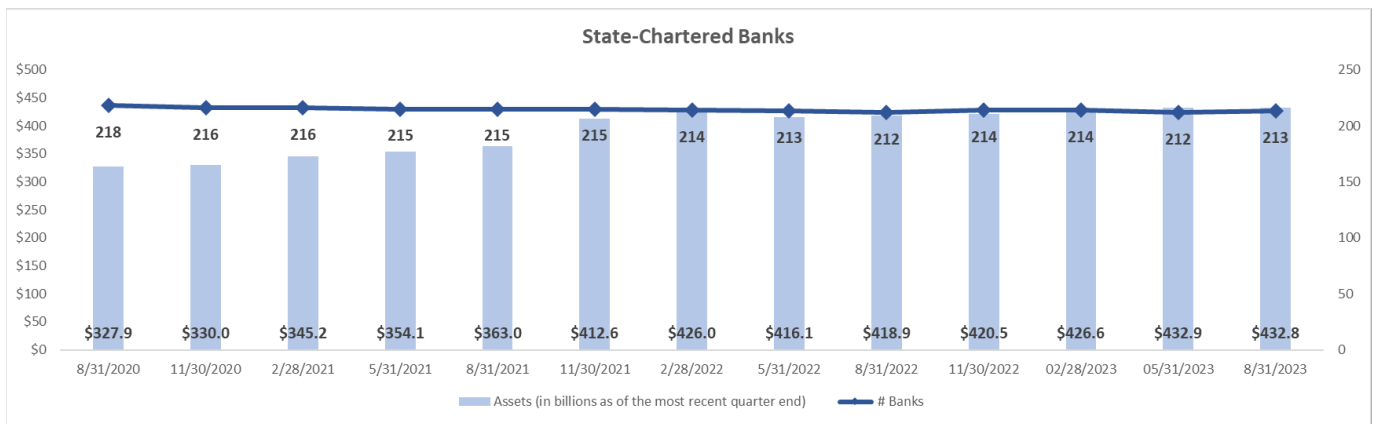
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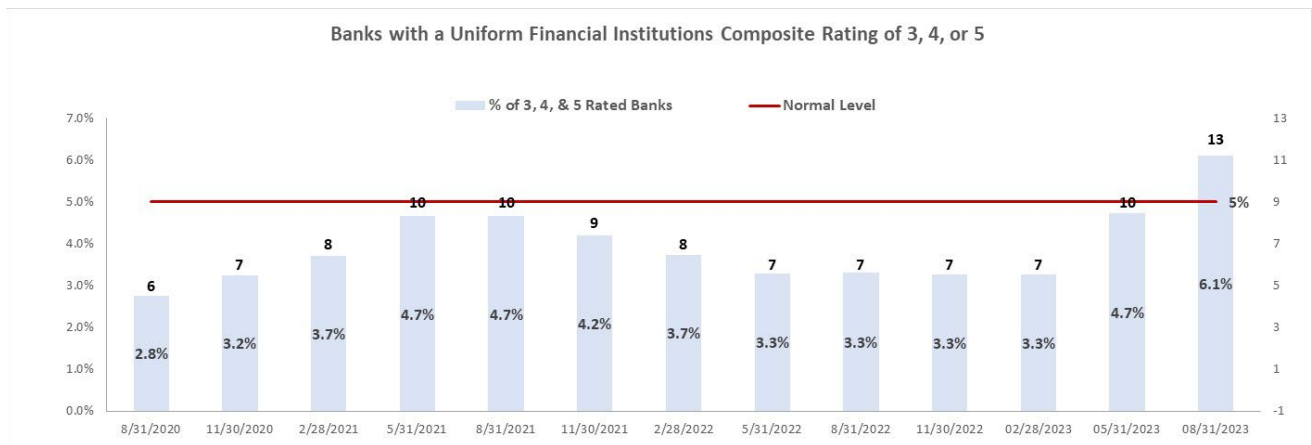
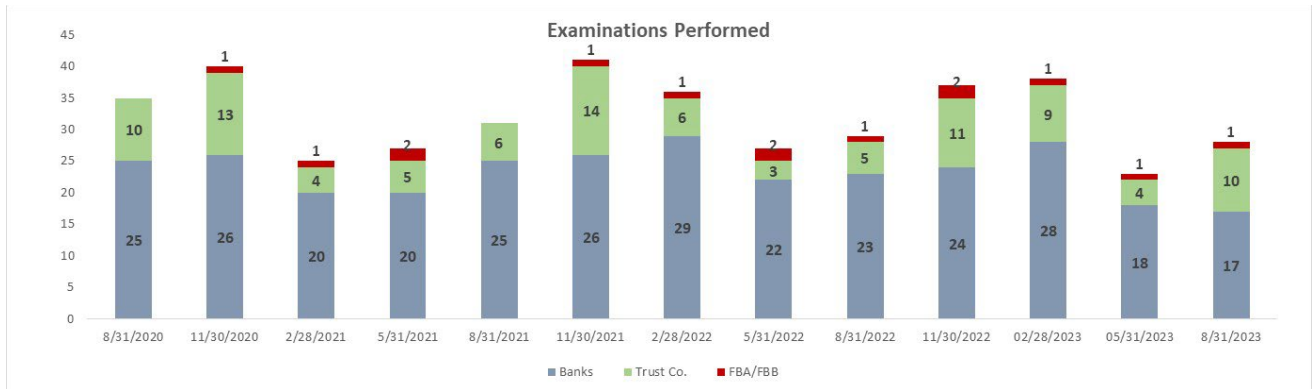
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To: Finance Commission Members
From: Jared Whitson, Director of Bank & Trust Supervision 
Date: October 4, 2023
Subject: Summary of the Bank & Trust Supervision Division Activities

Bank and Trust Supervision – Industry Profiles

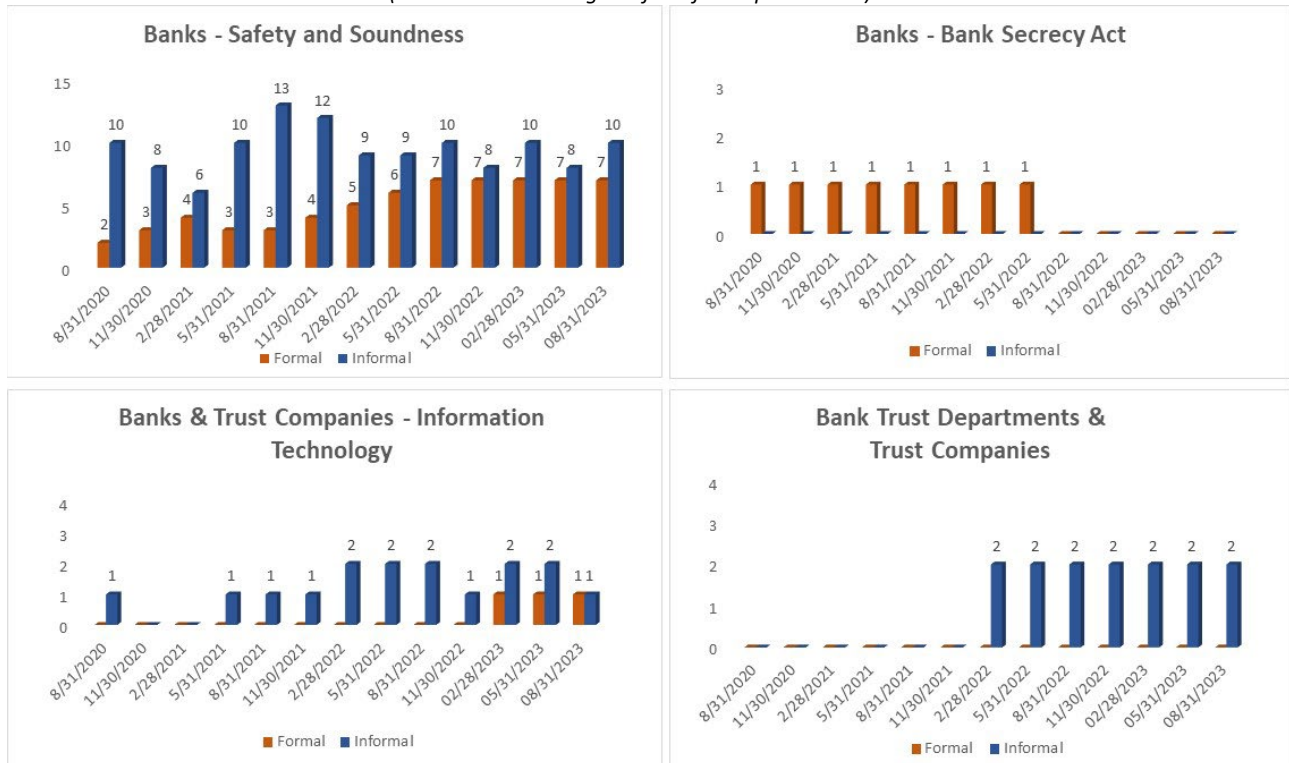
As of fiscal quarter-end (assets as of the preceding calendar quarter)



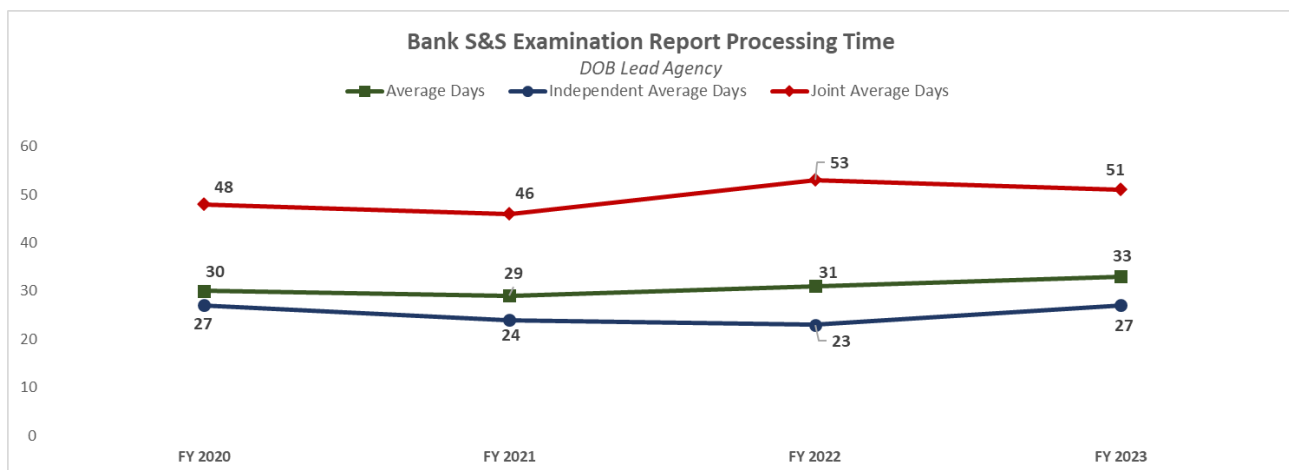


The Department considers any bank with a Uniform Financial Institutions Composite Rating of 3, 4, or 5, to be a problem bank. As illustrated above, the number of problem banks increased to 13 and above the normal range of 3% and 5% of the total number of institutions. The rapid interest rate hikes over the past year coupled with inadequate risk management practices have negatively impacted several institutions. In addition, liquidity pressures within the industry and increased competition for deposits is compressing net interest margins, which is likely to continue for the foreseeable future.

Enforcement Actions Outstanding by Type
 (Number outstanding as of the fiscal quarter-end)



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.



The chart above depicts the number of days necessary to complete the processing of bank safety and soundness reports measured from the time the examination staff leaves the bank until a report is mailed to the bank. Reports for joint examinations on average take longer to process, primarily because joint examinations are typically conducted on larger banks and in problem institutions. Larger banks are typically more complex, and problem institution reports are more voluminous, and the vetting and report review process is more time consuming. Finally, the processing time is extended due to two regulators needing time to review and edit the report.

Compliance with Examination Priorities

Percent of examinations conducted within Department guidelines.

Entity Type	FY 2022	FY 2023
Commercial Banks	96%	92%
IT	95%	91%
Trust Departments	100%	86%
Foreign Banks (FRB)	92%	100%
Trust Companies (DOB)	96%	81%
IT	88%	82%

Examination categories with less than 95% of examinations conducted within guidelines for FY 2023 include:

- *Bank Examinations – 11 exams past due by an average of 14 days.*
- *IT Examinations of Banks – 12 exams past due by an average of 21 days.*
- *Trust Departments – Three exams past due by an average of 15 days.*
- *Trust Companies – Six exams past due by an average of 11 days.*
- *IT Examinations of Trust Companies – Two exams past due by an average 23 days.*

Examination schedules remain tight, and staffing continues to be a challenge.

Division Highlights

- **Liquidity Monitoring:** The Bank & Trust division continues monitoring the liquidity posture of Texas state-chartered banks. This monitoring includes contacting banks about their liquidity positions, including obtaining current information on liquidity and deposit trends. Competition for deposits is intensifying as consumers are more rate sensitive.
- **Interest Rate Risk:** The Department continues monitoring the rise in interest rates and its effects on banks' financial condition. Banks' net interest margins generally improve in a rising rate environment as short-term assets reprice at higher yields. However, financial institutions with a sizable portion of their assets in long-term securities and/or loans could see net interest margin compression as funding costs increase faster than asset yields. Furthermore, banks' fixed rate investments decline in value in a rising rate environment.
- **Credit Risk:** Examinations reveal that credit quality remains generally sound despite the surge in interest rates. The Department continues monitoring commercial real estate concentrations, and the market fundamentals for office space have weakened by the shift to remote work options.
- **Special Operations and Conferences:**
 - Beginning on August 1, 2023, Director of IT Security Phillip Hinkle attended the Financial and Banking Information Infrastructure/Financial Services Sector Coordinating Council conference in Washington, D.C.

- On August 7, 2023, Review Examiner (RE) Melissa Dvoracek represented the Department as a speaker at the Texas Tech Banking School in Lubbock, Texas.
- On August 8, 2023, RE Travis Graham represented the Department virtually at the Compliance and Enterprise Risk Management regulatory panel sponsored by Texas Bankers Association (TBA).
- Beginning on August 28, 2023, Commissioner Charles G. Cooper, Deputy Commissioner Wendy Rodriguez, Director of Bank and Trust Supervision Jared Whitson, Director of Non-Depository Supervision Jesse Saucillo, Regional Director (RD) Tom Susany, and Regional Review Examiner (RRE) Allen Millsap represented the Department at the Conference of State Bank Supervision (CSBS) Strategic Planning Meeting in Medora, North Dakota.
- On September 13, 2023, Director Whitson represented the Department at the TBA Real Estate Lending School in Austin, Texas.
- On September 15, 2023, Commissioner Cooper, Chairman of the Federal Financial Institutions Examination Council (FFIEC) State Liaison Committee, attended the FFIEC meeting in Washington, D.C.
- Beginning on September 17, 2023, Commissioner Cooper, Director Whitson, RD Susany, Central Point of Contact Tim Anderson, and RRE Marilyn Sebade represented the Department at the Independent Bankers Association of Texas 49th Annual Convention in Frisco, Texas. Commissioner Cooper and Jelena McWilliams, former Chairman of the FDIC, conducted a fireside discussion for the audience.
- On October 3, 2023, Commissioner Cooper and Deputy Commissioner Rodriguez represented the Department at CSBS Districts II and IV Combined Fall Meeting held at the Federal Reserve Bank of St. Louis, St. Louis, Missouri.

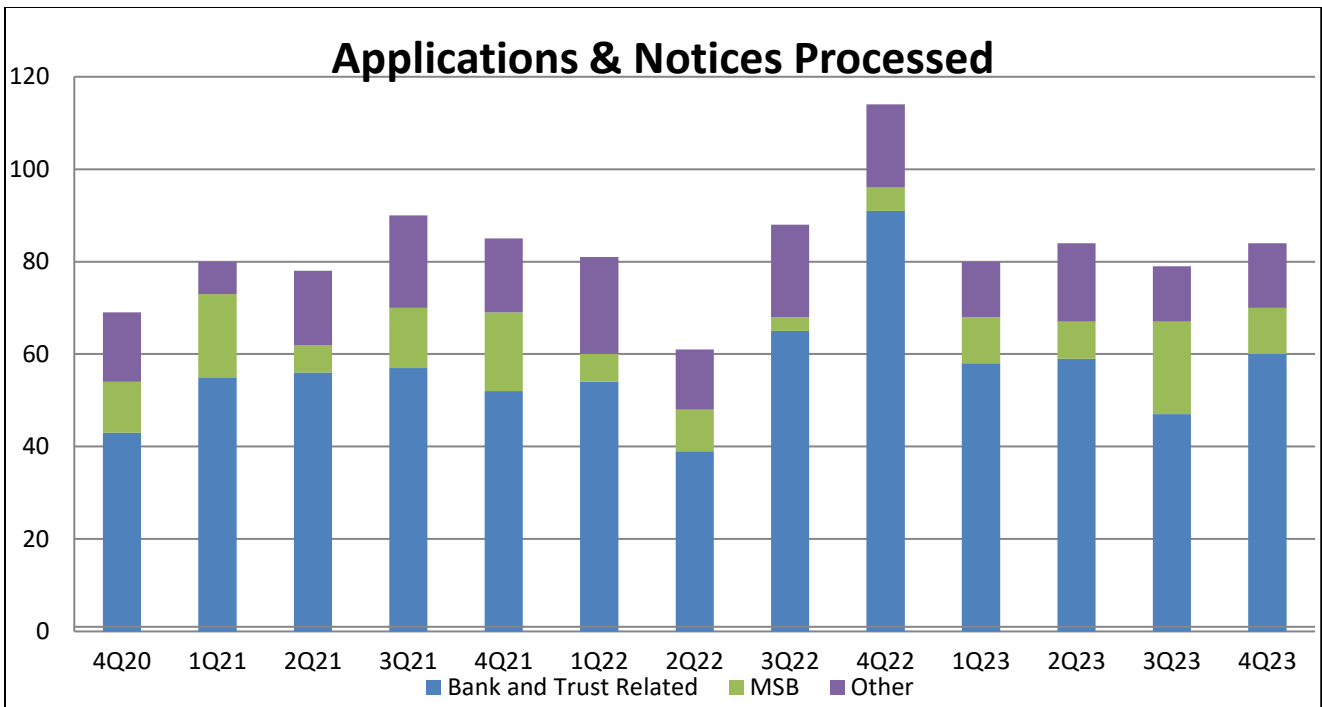


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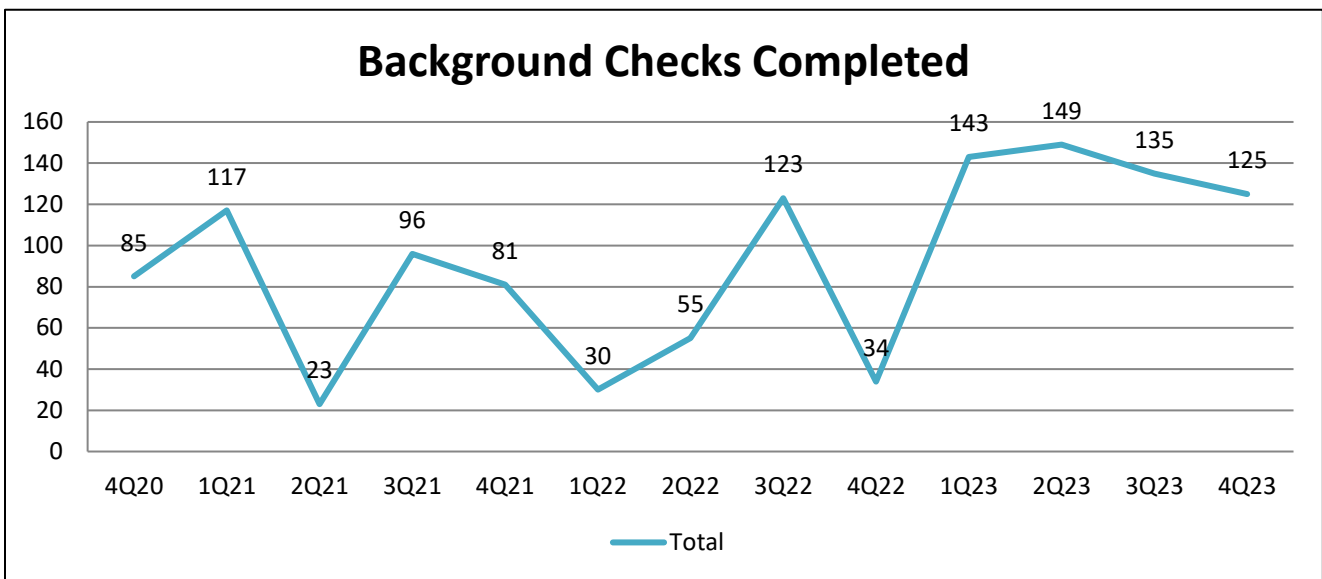
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Charles G. Cooper
 Commissioner

To: Finance Commission Members
 From: Dan Frasier, Director of Corporate Activities and Financial Innovation *DBF*
 Date: October 4, 2023
 Subject: Summary of Corporate Division Activities



Information on a Fiscal Quarter Basis.



Information on a Fiscal Quarter Basis.

Entities	Applications and Notices Currently Under Review (as of September 30, 2023)	Change Since Last Finance Commission Report	
		Change in Open Filings	Percent Change
Bank Related	25	+13	108%
Trust Companies	4	+1	33%
Money Services Business (MSB)	32	-2	-6%
Others	4	+1	33%
Totals	65	+13	25%

The number of open filings increased by 25% compared to the level reported at the last Finance Commission meeting. The increase is predominantly from bank related applications involving branching, change of control activities, and two conversions.

Division Highlights

- **New Law Implementation:** The Corporate Division has been working diligently to implement S.B. 895, the Money Transmission Modernization Act, and H.B. 1666 relating to commingling of funds by digital asset service providers which both became effective September 1, 2023. Necessary changes to application forms and information on our website have been made to facilitate the receipt of MSB applications under the new law. Changes to procedures and processes to facilitate the substantive law changes are ongoing.
- **Charter, Conversion, and Merger Activity:** Since the last report, the following transactions have consummated:
 - *Banks*
 - TXN Bank, National Association, Hondo, converted to a Texas state bank charter under the name of TXN Bank [estimated gain in state banking assets of approximately \$612 million].
 - *Trust Companies*
 - Strenuous Life Trust Company LTA, The Woodlands, a de novo Texas family trust company opened for business.
- **Conferences, Conventions, and Committee Meetings:**
 - Beginning on September 11, 2023, Senior Corporate Analyst Mark Largent and Corporate Analyst Lea Saunders participated in the Money Transmitter Regulators Association Annual Conference in Portland, Oregon.



TEXAS DEPARTMENT OF BANKING

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Charles G. Cooper
Commissioner

To: Finance Commission Members
 From: Jesus "Jesse" Saucillo, Director of Non-Depository Supervision
 Date: October 4, 2023
 Subject: Summary of Non-Depository Supervision (NDS) Activities

		FY 2023									
Entity	FY 2022		1 st		2 nd		3 rd		4 th		
Industry Profile (# / Assets (billions))											
Money Services Businesses (MSB)	194	\$315.1	194	\$315.0	195	\$314.7	192	\$341.8	194	\$342.5	
Prepaid Funeral Contract (PFC)	335	\$4.6	336	\$4.6	337	\$4.7	336	\$4.8	337	\$4.9	
Perpetual Care Cemeteries (PCC)	244	\$435.6*	243	\$438.9*	243	\$440.8*	243	\$452.3*	244	\$460.7*	
Check Verification Entities (CVE)	2	n/a	2	n/a	2	n/a	2	n/a	2	n/a	
Examinations Performed											
MSB	91		29		19		25		25		
MSB Limited Scope	1		1		1		0		0		
MSB Accepted other State	16		0		0		1		3		
PFC	223		39		69		46		66		
PFC Limited Scope	1		1		0		0		1		
PCC	152		45		31		31		31		
PCC Limited Scope	2		0		0		0		1		
Ratings (# / %) Assigned to All Regulated Entities											
1	294	39.10%	292	38.57%	297	39.18%	282	37.40%	277	36.84%	
2	401	53.32%	410	54.16%	403	53.17%	417	55.31%	414	55.05%	
3	49	6.52%	48	6.34%	49	6.46%	48	6.37%	55	7.31%	
4 & 5	8	1.06%	7	0.93%	9	1.19%	7	0.92%	6	0.80%	
Noncompliance with Examination Priorities (Past Due)											
MSB	25		16		16		11		6		
PFC	1		11		4		20		18		
PCC	3		5		3		28		12		

NOTES:

Limited scope examinations do not receive a rating.

*PCC \$ amounts reflected in the millions.

Industry Profile and Ratings

A comparison of the fiscal year (FY) 2023 to 2022 totals in the Industry Profile section of this memorandum reflects that although the total assets reported by licensed MSBs increased year-over-year from approximately \$315.1 billion to \$342.5 billion, the number of MSB license holders has remained the same. A majority of this increase can be attributed to the 10 largest MSBs, as determined by asset size. While the total number of MSB license holders at year-end FY 2023 remained the same year-over-year, there were 15 newly issued licenses during FY 2023 which were offset by the surrender of licenses. The primary reasons for the surrender of the MSB licenses were due to changes in business strategies or due to an inability to comply with applicable regulations.

The remaining industry statistics remain comparable with no significant year-over-year variations.

Examination Activities

As illustrated in the Noncompliance with Examinations Priorities section on the previous page, the total number of past due examinations increased slightly by seven at year-end FY 2023 compared to FY 2022. Specifically, while the number of MSB examinations past due decreased significantly, the number of PFC/PCC examinations past due increased. The increase in past due PFC/PCC examinations is the result of financial examiner vacancies that existed throughout FY 2023. The Department has filled two of these vacancies and as of the year-end FY 2023, only one PFC/PCC financial examiner vacancy remains.

Below is additional information on the examination activities reflected on the previous page.

- Of the six past due MSB examinations, three were conducted in September 2023. The remaining three examinations will be conducted in coordination with other MSB state regulators as part of a nationwide network multi-state examination process. The review of records for these three examinations will commence by the calendar year-end 2023.
- Of the 18 past due PFC examinations, eight were conducted in September 2023 and the remaining 10 are scheduled to be completed before the end of October 2023.
- Of the 12 past due PCC examinations, eight were conducted in September 2023 and the remaining four are scheduled to be completed before the end of November 2023.

As it relates to past due examinations, based on current staffing, NDS anticipates being able to meet the acceptable *Quarterly Output Measure – Number of Licensees* by the end of second quarter of FY 2024. It should also be noted that approximately 95% of the examinations were conducted timely within the due date in FY 2023. Furthermore, NDS performs off-site monitoring of licensed entities that includes the monitoring of various factors such as consumer complaints, compliance history of license holders, and current industry trends to ensure the examinations of higher risk license holders are prioritized.

Division Activities

- Events and Training
 - Director Saucillo and Department staff attended the CSBS Strategic Planning Meeting in Medora, North Dakota, on August 28, 2023. The meeting provided an opportunity to help direct the long-term strategic direction of CSBS as well as set priorities for the coming year.

- Director Saucillo attended the first week of the Governor's Executive Management Development Program in Arlington, Texas, on September 24, 2023. The course covers organizational strategy, infrastructure management, resource management, and personal effectiveness through a three-week program.
- Division staff attended the 2023 MTRA Annual School & Conference in Portland, Oregon, on September 11, 2023. The conference provided an opportunity for MTRA member states to discuss topics impacting MSB regulation. MSB license holders and industry stakeholders also attend the conference on an annual basis. Presentations impacting MSBs, such as the NMLS Modernization, Fintech partnerships, and Bitcoin ATMs were provided and discussed.
- Division staff continues to monitor for, and investigate, activities conducted in non-compliance with applicable regulations. During this reporting period, NDS issued regulatory enforcement actions against entities offering and conducting MSB activities in violation of applicable rules and regulations, including one suspension of license, to protect the rights and interests of Texas consumers.
- MSB Financial Examiner II submitted a resignation effective the first week of October 2023. Postings to fill additional MSB financial examiner positions, as authorized in the NDS FY 2023 staffing request, along with the vacancy resulting from the aforementioned resignation, were posted in September 2023.
- NDS has completed the implementation of regulatory procedures to incorporate S.B. 895, the Money Services Modernization Act, and H.B. 1666, relating to commingling of funds by digital asset service providers, which became effective September 1, 2023. Specifically, examination procedures and related documents were updated, enhancements on MSB examination guidance and references were communicated to the examination staff, and an internal training on cryptocurrency is being expanded. These examination modernization processes have been incorporated into the off-site monitoring and routine examinations of MSB license holders.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

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Memorandum

To: Finance Commission Members
From: Wendy Rodriguez, Deputy Commissioner
Date: October 1, 2023
Subject: Summary of the Human Resources Division Activities

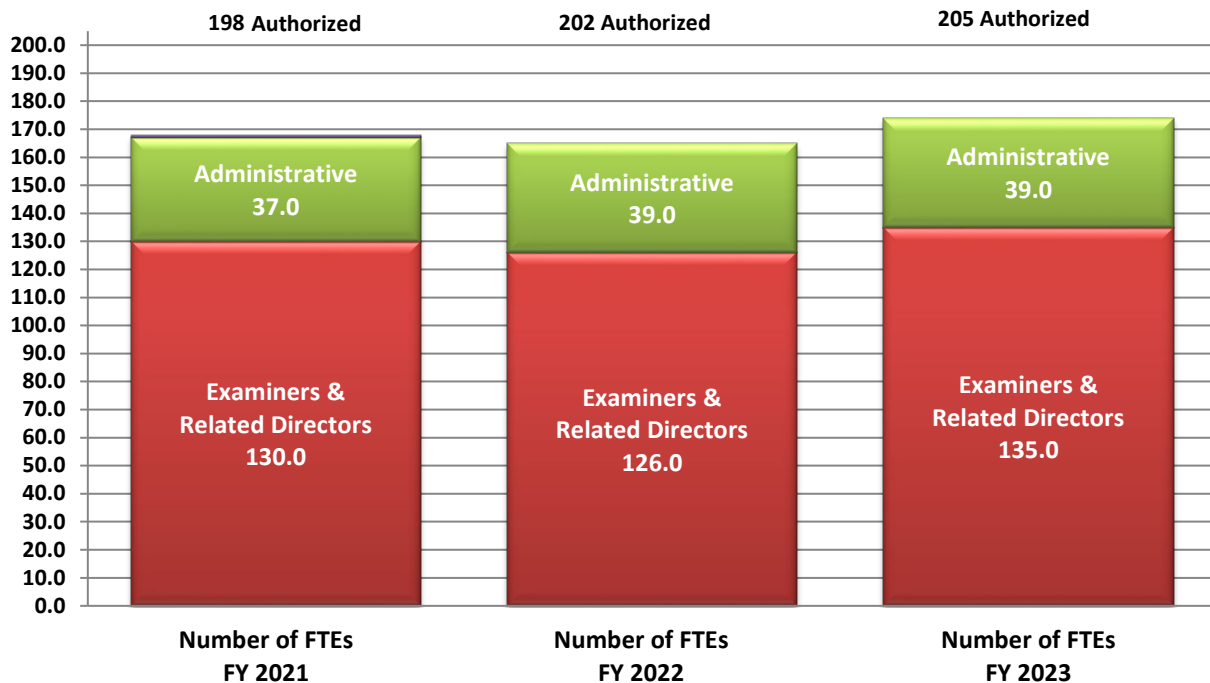
Active Postings				
Number of Positions	Position	Division	Status	Activities
3	Financial Examiner I – Assistant Bank Examiner (DRO)	Bank and Trust	Closes October 2, 2023	Recruiting
2	Financial Examiner I – Assistant Bank Examiner (HRO)	Bank and Trust	Closes October 2, 2023	Recruiting
2	Financial Examiner I – Assistant Bank Examiner (SARO)	Bank and Trust	Closes October 2, 2023	Recruiting
4	Financial Examiner I – Assistant Bank Examiner (LRO)	Bank and Trust	Closes October 2, 2023	Recruiting
1	Financial Examiner I – Trust Bank Examiner (DRO/HRO)	Bank and Trust	Closes October 2, 2023	Recruiting
2	Financial Examiner IV-V – Commercial Bank Examiner	Bank and Trust	Open Until Filled	Recruiting
2	Financial Examiner VI-VII – Commercial Bank Examiner	Bank and Trust	Open Until Filled	Recruiting
2	Financial Examiner V – Credit Review Specialist	Bank and Trust	Open Until Filled	Recruiting
2	Financial Examiner I-II – MSB (DRO/HRO)	NDS	Closes October 25, 2023	Recruiting
1	Director II-V – Strategic Support (HQ)	DSS	Closes October 13, 2023	Recruiting
2	Compliance Analyst I-II – Consumer Assistance Specialist (HQ)	DSS	Open Until Filled	Recruiting

Status of Postings that Closed before October 1, 2023				
Number of Positions	Position	Division	Status	Activities
1	Administrative Assistant III-IV	Corporate	Closed August 31, 2023	Interviewing
1	Editor II	DSS	Closed September 20, 2023	Interviewing
1	Financial Examiner V-VI – Corporate Analyst	Corporate	Closed September 8, 2023	Interviewing
1	General Counsel IV-V	Executive	Closed August 10, 2023	Interviewing

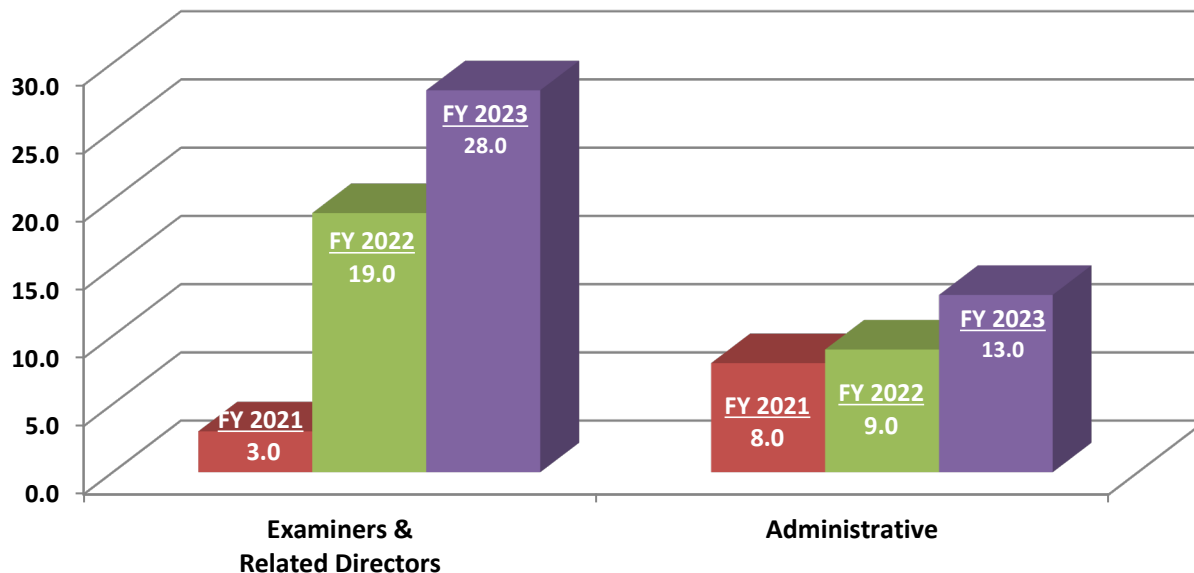
Division Activities:

- As part of increased recruiting efforts, the Bank & Trust Division attended a total of 34 college career fairs in FY23. This momentum in college recruiting will continue for the foreseeable future as the Department seeks quality applicants and to promote career opportunities to future candidates.
- Human Resources Director Wright attended the University of Texas Labor and Employment Law Conference in June 2023.
- August 1, 2023, New Employee Orientation: one PFC/PCC Financial Examiner I, one Attorney III, one Accountant V.
- Fully active with CAPPs Recruit for open position management. The division will be implementing Onboarding feature in the fall of 2023.
- Human Resources Director Lori Wright retired effective September 30, 2023.

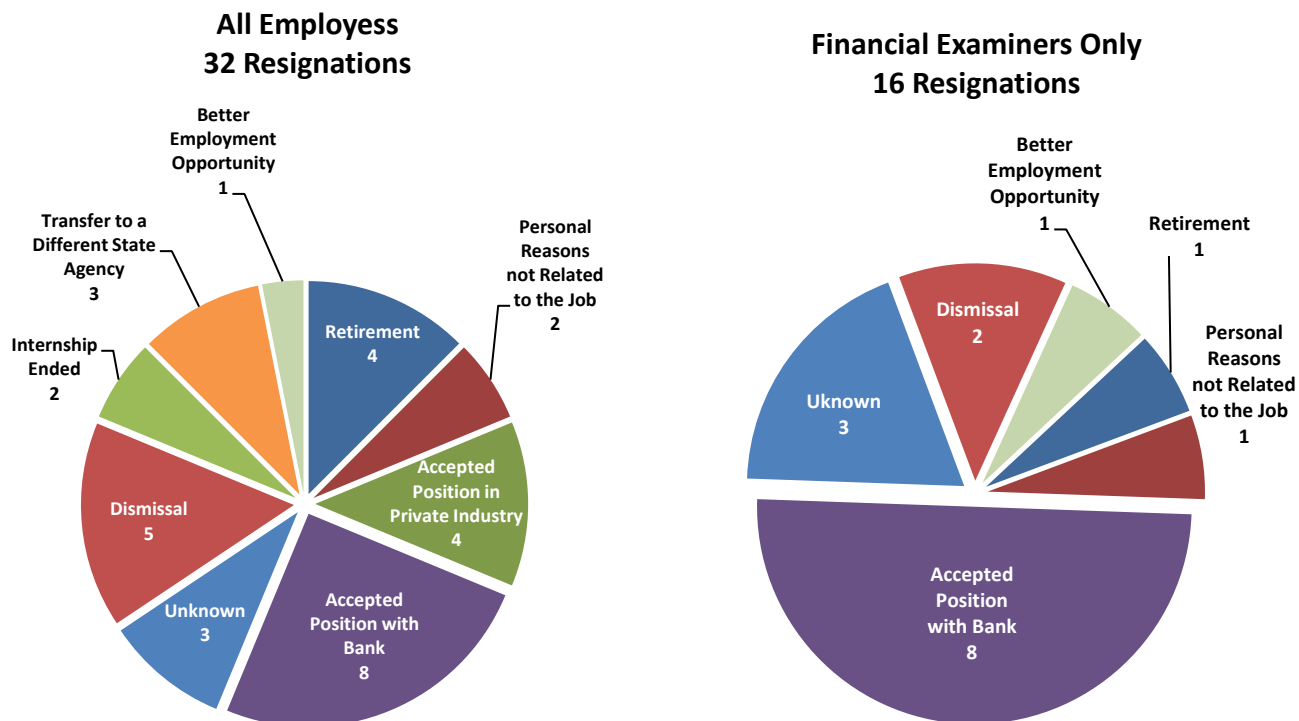
**Texas Department of Banking
Employee Data for Fiscal Years 2021, 2022 and 2023 as of
August 31, 2023**



New Hire Data for Fiscal Years 2021, 2022 and 2023



FY 2023 Employee Turnover Reasons



ACTUAL PERFORMANCE FOR OUTCOME MEASURES

TEXAS DEPARTMENT OF BANKING

FISCAL YEAR 2023

8/31/2023

Actual Performance for Outcome Measures
Fiscal Year 2023
For Period Ending August 2023

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target
Outcome Measures - Key			
1-1 QUALITY BANK REGULATION			
1. % BANKS EXAMINED	95.00%	95.77%	100.81%
1-2 QUALITY NON-BANK REGULATION			
1. % MSB LICENSEES EXAMINED	90.00%	96.97%	107.74% *
The Division exceeded the FY 2023 target due to being able to retain and operate with a full MSB examination staff.			
2. % PFC LICENSEES EXAMINED	95.00%	94.59%	99.57%
3. % PCC LICENSEES EXAMINED	95.00%	94.98%	99.98%
1-3 APPLICATION PROCESSING			
1. % B&T, MSB APPS COMPLETED	95.00%	98.95%	104.16%
1-4-1 APPLICATION PROCESSING			
1. % WRITTEN COMPLAINTS CLOSED	100.00%	100.00%	100.00%
1-5 OPERATIONAL EFFICIENCY			
1. % REGULAR EMPLOYEES SEPARATED	11.00%	19.12%	173.82% *
Fiscal year 2023 turnover is higher than the target due to workforce factors related to external labor force competition that increased retirements and resignations.			
3. % ACTUAL EXPENDITURES TO BUDGETED	95.00%	86.40%	90.95%

*Varies by 5% or more from target.

ACTUAL PERFORMANCE FOR EXPLANATORY MEASURES

TEXAS DEPARTMENT OF BANKING

FISCAL YEAR 2023

8/31/2023

Actual Performance for Explanatory Measures
Fiscal Year 2023
For Period Ending August 2023

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target
Explanatory Measure - Key			
1-1-1 BANK EXAMINATION			
1. % BANKS CLASSIFIED SAFE & SOUND	95.00%	93.90%	98.84%

*Varies by 5% or more from target.

ACTUAL PERFORMANCE FOR OUTPUT/EFFICIENCY MEASURES

TEXAS DEPARTMENT OF BANKING

FISCAL YEAR 2023

8/31/2023

Department of Banking
Actual Performance for Output Measures
Fiscal Year 2023

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Comparable Historical Data for the same time period			
					FY2022	FY2021	FY2020	FY2019
Output Measures-Key								
1-1-1 Bank Examination								
1. # Bank Examinations Performed								
Quarter 1	93	25	25	26.88%				
Quarter 2	93	28	53	56.99%				*
Quarter 3	93	18	71	76.34%				
Quarter 4	93	17	88	94.62%				*
FY 2023, Quarter 2 - The number of bank examinations is above the target due to performing more joint examinations than projected.					99	91	81	101
FY 2023, Quarter 4 - The number of bank examinations is lower than the target due to performing fewer joint examinations than projected.								
2. # Foreign/Trust/IT Examinations Performed								
Quarter 1	227	54	54	23.79%				
Quarter 2	227	65	119	52.42%				
Quarter 3	227	55	174	76.65%				
Quarter 4	227	54	228	100.44%	234	207	194	226
1-2-1 Non-Bank Examination								
1. # NDS Licensees Examined								
Quarter 1	500	115	115	23.00%				
Quarter 2	500	120	235	47.00%				
Quarter 3	500	103	338	67.60%				*
Quarter 4	500	127	465	93.00%				*
FY 2023, Quarter 3 - The number of bank examinations is below the target due to staffing vacancies and training factors.					486	527	550	565
FY 2023, Quarter 4 - The number of NDS licensees examined is below the target due to financial examiner staff resignations and vacancies that existed throughout FY 2023.								
1-3-1 Application Processing								
1. # License Applications Completed								
Quarter 1	358	87	87	24.30%				
Quarter 2	358	95	182	50.84%				
Quarter 3	358	90	272	75.98%				
Quarter 4	358	88	360	100.56%	364	353	327	343

*Varies by 5% or more from target.

ACTUAL PERFORMANCE FOR NON-KEY MEASURES

TEXAS DEPARTMENT OF BANKING

FISCAL YEAR 2023

8/31/2023

**Actual Performance for Non-Key Measures
Fiscal Year 2023
For Period Ending August 2023**

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target
-----------------------	----------------	-------------	-----------------------------

Non-Key Measures

1-1-1 BANK EXAMINATION

2. % FOREIGN BANK AGENCIES EXAMINED	95.00%	100.00%	105.26%	*
The number of foreign bank organizations receiving examinations when due is higher than the target due to the proficiency of the Federal Reserve and Department's foreign bank staff.				
3. % TRUST COMPANIES EXAMINED	95.00%	80.65%	84.89%	*
The number of trust companies receiving examinations when due is lower than the target due to the combined effects of training new staff, de novo charter investigations, and the timing of several trust company examination due dates.				
4. % PROBLEM INSTITUTIONS WITH APPROPRIATE SUPERVISORY ACTIONS IN PLACE	100.00%	100.00%	100.00%	
5. CERTIFICATE OF ACCREDITATION BY CSBS MAINTAINED IN GOOD STANDING	YES	YES	YES	
8. AVERAGE COST PER BANK EXAMINATION	\$86,080.00	\$100,720.75	117.01%	*
The average cost per bank examination is higher than the target due to increased examination travel post COVID, the new in-house training program, and the 5% legislative salary increase.				
9. ASSETS EXAMINED PER EXAMINER DAY (IN MILLIONS)	\$11.75	\$10.92	92.94%	*
The assets examined per examiner day is lower than the target due to hiring a large FE I class in June as a result of increased recruiting efforts.				
11. # STATE-CHARTERED BANKS IN TEXAS	210	213	101.43%	
12. TOTAL ASSETS IN TEXAS STATE-CHARTERED BANKS (IN BILLIONS)	\$453.30	\$432.80	95.48%	

1-2-1 NON-BANK EXAMINATION

4. % PCC AND PFC APPLICATIONS COMPLETED WITHIN STATUTORY PERIOD	95.00%	100.00%	105.26%	*
The Division exceeded the FY 2023 target due to being able to cross-train the PFC/PCC administrative staff and also obtain assistance from PFC/PCC examiners in the processing of applications.				
6. AVERAGE DIRECT COST PER PFC AND PCC LICENSEE EXAMINATION	\$2,750.00	\$2,844.92	103.45%	
7. AVERAGE DIRECT COST PER MSB LICENSEE EXAMINATION	\$12,500.00	\$13,153.84	105.23%	*
The Division's average cost per MSB examination was more than the target amount in FY 2023 due to the addition of two FE positions in 4th quarter that were not budgeted. These two additional positions are assisting in new MSB application reviews and other targeted NDS regulatory activities.				
8. DOLLAR AMOUNT OF PREPAID FUNERAL CONTRACTS IN FORCE (IN BILLIONS)	\$4.5	\$4.9	108.36%	*

**Actual Performance for Non-Key Measures
Fiscal Year 2023
For Period Ending August 2023**

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target
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Non-Key Measures

The dollar amount of PFC in force exceeded the target amount due to an increase in the number of outstanding PFCs as compared to FY 2022.			
9. NUMBER OF NDS LICENSEES	775	775	100.00%
10. PERCENTAGE OF NDS LICENSEES CLASSIFIED SAFE AND SOUND	95.00%	99.20%	104.42%

1-3-1 APPLICATION PROCESSING

2. # WRITTEN COMPLAINTS CLOSED	260	239	91.92%	*
The measure is not within target due to less complaints received in the fiscal year for three of the four regulated entity types tracked.				

1-4-1 REGULATORY OVERSIGHT

3. # FC MEETINGS CONVENED	6	6	100.00%	
---------------------------	---	---	---------	--

1-5-1 OPERATIONAL EFFICIENCY

2. % REGULAR EMPLOYEES SEPARATED (EXCLUDING RETIREMENTS)	9.00%	16.73%	185.89%	*
Fiscal year 2023 turnover is higher than the target due to workforce factors related to external labor force competition that increased retirements and resignations.				

*Varies by 5% or more from target.



Charles G. Cooper
Commissioner

TEXAS DEPARTMENT OF BANKING

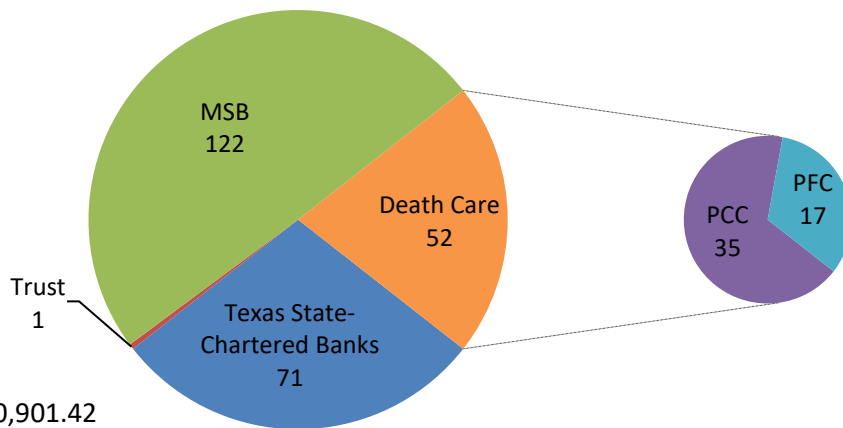
2601 North Lamar Blvd., Austin, Texas 78705

512-475-1300 /877-276-5554

www.dob.texas.gov

To: Finance Commission Members
From: Phil Lena, Financial Analyst
Date: October 4, 2023
Subject: Summary of the Strategic Support Division Activities

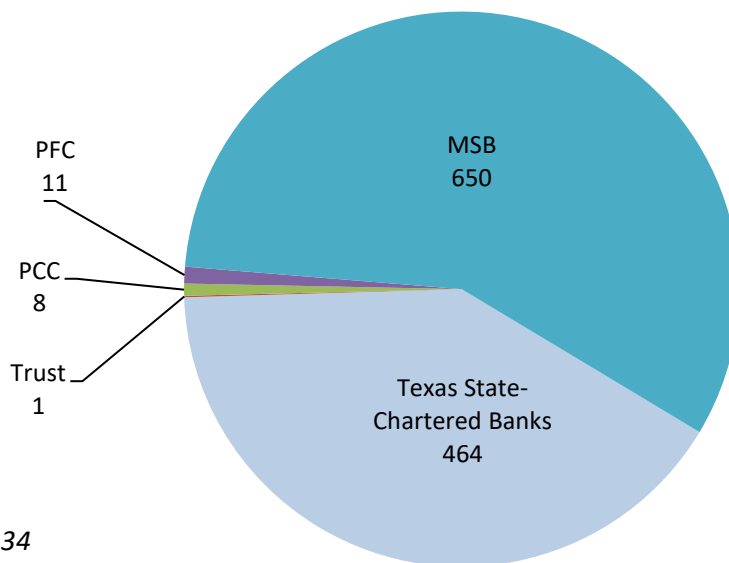
Jurisdictional Written Complaints September 2022-August 2023



Recoveries = \$120,901.42

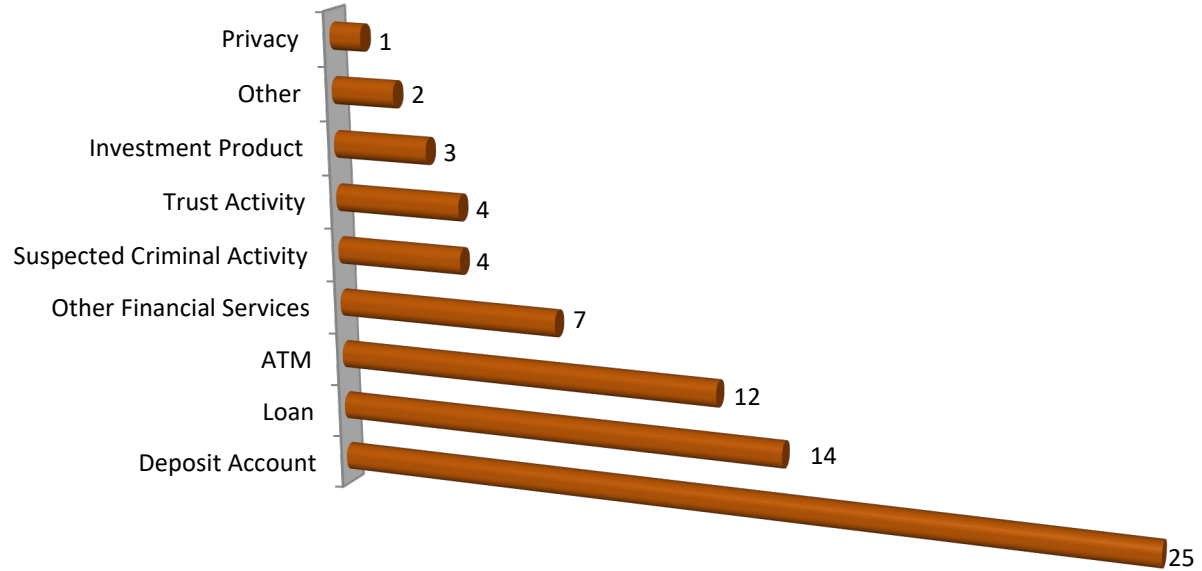
Total = 246

Inquiries on Jurisdictional Entities September 2022-August 2023



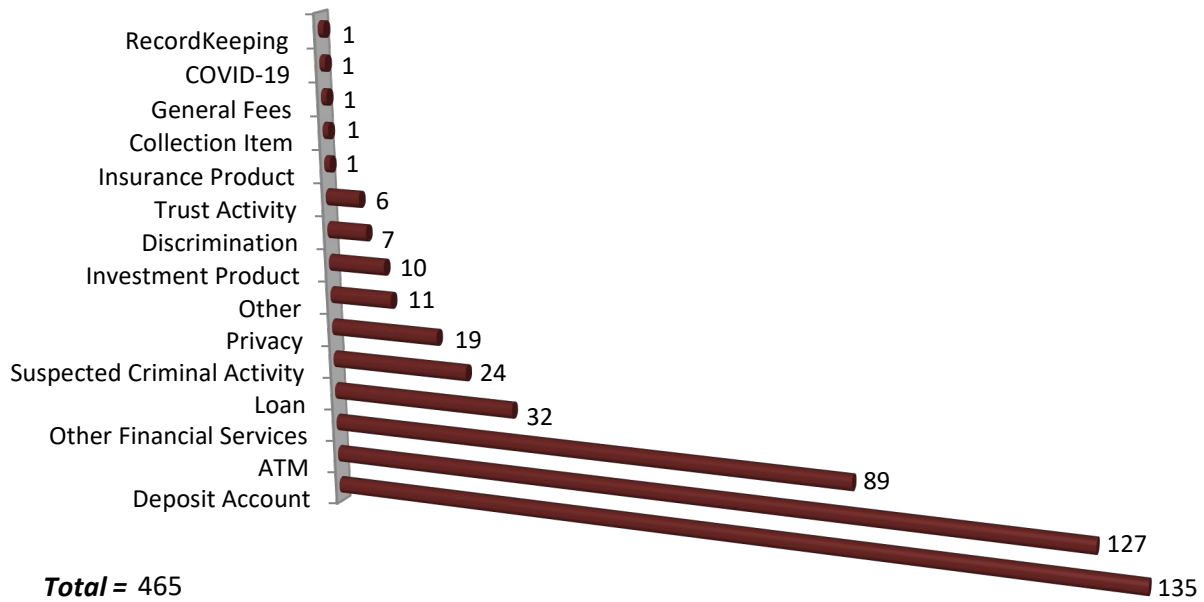
Total = 1134

**State-Chartered Banks and Trust Companies
 Written Complaints by Type
 September 2022-August 2023**



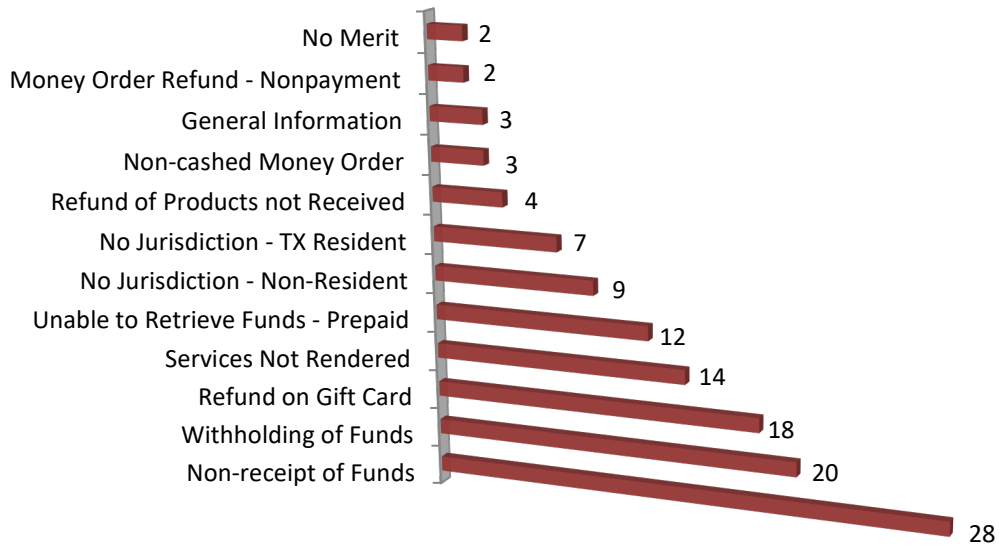
Total = 72

**State-Chartered Banks and Trust Companies
 Inquiries by Type
 September 2022-August 2023**



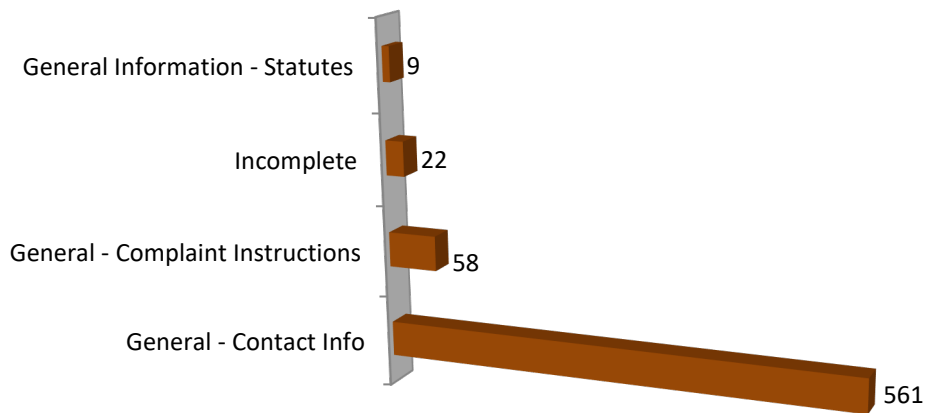
Total = 465

Money Services Businesses Written Complaints by Type September 2022-August 2023



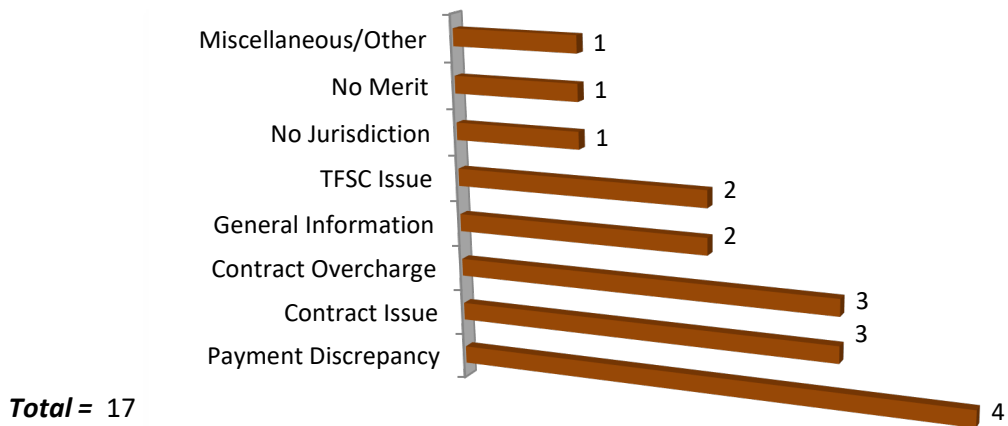
Total = 122

Money Services Businesses Inquiries by Type September 2022-August 2023

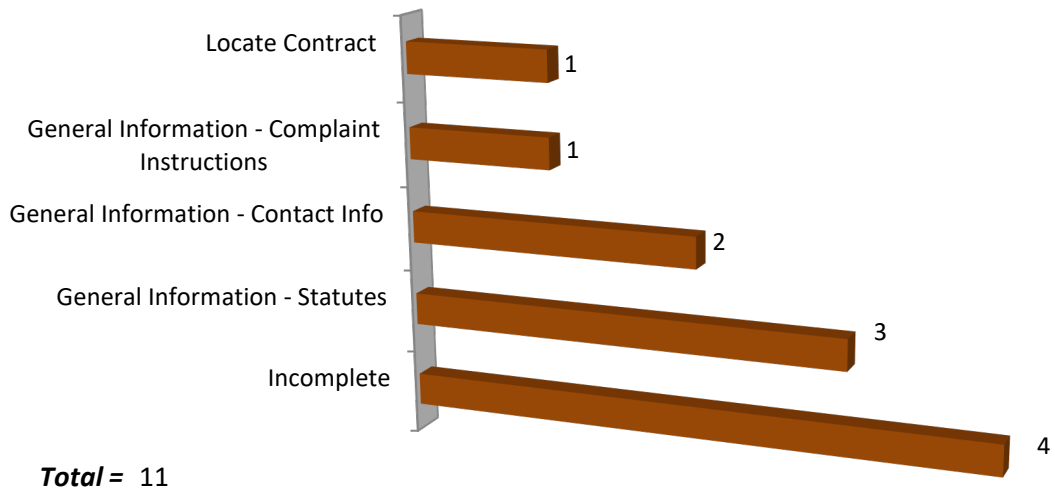


Total = 650

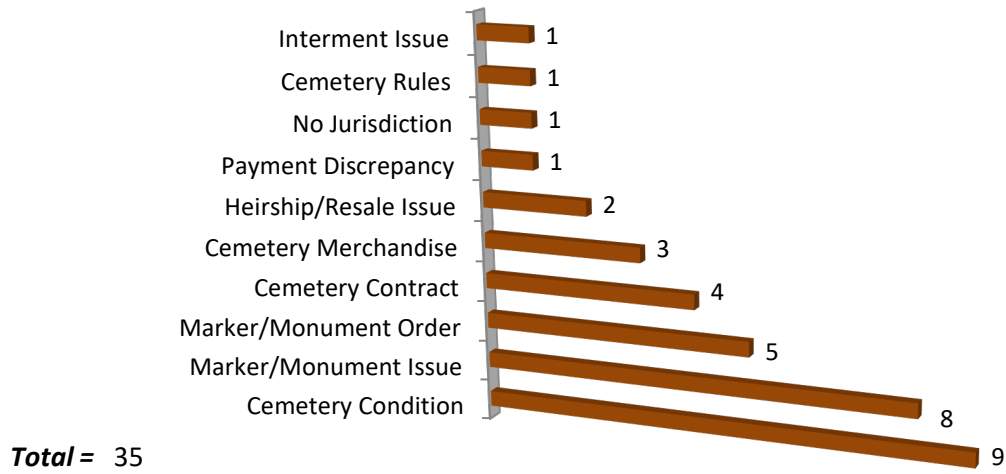
Prepaid Funeral Contract Sellers Written Complaints by Type September 2022-August 2023



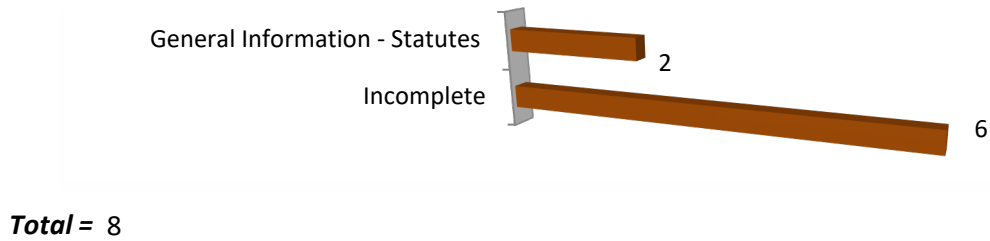
Prepaid Funeral Contract Sellers Inquiries by Type September 2022-August 2023



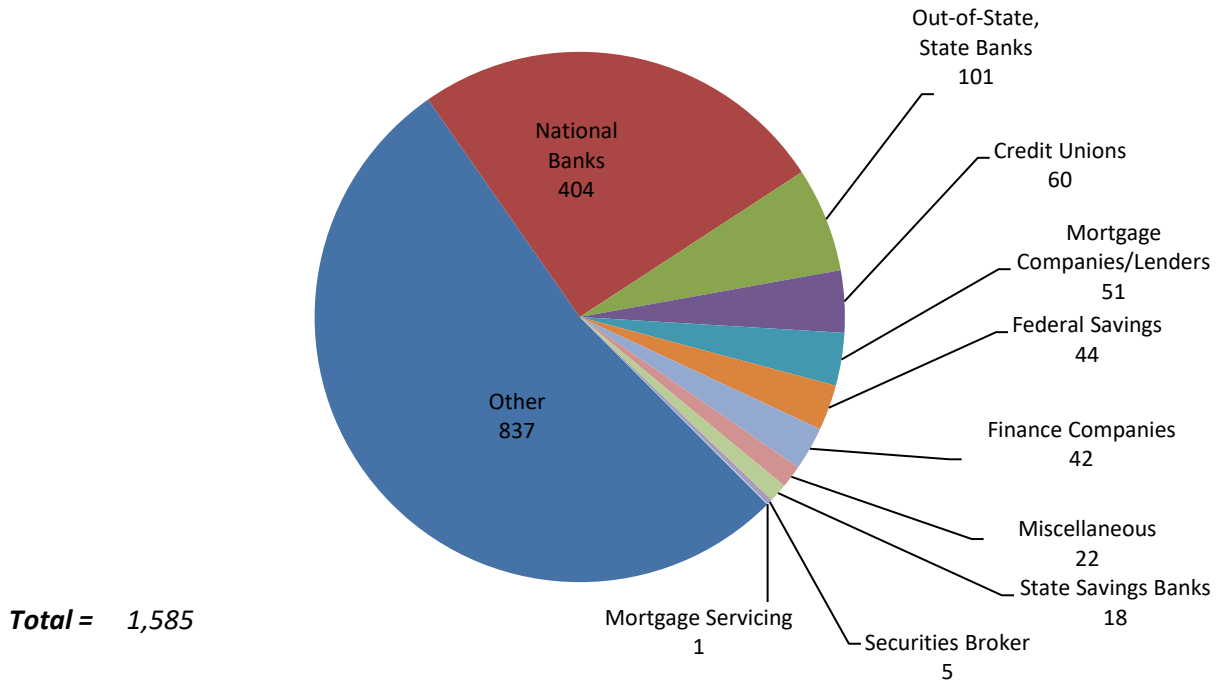
Perpetual Care Cemeteries Written Complaints by Type September 2022-August 2023



Perpetual Care Cemeteries Inquiries by Type September 2022-August 2023



Complaints and Inquiries Against Non-Jurisdictional Entities September 2022-August 2023



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.
State-Chartered Banks				
Avg. Number of Days to Close a Written Complaint	12	12	11	11
Percentage of Written Complaints Resolved Within 90 days	100%	100%	100%	100%
Number of Written Complaints Resolved	14	17	21	17
Trust				
Avg. Number of Days to Close a Written Complaint	N/A	N/A	N/A	N/A
Percentage of Written Complaints Resolved Within 90 days	N/A	N/A	N/A	N/A
Number of Written Complaints Resolved	N/A	N/A	N/A	N/A
PFC/PCC				
Avg. Number of Days to Close a Written Complaint	21	19	24	21
Percentage of Written Complaints Resolved Within 90 days	100%	100%	100%	100%
Number of Written Complaints Resolved	7	12	13	9
MSB				
Avg. Number of Days to Close a Written Complaint	26	21	21	20
Percentage of Written Complaints Resolved Within 90 days	100%	100%	100%	100%
Number of Written Complaints Resolved	39	33	36	21

Closed Account Notification System (CANS) Activity
January 1, 2020 – August 31, 2023

Entity	Enrolled	Compromised Accounts Reported
Texas State-Chartered Banks	182	356
Texas State-Chartered Savings Banks	23	55
Federal Savings Banks	10	0
State Credit Unions	135	655
Federal Credit Unions	229	561
National Banks	171	99
Out-of-State State-Chartered Banks	12	62
Out-of-State National Banks	6	0
Total	768	1,788

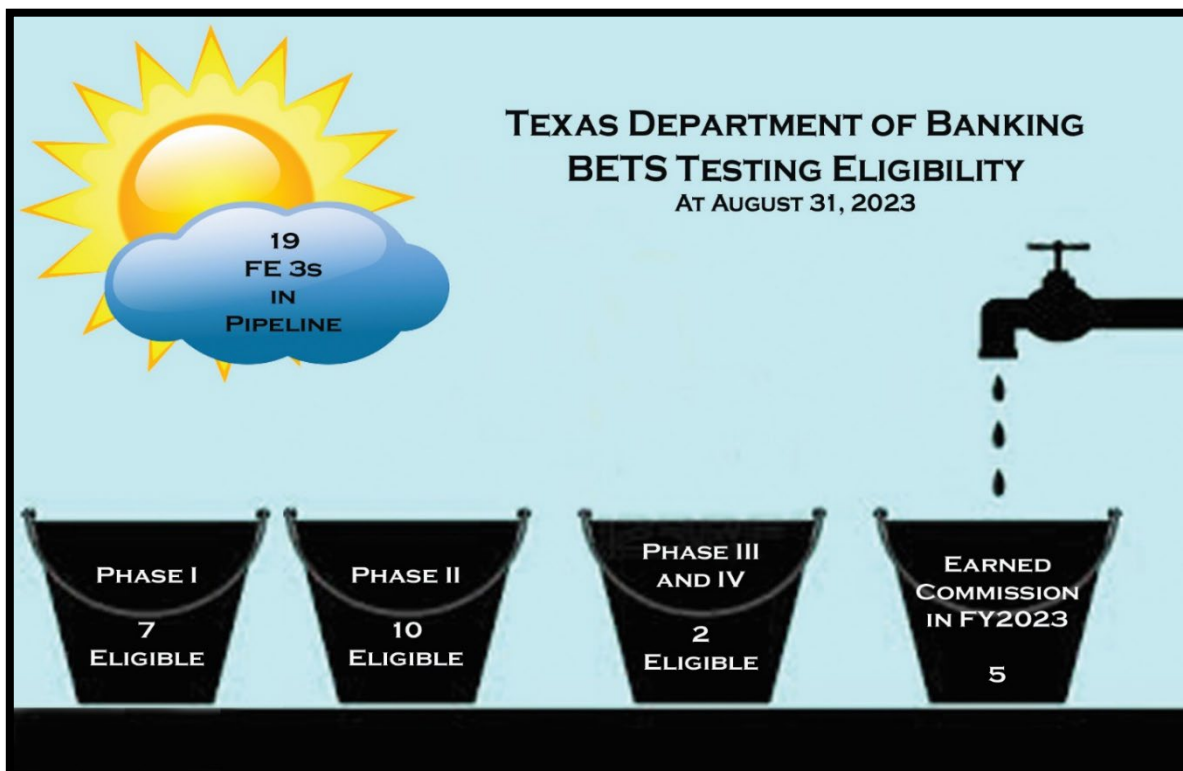
Bank Examination Testing System (BETS) Activity
Number of Candidates Passing Each Phase

	FY 2020	FY 2021	FY 2022	FY 2023 As of 08/31/2023
I. General Knowledge	4*	6	5	4
II. Loan Analysis	7	1	3	3
III. Panel	10	3	3	4
IV. Test Bank	7	5	3	6
Total FE3	15	17	13	14

Promotions

	FY 2020	FY 2021	FY 2022	FY 2023
Commissioned Examiners	7	5	3	5

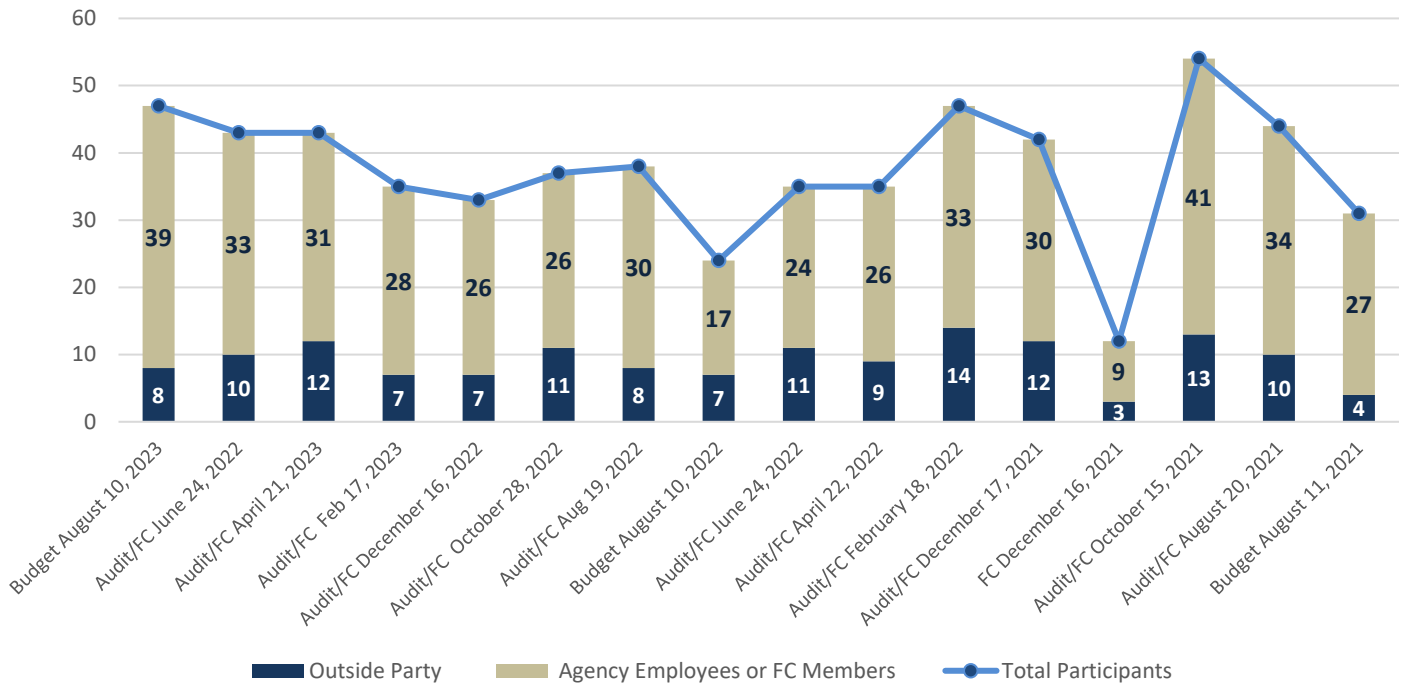
**Includes a FE V Credit Specialist*



Other Divisional Items:

- *Publications:*
 - The following were updated with June 30, 2023 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.
- *Policy Revisions/Updates:*
 - Administrative Memorandum 2024 Follow-up on Bank Compliance Examinations Conducted by Federal Regulators (October 2023)
 - Supervisory Memorandum 1006 Request for Reconsideration of Examination Findings (September 2023)
- *Examination Procedure Revisions/Updates:*
 - Commercial
 - Audit (September 2023)
 - Investment Securities (September 2023)
 - Borrowings/Liquidity (August 2023)
 - BSA/AML (August 2023)
 - Request List and Forms (August 2023)
- *Training:*
 - The training program established for new financial examiners started in June 2023. The program has progressed better than anticipated. With the success we have seen so far, this program will continue to be held for all new hires in the future.
- *Website Statistics for Fiscal Year:*
 - The Department of Banking website had 189,228 unique pageviews of the homepage. The top three pages were the Entity Search (30,321 pageviews), Consumer Information (59,288 pageviews) and Money Service Businesses (15,158 pageviews). The Financial Education webpage had 1,973 pageviews during the same period. Users are accessing the site via Desktop (162,348), mobile (129,157), and tablet devices (2,806).
 - The Finance Commission website had 26,236 Unique page views. The top three visited pages were the Home Page (14,026 pageviews), Finance Commission Meetings (4,346 pageviews), and 2023 Meetings Archive (801 pageviews). Users are accessing the site via desktop (8,550), mobile (4,231), and tablet devices (106).
 - The Texas Prepaid Funeral Contracts website had 42,886 pageviews of the homepage. The top three pages after the home page were General Information (5,481 pageviews), Prepaid Planning Brochure (4,494 pageviews) and FAQs (3,679 pageviews). Users are accessing the site via mobile (23,346), desktop (18,001), and tablet devices (1,227).

Finance Commission Webcast Historical Data





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

Memorandum

To: Finance Commission Members
From: Marcus Adams, Deputy General Counsel
Date: October 2, 2023
RE: Legal Division Update

Contested Case Hearings

Banking Commissioner of Texas v. SCI Texas Funeral Services, LLC, Prosper, Texas; Docket No. 451-23-12409.NDS. This case was brought to contest the Department's denial of an application for a certificate of authority to operate a perpetual care cemetery. Case was set for hearing at SOAH on March 20, 2023. Parties agreed to continue the hearing and participated in a prehearing conference on that date instead. On March 29, we filed a motion for summary disposition, and Respondents filed a response and cross-motion for partial summary disposition. The hearing on those motions was held remotely on May 22, 2023. The motions were denied, and a hearing was held and concluded on June 15, 2023. Post-hearing briefing was concluded on July 28, 2023. SOAH issued a Proposal for Decision on September 20, 2023. The Department filed exceptions on September 28, 2023.

Orders Issued August 1, 2023 – September 30, 2023

The Commissioner issued three enforcement orders during this period:

Non-Depository Supervision

- Consent Order dated August 17, 2023; Automatic Payroll Systems, Inc., Shreveport, Louisiana
- Consent Order dated August 26, 2023; Genesis Global Capital, LLC, Jersey City, New Jersey
- Consent Order dated September 15, 2023; YapStone, Inc., Walnut Creek, California

Public Information Requests

From August 1, 2023, through September 30, 2023, staff received and responded to 21 requests for public information addressed to the Department of Banking and received six 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 an OAG opinion was submitted during this period.

Gifts

Commissioner Cooper attended the Federal Financial Institutions Examination Council (FFIEC) State Liaison Committee (SLC) Meeting in Washington, D.C., on September 15, 2023. The FDIC paid for his airfare (\$509.81), lodging and per diem (\$577.38). The Commissioner is the current appointed SLC Chair.

Commissioner Cooper attended and served as a speaker at the Independent Bankers Association of Texas (IBAT) Annual Convention in Frisco, Texas on September 17-19, 2023. IBAT waived the Commissioner’s registration fee for the event, value \$595.00. Department staff also attended the IBAT Annual Convention and IBAT provided a complimentary tabletop exhibit, value \$1,995.00.

Finance Commission Chairman Phillip Holt attended the IBAT Annual Convention in Frisco, Texas, on September 17-19, 2023. IBAT provided Chairman Holt complimentary registration for the event, value \$595.00.

FY 2023 Quarterly Order Activity

BANK				
Type of Action	1st	2nd	3rd	4th
Consent Order	0	1	0	0
Cease & Desist	0	0	1	0
Supervision	0	0	0	0
Prohibition	2	1	2	1
Total	2	2	3	1

TRUST COMPANY				
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Supervision	0	0	0	0
Prohibition	0	0	0	0
Total	0	0	0	0

MONEY SERVICES BUSINESS				
Consent Order	4	6	2	4
Cease & Desist	1	0	0	0
Final Order after hearing	0	0	0	0
Total	5	6	2	4

PERPETUAL CARE CEMETERY				
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Refusal to Renew Cert/Auth	0	0	0	0
Final Order after hearing	0	0	0	0
Total	0	0	0	0

PREPAID FUNERAL CONTRACT				
Consent Order	0	0	0	0
Cease & Desist	0	0	0	0
Final Order	0	0	1	0
Total	0	0	1	0

2. Discussion of and Possible Vote to Take Action on the Adoption of Repeals of Certain Sections of 7 TAC, Part 2, Chapter 33, §§33.3, 33.4, 33.13, 33.23, 33.37, 33.54, Concerning Money Services Businesses.

PURPOSE: Repeal of these sections of Chapter 33 to implement Senate Bill 895 which was passed during the 88th Legislative Session.

RECOMMENDED ACTION: No comments were received regarding the proposed Repeal of 7 TAC, Part 2, Chapter 33, §§33.3, 33.4, 33.13, 33.23, 33.37, 33.54. The Department recommends that the Commission approve adoption of the Repeal without changes to the proposal as previously published in the *Texas Register*.

RECOMMENDED MOTION: I move that we adopt the Repeal of 7 TAC, Part 2, Chapter 33, §§33.3, 33.4, 33.13, 33.23, 33.37, 33.54 without changes to the proposal as previously published in the *Texas Register*.

***Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 33. Money Services Businesses
7 TAC, §§33.3, 33.4, 33.13, 33.23, 33.37,
33.54***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts the repeal of §33.3, concerning how to claim an exclusion from licensing as an agent for a federally insured financial institution or a foreign bank branch or agency; §33.4 concerning payment processors; §33.13, concerning how to obtain a new license and what deadlines are associated with applications; §33.23, concerning additional provisions that apply to permissible investments; §33.37, concerning receipts issued relating to money transmission transactions; and §33.54, concerning an exemption from licensure for securities dealers and agents. The repeals are adopted without changes to the proposed text as published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4730). The repealed sections will not be republished.

The repeals arise from the passage of Senate Bill 895, sponsored by Senator Nathan Johnson, during the 88th legislative session and provide clarity and update statutory citations. Effective September 1, 2023, Senate Bill 895 repealed Chapter 151 of the Texas Finance Code (Finance Code) and added Chapter 152 relating to the regulation of money services businesses.

Section 33.3 is repealed because it is as an outdated guideline for claiming an exclusion from licensing that is defined in statute.

Sections 33.4, 33.13, 33.23, 33.37, and 33.54 are repealed as the provisions of

the rules were incorporated in the statutory language of Finance Code, Chapter 152 and are therefore redundant.

The department received no comments regarding the proposed repeals.

The repeals are adopted under Finance Code, §152.052 which authorizes the commission to adopt rules to administer and enforce Finance Code, Chapter 152.

No statutes are affected by the repeals.

(Repealed) §33.3. *How Do I Claim an Exclusion from Licensing because I Am an Agent for a Federally Insured Financial Institution or a Foreign Bank Branch or Agency?*

§33.4. *Payment Processors.*

§33.13. *How Do I Obtain a New License and What are the Deadlines Associated with Applications?*

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

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

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

3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in Certain Sections of 7 TAC, Part 2, Chapter 33, §§33.7, 33.15, 33.27, 33.30, 33.31, 33.33, 33.35, 33.51, 33.52, 33.53, Concerning Money Services Businesses

PURPOSE: Amendments to these sections of Chapter 33 to implement Senate Bill 895 which was passed during the 88th Legislative Session.

RECOMMENDED ACTION: No comments were received regarding the proposed amendments to 7 TAC, Part 2, Chapter 33, §§33.7, 33.15, 33.27, 33.30, 33.31, 33.33, 33.35, 33.51, 33.52, 33.53. 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, Part 2, Chapter 33, §§33.7, 33.15, 33.27, 33.30, 33.31, 33.33, 33.35, 33.51, 33.52, 33.53 without changes to the proposal as previously published in the *Texas Register*.

**ADOPTION OF AMENDMENTS TO 7 TAC, Chapter 33,
§§33.7, 33.15, 33.27, 33.30, 33.31, 33.33,
33.35, 33.51, 33.52, 33.53**

Page 1 of 8

***Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 33. Money Services Businesses
7 TAC §§33.7, 33.15, 33.27, 33.30, 33.31,
33.33, 33.35, 33.51, 33.52, 33.53***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), adopts amendments to §33.7, concerning how to obtain an exemption from licensing related to exchanging currency in connection with retail, wholesale or service transactions; §33.15, concerning the options available when the department does not comply with new license application processing times; §33.27, concerning fees to obtain and maintain a license; §33.30, concerning a notice of cybersecurity incident; §33.31, concerning records relating to currency exchange transactions; §33.33, concerning receipts issued relating to currency exchange transactions; §33.35, concerning records relating to money transmission transactions; §33.51, concerning providing information to customers on how to file a complaint; §33.52, concerning notice relating to authorized delegates; and §33.53, concerning an exemption from licensure for debt management service providers. These amendments are adopted without changes to the proposed text as published in the September 1, 2023 issue of the *Texas Register* (48 TexReg 4731). The amended rules will not be republished.

The proposed amendments arise from the passage of Senate Bill 895, sponsored by Senator Nathan Johnson, during the 88th legislative session and provide clarity and update statutory citations. Effective September 1, 2023, Senate Bill 895 repealed

Chapter 151 of the Texas Finance Code (Finance Code) and added Chapter 152 relating to the regulation of money services businesses.

The adopted amendments to sections 33.7, 33.15, 33.27, 33.30, 33.31, 33.33, 33.35, 33.51, 33.52, and 33.53 update existing citations to reference Chapter 152 of the Finance Code.

The department received no comments regarding the proposed amendments-

The amendments are adopted pursuant to Finance Code, §152.052 which authorizes the commission to adopt rules to administer and enforce Finance Code, Chapter 152.

Finance Code §§ 152.003, 152.056, 152.057, 152.102, 152.106, 152.107, 152.207, 152.253, and 152.303 are affected by the adopted amended sections.

§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

**ADOPTION OF AMENDMENTS TO 7 TAC, Chapter 33,
§§33.7, 33.15, 33.27, 33.30, 33.31, 33.33,
33.35, 33.51, 33.52, 33.53**

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in the currency of a different foreign country or government; and

(C) qualify for an exemption under Finance Code, §152.102(e).

(2) This section does not apply, and you do not conduct currency exchange within the meaning of Finance Code, Chapter 152, or need a currency exchange license under the Act, if you accept payment for your goods or services in a foreign currency or a check denominated in a foreign currency and any change you make or give in connection with the transaction is in the same foreign currency as the payment you receive.

(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, §152.102(e)(1) – (5), apply to you. For purposes of the subsection (e)(4) 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.)

§33.15. What May I Do If the Department Does Not Comply with the New License

Application Processing Times?

(a) Does this section apply to me? This section applies if you applied for a new money transmission or currency exchange license under Finance Code, Chapter 152, and you believe that the department failed to comply with the application processing times specified in Finance Code, §152.106.

(b) What does “promptly” mean for purposes of Finance Code, §152.106(a) and this rule? “Promptly” means on or before the 30th day after the date the department receives your application.

(c) May I file a complaint? Yes. If the department does not process your application for a new money transmission or currency exchange license within the time periods specified in Finance Code, 152.106, you may file a written complaint with the banking commissioner. The complaint must set out the facts regarding the delay and the specific relief you seek. The department must receive your complaint on or before the 30th day after the date the commissioner approves or denies your license application.

(d) How will the banking commissioner evaluate my complaint?

(1) – (3) (No change.)

(e) When will the banking commissioner notify me of the decision? The banking commissioner will notify you of the decision regarding your complaint on or before the 60th day after the date the commissioner receives your written complaint. The commissioner's decision is final and may not be appealed.

**ADOPTION OF AMENDMENTS TO 7 TAC, Chapter 33,
§§33.7, 33.15, 33.27, 33.30, 33.31, 33.33,
33.35, 33.51, 33.52, 33.53**

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(f) What happens if the banking commissioner decides in my favor? If the banking commissioner decides that the department exceeded the applicable time period without good cause, the department will reimburse you all of your application fees.

(g) Does the banking commissioner's decision regarding my complaint affect the decision on my application? No. A decision in your favor under this section does not affect any decision by the banking commissioner to grant or deny your license application. The decision to grant or deny your license application is based upon applicable substantive law without regard to whether the department timely processed your application.

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

(a) Does this section apply to me? This section applies if you hold a money transmission or currency exchange license issued under Finance Code, Chapter 152, or are an applicant for a new money transmission or currency exchange license, as applicable. This section also applies if you are a person other than a license holder or applicant and are investigated under the authority of Finance Code, §152.056.

(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 152, including the annual license fee required by Finance Code, §152.107(d)(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, §152.057, 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, §§152.056 or 152.106.

(c) What provisions of Finance Code, Chapter 152, authorize the fees, assessments, and reimbursements required under this section? The fees, assessments, and reimbursements established by or required under this section are authorized by one or more of the following provisions of Finance Code, Chapter 152: §§152.052(b)(1), 152.056(e), 152.107(d)(1), 152.104(d), and 152.151(b)(2).

(d) What fees must I pay to obtain a new license?

(1) You must pay a \$10,000 application fee to obtain a new money transmission license or a \$5,000 application fee to obtain a currency exchange license. If your application is accepted for processing pursuant to Finance Code, §152.106, your application fee will be nonrefundable. You may also be required to pay the following additional fees:

**ADOPTION OF AMENDMENTS TO 7 TAC, Chapter 33,
§§33.7, 33.15, 33.27, 33.30, 33.31, 33.33,
33.35, 33.51, 33.52, 33.53**

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(A) – (C) (No change.)

(2) The commissioner may reduce the fees required under paragraph (1) of this subsection, if the commissioner determines that a lesser amount than would otherwise be collected is necessary to administer and enforce Finance Code, Chapter 152, and this chapter.

(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, §152.107(d)(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). (No change.)

(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). (No change.)

(3) If you are a new license holder and have not yet filed your first annual report under Finance Code, §152.107(d)(2), you must pay an examination fee of \$75 per hour for each examiner and all associated

travel expenses for an examination.

(f) What fees must I pay in connection with a department investigation?

(1) If the commissioner considers it necessary or appropriate to investigate you or another person in order to administer and enforce Finance Code, Chapter 152, as authorized under §152.056, you or the investigated person must pay the department an investigation fee calculated at a rate of \$75.00 per employee hour for the investigation and all associated travel expenses.

(2) – (3) (No change.)

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

(1) – (3) (No change.)

(4) The commissioner may reduce the filing fees described in paragraph (1) or (2) of this subsection, if the commissioner determines that a lesser amount than would otherwise be collected is necessary to administer and enforce Finance Code, Chapter 152, and this chapter.

(h) What other fees must I pay?

(1) If the department does not receive your completed annual report on or before the due date prescribed by the commissioner under Finance Code, §152.107, you must pay a late fee of \$100 per day for each business day after the due date that the department does not

**ADOPTION OF AMENDMENTS TO 7 TAC, Chapter 33,
§§33.7, 33.15, 33.27, 33.30, 33.31, 33.33,
33.35, 33.51, 33.52, 33.53**

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receive your completed annual report.

(2) If more than one examination is required in the same fiscal year because of your failure to comply with Finance Code, Chapter 152, this chapter, or a department directive, you must pay for the additional examination at a rate of \$75 per hour for each examiner required to conduct the additional examination and all associated travel expenses. A fiscal year is the 12-month period from September 1st of one year to August 31st of the following year.

(3) (No change.)

(4) If the commissioner determines it is necessary to conduct an on-site examination of your authorized delegate to ensure your compliance with Finance Code, Chapter 152, you must pay an examination fee of \$75 per hour for each examiner and any associated travel expenses.

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

(1) – (2) (No change.)

(3) Your annual assessment required under subsection (e) of this section may be billed in quarterly or fewer installments in such periodically adjusted amounts as reasonably necessary to pay for the costs of examination and to administer Finance Code, Chapter 152. You must pay the annual assessment fee by ACH debit, or by another method if directed to do so by the department. At least 15 days prior to the scheduled ACH

transfer, the department will send you a notice specifying the amount of the payment due and the date the department will initiate payment by ACH debit. The commissioner may decrease your annual assessment if it is determined that a lesser amount than would otherwise be collected is necessary to administer the Act.

(4) – (8) (No change.)

(j) (No change.)

§33.30. Notice of Cybersecurity Incident.

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

(1) – (2) (No change.)

(3) "You" means a holder of a money transmission or currency exchange license issued under Finance Code, Chapter 152.

(b) – (e) (No change.)

§33.31. What Records Must I Keep Related to Currency Exchange Transactions?

(a) Does this section apply to me? This section applies if you hold a license issued by the department under Finance Code, Chapter 152, or are the authorized delegate of a license holder, as applicable, and you conduct currency exchange transactions.

(b) What are the general recordkeeping requirements?

**ADOPTION OF AMENDMENTS TO 7 TAC, Chapter 33,
§§33.7, 33.15, 33.27, 33.30, 33.31, 33.33,
33.35, 33.51, 33.52, 33.53**

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(1) As a general matter, you must maintain:

(A) records of all filings made, and that contain all information required, under applicable federal laws and regulations, including the BSA and 31 CFR Chapter X;

(B) in addition to the records required under Finance Code, Chapter 152, the records required under this section related specifically to currency exchange transactions; and

(C) records sufficient to enable you to file accurate and complete reports with the commissioner or department in accordance with Finance Code, Chapter 152 and Chapter 33 of this title (relating to Money Services Businesses).

(2) (No change.)

(c) (No change.)

(d) May I obtain a waiver of the recordkeeping requirements? The commissioner may waive any requirement of this section upon a showing of good cause if the commissioner determines that:

(1) you maintain records sufficient for the department to examine your currency exchange business; and

(2) the imposition of the requirement would cause an undue burden on you and conformity with the requirement would

not significantly advance the state's interest under Finance Code, Chapter 152.

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

(a) Does this section apply to me? This section applies if you hold a license issued by the department under Finance Code, Chapter 152, or are the authorized delegate of a license holder, as applicable, and you conduct currency exchange transactions.

(b) (No change.)

§33.35. What Records Must I Keep Related to Money Transmission Transactions?

(a) Does this section apply to me? This section applies to you if you hold a money transmission license issued by the department under Finance Code, Chapter 152, or are the authorized delegate of a license holder, as applicable.

(b) What are the general recordkeeping requirements?

(1) As a general matter, you must maintain:

(A) records of all filings made, and that contain all information required, under applicable federal laws and regulations, including the Bank Secrecy Act and 31 CFR Chapter X (collectively BSA);

(B) in addition to the records required under Finance Code, Chapter 152, the records required in

**ADOPTION OF AMENDMENTS TO 7 TAC, Chapter 33,
§§33.7, 33.15, 33.27, 33.30, 33.31, 33.33,
33.35, 33.51, 33.52, 33.53**

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this section related to specific types of money transmission transactions; and

(C) records sufficient to enable you to file accurate and complete reports with the commissioner or department in accordance with Finance Code, Chapter 152 and Chapter 33 of this title (relating to Money Services Businesses).

(2) – (4) (No change.)

(c) – (f) (No change.)

(g) May I obtain a waiver of the recordkeeping requirements? The commissioner may waive any requirement of this section upon a showing of good cause if the commissioner determines that:

(1) you maintain records sufficient for the department to examine your money transmission business; and

(2) the imposition of the requirement would cause an undue burden on you and conformity with the requirement would not significantly advance the state's interest under Finance Code, Chapter 152.

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

(a) Does this section apply to me? This section applies if you hold a money transmission or currency exchange license issued by the department under Finance Code, Chapter 152.

(b) Definitions. Words used in this

section that are defined in Finance Code, Chapter 152, 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) – (4) (No change.)

(c) – (e) (No change.)

(f) How do I provide the required notice if I conduct business through authorized delegates?

(1) If you conduct business through one or more authorized delegates, each authorized delegate must provide the required notice by one or more of the methods described in subsection (e)(3) of this section. You must specify the method or methods to be used by your authorized delegate and provide your authorized delegate with the means by which to give the notice you select.

(2) If your authorized delegate personally receives all funds paid by your customers and you require your authorized delegate to post the required notice described in subsection (e)(3)(B) of this section, you may use one posted notice to provide the required notice and the authorized delegate designation required under §33.52 of this title.

(g) Am I subject to an enforcement action if I do not provide the required notice? Yes. You are subject to enforcement sanctions under Finance Code, Chapter 152, Subchapter I, if you:

**ADOPTION OF AMENDMENTS TO 7 TAC, Chapter 33,
§§33.7, 33.15, 33.27, 33.30, 33.31, 33.33,
33.35, 33.51, 33.52, 33.53**

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(1) – (2) (No change.)

(h) (No change.)

§33.52. Authorized Delegate Notice.

(a) In addition to the complaint notice required by §33.51(f) of this title, an authorized delegate of a money transmission license holder appointed in accordance with Texas Finance Code, Chapter 152, Subchapter F, must provide each of its Texas customers with notice that:

(1) – (3) (No change.)

(b) – (c) (No change.)

§33.53. Exemption for Debt Management Service Providers.

(a) (No change.)

(b) A debt management service provider who, in the course of conducting its debt management services, receives money from consumers for distribution to the consumer's creditors need not obtain a money transmission license if that provider:

(1) is registered and in good standing with the Office of Consumer Credit Commissioner as a debt management service provider under Finance Code Chapter 394;

(2) is in compliance with all requirements of Finance Code Chapter 394 and 7 TAC Chapter 88 (relating to Consumer Debt Management Services); and

(3) conducts no money transmission as defined by Finance Code §152.003, except as necessary to provide debt management services to contractual customers.

(c) – (d) (No change.)

4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments in 7 TAC, Part 2, Chapter 12, Concerning Loans and Investments by State-Chartered Banks.

PURPOSE: Amendments to these sections of Chapter 12 to conform the rules to changes in applicable Texas law, federal regulation, and accounting standards.

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

RECOMMENDED MOTION: I move that we publish the proposed amendments to 7 TAC, Part 2, Chapter 12 in the *Texas Register* for comment.

***Title 7. Banking and Securities
Part 2. Texas Department of Banking
Chapter 12. Loans and Investments***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend Chapter 12 of Title 7 of the Texas Administrative Code, concerning loans and investments by state banks. The amended rules are proposed to conform the rules to changes in applicable Texas law, federal regulation, and accounting standards.

Subchapter A of Chapter 12 governs lending limits for state banks as required by the Texas Finance Code (Finance Code). Section 12.2 provides various definitions for Subchapter A that incorporate various concepts and standards from other state laws and from federal banking regulations and generally accepted accounting standards to ensure clear, consistent, and fair regulation with minimal additional burden. Certain citations in Section 12.2 to Texas laws, federal regulations, and Financial Accounting Standards Board are no longer correct and need to be updated. Although the citations for those other requirements have changed, the substance of those requirements have not materially changed. In addition, state banks are already subject to these other requirements as currently in effect.

Section 12.6 of Subchapter A indicates that a state bank has the option of obtaining an opinion from the Texas Attorney General about the applicability of the Finance Code's lending limit to loans guaranteed by various government agencies. However, Section 402.042 of the Texas Government Code does not permit a state bank to request such an

opinion. This reference should be removed from the lending limit rules.

Section 12.6 of Subchapter A also indicates that that the department, rather than the Banking Commissioner (commissioner), should make certain determinations for whether temporary purchases of mortgages by state banks are subject to the lending limit. This is inconsistent with other provisions of Subchapter A, which provide that the commissioner should make similar determinations rather than the department. This should be made consistent by amending this rule to require the commissioner to make this determination.

Subchapter B of Chapter 12 governs lending by Texas state banks. Section 12.33 of Subchapter B references the Uniform Electronic Transactions Act, which is now in Chapter 322 of the Texas Business and Commerce Code. This statutory reference should be updated.

For the particular sections of Subchapter A and Subchapter B being amended for other reasons, some minor stylistic edits are made to improve clarity and consistency within Chapter 12.

No amendments are proposed for Subchapter C and Subchapter D of Chapter 12.

Jared Whitson, Director of Bank and Trust Supervision, has determined that for the first five years the proposed amended rules are in effect, there will be no foreseeable increases or reductions in costs or other fiscal implications to state or local government as a result of enforcing or administering the rules as amended.

Director Whitson has further determined that for the first five years the proposed amended rules are in effect, the public benefit anticipated from enforcing the rules is ensuring that the Finance Code lending limits and other lending laws will be enforced for the benefit of borrowers, banks, and bank depositors and shareholders in a manner that is clear and not unnecessarily complex for state banks, and consistent with applicable Texas law, federal regulations, and account standards.

Director Whitson has also determined that for the first five years the proposed amended rules are in effect the economic costs to persons required to comply with the rules as proposed will be unchanged from the costs required under these rules as they currently exist.

In addition, Director Whitson has determined that for the first five years the proposed amended rules are in effect, the rules will not:

- create or eliminate a government program;
- require the creation of new department employee positions or the elimination of existing agency employee positions;
- require an increase or decrease in future legislative appropriations to the department;
- requires an increase or decrease in fees paid to the department;
- create a new regulation; or
- increase or decreases the number of individuals subject to the rules' applicability.

Finally, Director Whitson has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities from the proposed amended rules and no difference in the cost of compliance for these entities.

To be considered, comments on the proposed amendments must be submitted to the department in writing no later than 5:00 p.m. on December 11, 2023. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

This proposal is made under the authority of Finance Code §11.301 which authorizes the commission to adopt rules applicable to state banks, and Finance Code, §31.003, which authorizes the commission to adopt rules necessary to preserve or protect the safety and soundness of state banks.

This proposal affects the statutes administered and enforced by the department's commissioner with respect to state banks, contained in Finance Code, Subtitle A. No other statute is affected by this proposal.

§12.2. Definitions.

(1) - (3) (No change.)

(4) Credit derivative--As defined in 12 C.F.R. §324.2 (or 12 C.F.R. §217.2 in the case of a bank that is a member of the Federal Reserve System) [~~§2 of the federal capital adequacy guidelines~~].

(5) - (6) (No change.)

(7) Eligible credit derivative--A single-name credit derivative or a standard, non-tranched index credit derivative provided that:

(A) the derivative contract meets the requirements of an eligible guarantee, as defined in 12 C.F.R. §324.2 (or 12 C.F.R. §217.2 in the case of a bank that is a member of the Federal Reserve System) [~~§2 of the federal capital adequacy guidelines~~], and has been confirmed by the protection purchaser and the protection provider;

(B) any assignment of the derivative contract has been confirmed by all relevant parties;

(C) if the credit derivative is a credit default swap, the derivative contract includes the following credit events:

(i) failure to pay any amount due under the terms of the reference exposure, subject to any applicable minimal payment threshold that is consistent with standard market practice and with a grace period that is closely in line with the grace period of the reference exposure; and

(ii) bankruptcy, insolvency, restructuring (for obligors not subject to bankruptcy or insolvency), or inability of the obligor on the reference exposure to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and similar events;

(D) the terms and conditions dictating the manner in which the derivative contract is to be settled are incorporated into the contract;

(E) if the derivative contract allows for cash

settlement, the contract incorporates a robust valuation process to estimate loss with respect to the derivative reliably and specifies a reasonable period for obtaining post-credit event valuations of the reference exposure;

(F) if the derivative contract requires the protection purchaser to transfer an exposure to the protection provider at settlement, the terms of at least one of the exposures that is permitted to be transferred under the contract provides that any required consent to transfer may not be unreasonably withheld; and

(G) if the credit derivative is a credit default swap, the derivative contract clearly identifies the parties responsible for determining whether a credit event has occurred, specifies that this determination is not the sole responsibility of the protection provider, and gives the protection purchaser the right to notify the protection provider of the occurrence of a credit event.

(8) (No change.)

(9) ~~Deleted. [Federal capital adequacy guidelines--The federal reference entitled "Capital Adequacy Guidelines for Banks: Internal Ratings Based and Advanced Measurement Approaches," codified as Appendix D to 12 C.F.R. part 325 (or Appendix F to 12 C.F.R. part 208 in the case of a bank that is a member of the Federal Reserve System).]~~

(10) ~~Deleted. [Federal risk based capital standards--The federal system for calculating a bank's equity capital and its specified components, set forth in Appendix A to 12 C.F.R. part 325 (or Appendix A to 12 C.F.R. part 208 in the case of a bank that is a member~~

of the Federal Reserve System).]

(11) Qualifying central counterparty--As defined in 12 C.F.R. §324.2 (or 12 C.F.R. §217.2 in the case of a bank that is a member of the Federal Reserve System) [~~§2 of the federal capital adequacy guidelines~~].

(12) Qualifying master netting agreement--As defined in 12 C.F.R. §324.2 (or 12 C.F.R. §217.2 in the case of a bank that is a member of the Federal Reserve System) [~~§2 of the federal capital adequacy guidelines~~].

(13) - (14) (No change.)

(15) Tier 1 capital--A state bank's unimpaired capital and surplus. A state bank's Tier 1 capital is calculated under 12 C.F.R. part 324 (or 12 C.F.R. part 217 in the case of a bank that is a member of the Federal Reserve System) [~~the federal risk-based capital standards~~], is reported in the bank's most recent call report, and is periodically recalculated as provided by §12.11 of this title (relating to Calculation of Lending Limit).

(16) Unimpaired capital and surplus--A state bank's core capital, equal to its Tier 1 capital calculated under 12 C.F.R. part 324 (or 12 C.F.R. part 217 in the case of a bank that is a member of the Federal Reserve System) [~~the federal risk-based capital standards~~], and referred to as Tier 1 capital in this chapter.

§12.3. Loans and Extensions of Credit.

(a) (No change.)

(b) Loans or extensions of credit for purposes of the Finance Code, §34.201, and this subchapter do not include:

(1) funds advanced to or for the benefit of a borrower by a bank for taxes or insurance associated with collateral security for a loan or extension of credit, as well as funds advanced for utilities, security, and maintenance expenses associated with real property securing a loan or extension of credit, but only if necessary to preserve the value of the real property or other collateral security and consistent with safe and sound banking practices, provided the bank maintains sufficient records to demonstrate the necessity of the advance, and such advances are included in loans and extensions of credit thereafter until repaid for the purpose of determining whether additional loans or extensions of credit to the same borrower may be made within applicable lending limits;

(2) accrued and discounted interest on an existing loan or extension of credit, including interest that has been capitalized from prior notes and interest that has been advanced under terms and conditions of a loan agreement;

(3) that portion of a loan or extension of credit sold as a participation by a bank on a nonrecourse basis, provided the participation results in a pro rata sharing of credit risk proportionate to respective interests of the originating and participating lenders, except that:

(A) notwithstanding any requirement of Financial Accounting Standard Board Accounting Standard Codification Topic 860, Transfers and Servicing [~~Statement of Financial Accounting Standards No. 166 (Financial Accounting Standards Bd. 2009)~~], for lending limit purposes, if the participation

agreement provides that repayment must be applied first to the portions sold, a pro rata sharing will be considered to exist only if, in the event of default or comparable event provided in the agreement, the participants share in all subsequent repayments and collections in proportion to their actual percentage participation at the time of the occurrence of the event;

(B) if the originating bank funds the entire loan, the participants must be contractually obligated to remit their portion to the bank before the close of business (the time at which the bank closes its accounting records for the business day) on the next business day of the originating bank or its portion funded by the originating bank will be considered a loan by the originating bank to the borrower;

(C) in the case of a participation sold in an existing loan, the amount of the participation may not be subtracted from the outstanding loans and extensions of credit of the originating bank until the proceeds of sale are in the possession of the originating bank; and

(D) a loan participation agreement that provides for weekly settlement of amounts due to and from the participants meets the requirements of this paragraph if the outstanding balance to the borrower from the originating bank does not at any time exceed the bank's legal lending limit;

(4) an advance against uncollected funds in the normal course of collection pursuant to the bank's availability schedule issued in compliance with Regulation CC (12 C.F.R. §229.1 et seq.), including the amount of an item that must be credited to the customer under the bank's availability schedule but

remains uncollected and unreturned because of a delay or defect in the collection system;

(5) the sale of Federal funds with a maturity of one day or less, or Federal funds sold under a continuing contract, including contracts that provide for weekly settlement if the parties have the contractual right to obtain their funds at maturity of each transaction;

(6) intra-day credit exposures arising from a derivative transaction or a securities financing transaction;

(7) a renewal or restructuring of a nonconforming loan as a new loan or extension of credit, subject to compliance with §12.10(b) of this title (relating to Nonconforming Loans); and

(8) that portion of one or more loans or extensions of credit, not to exceed 15% of the bank's Tier 1 capital, with respect to which the bank has purchased protection in the form of a single-name eligible credit derivative [~~that meets the requirements of §12.2(a)(7) of this title (relating to Definitions)~~] from an eligible protection provider if the reference obligor is the same legal entity as the borrower in the loan or extension of credit and the maturity of the protection purchased equals or exceeds the maturity of the loan or extension of credit.

§12.6. Loans Not Subject to Lending Limits.

(a) - (e) (No change.)

(f) Government guaranteed loans. Pursuant to Finance Code, §34.201(a)(8), a loan or extension of credit to a borrower is not subject to the limitations of the Finance

Code, §34.201, or this subchapter to the extent secured by unconditional takeout commitments, insurance, or guarantees of a governmental entity described in subsection (c) or (e) of this section, provided the commitment or guarantee is payable only in cash or its equivalent. If the purchasing, insuring, or guaranteeing entity is described in subsection (c) of this section, the lending bank must obtain an opinion of counsel [~~or the opinion of the attorney general~~] that the unconditional takeout commitment, insurance, or guarantee is a valid and enforceable general obligation of the purchasing, insuring, or guaranteeing entity. A takeout commitment, insurance, or guarantee is considered unconditional if the protection afforded the bank is not substantially diminished or impaired if loss should result from factors beyond the bank's control. Protection against loss is not materially diminished or impaired by procedural requirements such as an agreement to pay on the obligation only in the event of default, including default over a specific period of time, a requirement that notification of default be given within a specific period after its occurrence, or a requirement of good faith on the part of the bank.

(g) Loans secured by segregated deposit accounts. Pursuant to the Finance Code, §34.201(a)(10), loans or extensions of credit are not subject to the limitations of the Finance Code, §34.201, and this subchapter to the extent secured by a segregated deposit account in the lending bank, provided that:

(1) the lending bank has perfected its security interest in the deposit under applicable law;

(2) if the deposit is eligible for withdrawal before the secured loan matures, the bank establishes internal procedures to prevent release of the security without the lending bank's prior consent; and

(3) if the deposit is denominated and payable in a currency other than that of the loan or extension of credit that it secures, the deposit currency is freely convertible to U.S. dollars, except that only that portion of the loan or extension of credit that is fully secured by the U.S. dollar value of the deposit qualifies for exception and only if the lending bank establishes procedures to periodically revalue foreign currency deposits to ensure that the loan or extension of credit remains fully secured at all times.

(h) Discount of installment consumer paper.

(1) Loans and extensions of credit to one borrower arising from the discount of negotiable or nonnegotiable installment consumer paper that carries a full recourse endorsement or unconditional guarantee of payment by the person transferring the paper to the bank is considered a loan or extension of credit to the transferor, as well as the maker, and subject to the general lending limit, except that the loan or extension of credit will not be considered made to the transferor to the extent the bank has met the requirements of the Finance Code, §34.201(a)(11), and this subsection. If the transferor of the paper offers only partial recourse to the bank, the exception provided by the Finance Code, §34.201(a)(11), and this subsection is available only to the extent of the total amount of paper the transferor may be obligated to repurchase or has guaranteed. An unconditional guarantee may

be in the form of a repurchase agreement, separate guarantee agreement, or other agreement having the same effect. A condition reasonably within the power or control of the bank to perform will not render conditional an otherwise unconditional guarantee.

(2) In order to claim the installment consumer paper exception under the Finance Code, §34.201(a)(11), and this subsection, the bank must demonstrate its reliance on the maker of the paper by maintaining records supporting the bank's independent credit analysis of the maker's ability to repay the loan or extension of credit, maintained by the bank or a third party that is contractually obligated to make those records available for examination purposes, and a written certification by an officer of the bank, specifically designated by the board of the bank for this purpose, that the bank is relying primarily on the maker for repayment of the loan or extension of credit and not on a full recourse endorsement or unconditional guarantee by the transferor. If installment consumer paper is purchased in substantial quantities, the required records, evaluation, and certification must be in a form appropriate for the class and quantity of paper involved. The bank may use sampling techniques, or other appropriate methods, to independently verify the reliability of the credit information supplied by the seller.

(3) As used in this subsection, a consumer is the end user of a product, commodity, good, or service, whether leased or purchased, but not a person who purchases products or commodities for the purpose of resale or fabrication into goods for sale. Consumer paper includes paper relating to the lease or purchase of automobiles, mobile homes,

residences, office equipment, household items, tuition fees, insurance premiums, and other consumer items. Consumer paper also includes paper relating to the lease or purchase of equipment for use in manufacturing, farming, construction, or excavation, if the bank is neither the lessor nor owner of the property.

(4) A bank may purchase and temporarily hold mortgages for sale to investors in the secondary market, and consider the purchases as loans to individual mortgagors rather than a mortgage warehouse facility, by purchasing without recourse to the transferor or, if purchased with recourse, by complying with this subsection. Whether an actual purchase is considered to occur depends on both the nature of the relationship established between the bank and other parties to the contractual arrangements and on assessment of the economic substance of the transaction. Failure to meet any one of the criteria listed below [~~applied by the department~~] does not necessarily result in characterization of an ostensible purchase transaction as a mortgage warehouse facility to the originator. In determining whether the economic substance of a transaction constitutes a purchase, the banking commissioner [~~department~~] will consider whether:

(A) provisions of the contractual arrangements governing the mortgage transfers consistently reflect a relationship of buyer and seller between the bank and the transferor, and whether the bank in fact acts as the owner of the mortgages;

(B) the bank obtains possession or control of the bearer instruments conveying ownership, including the original note, deed of trust,

assignment from the transferor, and a power of attorney from the transferor for instruments endorsed in blank, provided that possession or control may also be established through safekeeping or custodial arrangements between the bank and a third party agent or bailee;

(C) the bank takes possession or control of underlying underwriting documents, provided that possession or control of the underwriting documents by the investor is not inconsistent with characterization of the bank as a purchaser and owner of the mortgages;

(D) the bank receives and controls the sales proceeds when remitted from the investor;

(E) the bank demonstrates reliance on the maker by reviewing the credit quality and documentation underlying a mortgage prior to committing to make the purchase, provided that a bank purchasing mortgages in significant quantities may use sampling techniques or other appropriate methods to independently verify the reliability of the credit information supplied by the transferor;

(F) recourse and repurchase obligations of the transferor are subject to conditions outside the control of the transferor, such as a commitment to repurchase the mortgage if rejected by the investor for reasons other than fraud or underwriting deficiency; and

(G) the bank earns interest on the mortgages according to the interest rate on the face of each note rather than at a rate separately negotiated with the transferor.

(i) (No change.)

§12.11. Calculation of Lending Limit.

(a) Calculation date. For purposes of determining compliance with Finance Code, §34.201, and this subchapter, a state bank shall determine its lending limit as of the most recent of the following dates:

(1) the last day of the preceding calendar quarter; or

(2) the date on which there is a change in the bank's capital category for purposes of 12 U.S.C. §1831o [~~1831e~~] and 12 C.F.R. §324.402 [~~§325.102~~] (or 12 C.F.R. §324.402 [~~CFR-§208.32~~] in the case of a bank that is a member of the Federal Reserve System).

(b) - (c) (No change.)

§12.12. Credit Exposure Arising from Derivative and Securities Financing Transactions.

(a) (No change.)

(b) Derivative transactions.

(1) Non-credit derivatives. Subject to paragraphs (2) - (4) of this subsection, a state bank shall calculate the credit exposure to a counterparty arising from a derivative transaction by one of the following methods. Subject to paragraphs (3) and (4) of this subsection, a bank shall use the same method for calculating counterparty credit exposure arising from all of its derivative transactions.

(A) Model method.

(i) Credit exposure. The credit exposure of a derivative transaction under the model method is equal to the sum of the current

credit exposure of the derivative transaction and the potential future credit exposure of the derivative transaction.

(ii) Calculation of current credit exposure. A bank shall determine its current credit exposure by the mark-to-market value of the derivative contract. If the mark-to-market value is positive, then the current credit exposure equals that mark-to-market value. If the mark-to-market value is zero or negative, then the current credit exposure is zero.

(iii) Calculation of potential future credit exposure. A bank shall calculate its potential future credit exposure by using an internal model that has been approved in writing for purposes of 12 C.F.R. §324.132(d) (or 12 CFR §217.132(d) in the case of a bank that is a member of the Federal Reserve System) [~~§32(d) of the federal capital adequacy guidelines~~], provided that the bank notifies the commissioner prior to its use for purposes of this section, or another model approved by the department based on the views of the bank's primary federal banking regulatory agency and any third party testing and evaluation reports submitted to the commissioner. Any substantive revisions to an internal model made after the bank has provided notice of its use, or after the commissioner has approved the use of an alternate model, must be approved by the commissioner before a bank may use the revised model for purposes of this section.

(iv) Net credit exposure. A bank that calculates its credit exposure by using the model method pursuant to this subparagraph may net credit exposures of derivative transactions arising under the same qualifying master netting agreement.

(B) Conversion factor matrix method. The credit exposure arising from a derivative transaction under the conversion factor matrix method is equal to and will remain fixed at the potential future credit exposure of the derivative transaction, which equals the product of the notional amount of the derivative transaction and a fixed multiplicative factor determined by reference to Table 1 of this section.

Figure: 7 T.A.C. §12.12(b)(1)(B). (No change.)

(C) Current exposure method. The credit exposure arising from a derivative transaction (other than a credit derivative transaction) under the current exposure method is calculated in the manner provided by 12 C.F.R. §324.34(b)-(c) (or 12 C.F.R. §217.34(b)-(c) in the case of a bank that is a member of the Federal Reserve System) [~~§32(e)(5), (6) and (7) of the federal capital adequacy guidelines~~].

(2) Credit derivatives.

(A) Counterparty exposure.

(i) General rule. Notwithstanding paragraph (1) of this subsection and subject to clause (ii) of this subparagraph, a state bank that uses the conversion factor matrix method or the current exposure method, or that uses the model method without entering an effective margining arrangement as defined in §12.2 of this title (relating to Definitions), shall calculate the counterparty credit exposure arising from credit derivatives entered by the bank by adding the net notional value of all protection purchased from the counterparty on each reference entity.

(ii) Special rule for certain effective margining arrangements. A bank must add the effective margining arrangement threshold amount to the counterparty credit exposure arising from credit derivatives calculated under the model method. The effective margining arrangement threshold is the amount under an effective margining arrangement with respect to which the counterparty is not required to post variation margin to fully collateralize the amount of the bank's net credit exposure to the counterparty.

(B) Reference entity exposure. A state bank shall calculate the credit exposure to a reference entity arising from credit derivatives entered into by the bank by adding the net notional value of all protection sold on the reference entity. A bank may reduce its exposure to a reference entity by the amount of any eligible credit derivative purchased on that reference entity from an eligible protection provider.

(3) Special rule for central counterparties. In addition to amounts calculated under paragraphs (1) and (2) of this subsection, the measure of counterparty exposure to a central counterparty must also include the sum of the initial margin posted by the bank plus any contributions made by it to a guaranty fund at the time such contribution is made. However, this requirement does not apply to a bank that uses an internal model pursuant to paragraph (1)(A) of this subsection if such model reflects the initial margin and any contributions to a guaranty fund.

(4) Mandatory or alternative use of method. The commissioner may in the exercise of discretion require or permit a state bank to

use a specific method or methods set forth in this subsection to calculate the credit exposure arising from all derivative transactions, from any category of derivative transactions, or from a specific derivatives transaction if the commissioner in the exercise of discretion finds that such method is consistent with the safety and soundness of the bank.

(c) Securities financing transactions.

(1) In general. Except as provided by paragraph (2) of this subsection, a state bank shall calculate the credit exposure arising from a securities financing transaction by one of the following methods. A state bank shall use the same method for calculating credit exposure arising from all of its securities financing transactions.

(A) Model method. A state bank may calculate the credit exposure of a securities financing transaction by using an internal model that has been approved in writing for purposes of 12 C.F.R. §324.132(b) (or 12 CFR §217.132(b) in the case of a bank that is a member of the Federal Reserve System) [~~§32(b) of the federal capital adequacy guidelines~~], provided that the bank notifies the commissioner prior to its use for purposes of this section, or another model approved by the department based on the views of the bank's primary federal banking regulatory agency and any third party testing and evaluation reports submitted to the commissioner. Any substantive revisions to an internal model made after the bank has provided notice of its use, or after the commissioner has approved the use of an alternate model, must be approved by the commissioner before a bank may use the

revised model for purposes of this section.

(B) Basic method. A state bank may calculate the credit exposure of a securities financing transaction as follows:

(i) Repurchase agreement. The credit exposure arising from a repurchase agreement shall equal and remain fixed at the market value at execution of the transaction of the securities transferred to the other party less cash received.

(ii) Securities lending.

(I) Cash collateral transactions. The credit exposure arising from a securities lending transaction where the collateral is cash shall equal and remain fixed at the market value at execution of the transaction of securities transferred less cash received.

(II) Non-cash collateral transactions. The credit exposure arising from a securities lending transaction where the collateral is other securities shall equal and remain fixed as the product of the higher of the two haircuts associated with the two securities, as determined by reference to Table 2 of this section, and the higher of the two par values of the securities. Where more than one security is provided as collateral, the applicable haircut is the higher of the haircut associated with the security lent and the notional-weighted average of the haircuts associated with the securities provided as collateral.

(iii) Reverse repurchase agreements. The credit exposure arising from a reverse repurchase agreement shall equal and remain fixed as the product of the haircut associated

with the collateral received, as determined by reference to Table 2 of this section, and the amount of cash transferred.

(iv) Securities borrowing.

(I) Cash collateral transactions. The credit exposure arising from a securities borrowed transaction where the collateral is cash shall equal and remain fixed as the product of the haircut on the collateral received, as determined by reference to Table 2 of this section, and the amount of cash transferred to the other party.

(II) Non-cash collateral transactions. The credit exposure arising from a securities borrowed transaction where the collateral is other securities shall equal and remain fixed as the product of the higher of the two haircuts associated with the two securities, as determined by reference to Table 2 of this section, and the higher of the two par values of the securities. Where more than one security is provided as collateral, the applicable haircut is the higher of the haircut associated with the security borrowed and the notional-weighted average of the haircuts associated with the securities provided as collateral.

Figure: 7 T.A.C. §12.12(c)(1)(B)(iv)(II). (No change.)

(C) Basel collateral haircut method. A state bank may calculate the credit exposure of a securities financing transaction in the manner provided by 12 C.F.R. §324.132(b)(2)(i) and (ii) (or 12 CFR §217.132(b)(2)(i) and (ii) in the case of a bank that is a member of the Federal Reserve System) [~~§32(b)(2)(i) and (ii) of the federal capital adequacy~~

guidelines].

(2) Mandatory or alternative use of method. The commissioner may in the exercise of discretion require or permit a state bank to use a specific method or methods set forth in this subsection to calculate the credit exposure arising from all securities financing transactions, from any category of securities financing transactions, or from a specific derivatives transaction if the commissioner finds in the exercise of discretion that such method is consistent with the safety and soundness of the bank.

§12.33. Debt Cancellation Contracts and Debt Suspension Agreements

(a) – (e) (No change.)

(f) Disclosures.

(1) Content of short form of disclosures. The short form of disclosures required by this section must include the information described in subparagraphs (A) through (F) of this paragraph that is appropriate to the product offered. Short form disclosures made in a form that is substantially similar to these disclosures will satisfy the short form disclosure requirements of this subsection.

(A) This product is optional. “Your purchase of (product name) is optional. Whether or not you purchase (product name) will not affect your application for credit or the terms of any existing credit agreement you have with the bank.”

(B) Lump sum payment of fee (applicable if a bank offers the option to pay the fee in a single payment, prohibited where the debt

subject to the contract is a residential mortgage loan). “You may choose to pay the fee in a single lump sum or in monthly or quarterly payments. Adding the lump sum of the fee to the amount you borrow will increase the cost of (product name).”

(C) Lump sum payment of fee with no refund (applicable if a bank offers the option to pay the fee in a single payment for a no-refund debt cancellation contract, prohibited where the debt subject to the contract is a residential mortgage loan). “You may choose (product name) with a refund provision or without a refund provision. Prices of refund and no-refund products are likely to differ.”

(D) Refund of fee paid in lump sum (applicable where the customer pays the fee in a single payment and the fee is added to the amount borrowed, prohibited where the debt subject to the contract is a residential mortgage loan). Either:

(i) “You may cancel (product name) at any time and receive a refund;”

(ii) “You may cancel (product name) within _____ days and receive a full refund;” or

(iii) “If you cancel (product name) you will not receive a refund.”

(E) Additional disclosures. “We will give you additional information before you are required to pay for (product name).” If applicable: “This information will include a copy of the contract containing the terms of (product name).”

(F) Eligibility requirements, conditions, and exclusions. “There are eligibility requirements, conditions, and exclusions that

could prevent you from receiving benefits under (product name).” Either:

(i) "You should carefully read our additional information for a full explanation of the terms of (product name);” or

(ii) “You should carefully read the contract for a full explanation of the terms.”

(2) Content of long form of disclosures. The long form of disclosures required by this section must include the information described in subparagraphs (A) through (I) of this paragraph that is appropriate to the product offered. Long form disclosures made in a form that is substantially similar to these disclosures will satisfy the long form disclosure requirements of this subsection.

(A) This product is optional. "Your purchase of (product name) is optional. Whether or not you purchase (product name) will not affect your application for credit or the terms of any existing credit agreement you have with the bank.”

(B) Explanation of debt suspension agreement (applicable if the contract has a debt suspension feature). "If (product name) is activated, your duty to pay the loan principal and interest to the bank is only suspended. You must fully repay the loan after the period of suspension has expired." If applicable: “This includes interest accumulated during the period of suspension.”

(C) Amount of fee.

(i) For closed-end credit: “The total fee for (product name) is _____.”

(ii) For open-end credit, either:

(I) “The monthly fee for (product name) is based on your account balance each month multiplied by the unit-cost, which is _____;” or

(II) “The formula used to compute the fee is _____.”

(D) Lump sum payment of fee (applicable if a bank offers the option to pay the fee in a single payment, prohibited where the debt subject to the contract is a residential mortgage loan). “You may choose to pay the fee in a single lump sum or in monthly or quarterly payments. Adding the lump sum of the fee to the amount you borrow will increase the cost of (product name).”

(E) Lump sum payment of fee with no refund (applicable if a bank offers the option to pay the fee in a single payment for a no-refund debt cancellation contract, prohibited where the debt subject to the contract is a residential mortgage loan.) “You have the option to purchase (product name) that includes a refund of the unearned portion of the fee if you terminate the contract or prepay the loan in full prior to the scheduled termination date. Prices of refund and no-refund products may differ.”

(F) Refund of fee paid in lump sum (applicable where customer pays the fee in a single payment and the fee is added to the amount borrowed, prohibited where the debt subject to the contract is a residential mortgage loan). Either:

(i) “You may cancel (product name) at any time and receive a refund;”

(ii) “You may cancel (product name) within _____ days and receive a full refund;” or

(iii) “if you cancel (product name) you will not receive a refund.”

(G) Use of card or credit line restricted (applicable if the contract restricts the use of card or credit line when customer activates protection). “If (product name) is activated, you will be unable to incur additional charges on the credit card or use the credit line.”

(H) Termination of (product name). Either:

(i) “You have no right to cancel (product name);” or

(ii) “You have the right to cancel (product name) in the following circumstances _____.” and

(I) “The bank has no right to cancel (product name);” or

(II) “The bank has the right to cancel (product name) in the following circumstances _____.”

(I) Eligibility requirements, conditions, and exclusions. “There are eligibility requirements, conditions, and exclusions that could prevent you from receiving benefits under (product name).” Either:

(i) “The following is a summary of the eligibility requirements, conditions, and exclusions (summary provided by bank);” or

(ii) “You may find a complete explanation of the eligibility requirements, conditions, and exclusions in paragraphs _____ of the (product name) agreement.”

(3) Disclosure requirements; timing and method of disclosures.

(A) Short form disclosures. The bank shall make the short form disclosures orally at the time the bank first solicits the purchase of a contract.

(B) Long form disclosures. The bank shall make the long form disclosures in writing before the customer completes the purchase of the contract. If the initial solicitation occurs in person, then the bank shall provide the long form disclosures in writing at that time.

(C) Special rule for transactions by telephone. If the contract is solicited by telephone, the bank shall provide the short form disclosures orally and shall mail the long form disclosures and, if appropriate, a copy of the contract to the customer within 3 business days, beginning on the first business day after the telephone solicitation.

(D) Special rule for solicitations using written mail inserts or “take one” applications. If the contract is solicited through written materials such as mail inserts or “take one” applications, the bank may provide only the short form disclosures in the written materials if the bank mails the long form disclosures to the customer within 3 business days, beginning on the first business day after the customer contacts the bank to respond to the solicitation, subject to the requirements of subsection (g)(3) of this section.

(E) Special rule for electronic transactions. The disclosure described in this section may be provided electronically in a manner

consistent with the requirements of the Uniform Electronic Transactions Act, Texas Business and Commerce Code Chapter 322 [43], and the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq.

of a general nature describing or listing the services or products offered by the bank.

(g) - (i) (No change.)

(4) Form of disclosures.

(A) Disclosures must be understandable. The disclosures required by this subsection must be in plain language, i.e., conspicuous, simple, direct, readily understandable, and designed to call attention to the nature and significance of the information provided.

(B) Disclosures must be meaningful. The disclosures required by this subsection must be in a meaningful form. Examples of methods that could call attention to the nature and significance of the information provided include:

(i) a plain-language heading to call attention to the disclosures;

(ii) a typeface and type size that are easy to read;

(iii) wide margins and ample line spacing;

(iv) boldface or italics for key words; and

(v) distinctive type style and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

(5) Advertisements and other promotional material. The short form disclosures are required in advertisements and promotional material for contracts unless the advertisements and promotional materials are

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C.

**Office of Consumer Credit
Commissioner**

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Consumer Protection and Consumer Assistance Report

The OCCC examination program completed FY 2023 at 101% of its targeted number of examinations. The targeted number of exams were met in all categories except Mortgage exams where 24 out of a goal of 28 examinations were completed, Property Tax exams where 24 out of a goal of 30 examinations were completed, and Texas Finance Code 342-F examinations where 641 out of a goal of 700 exams were completed.

Four mortgage examinations are still in review by the Multi-State Mortgage Committee (MMC) and are anticipated to be finalized by November. A multi-state auto finance exam finalized in August. The OCCC led this examination as both the Examiner-in-Charge and Single Point of Contact for the participating states.

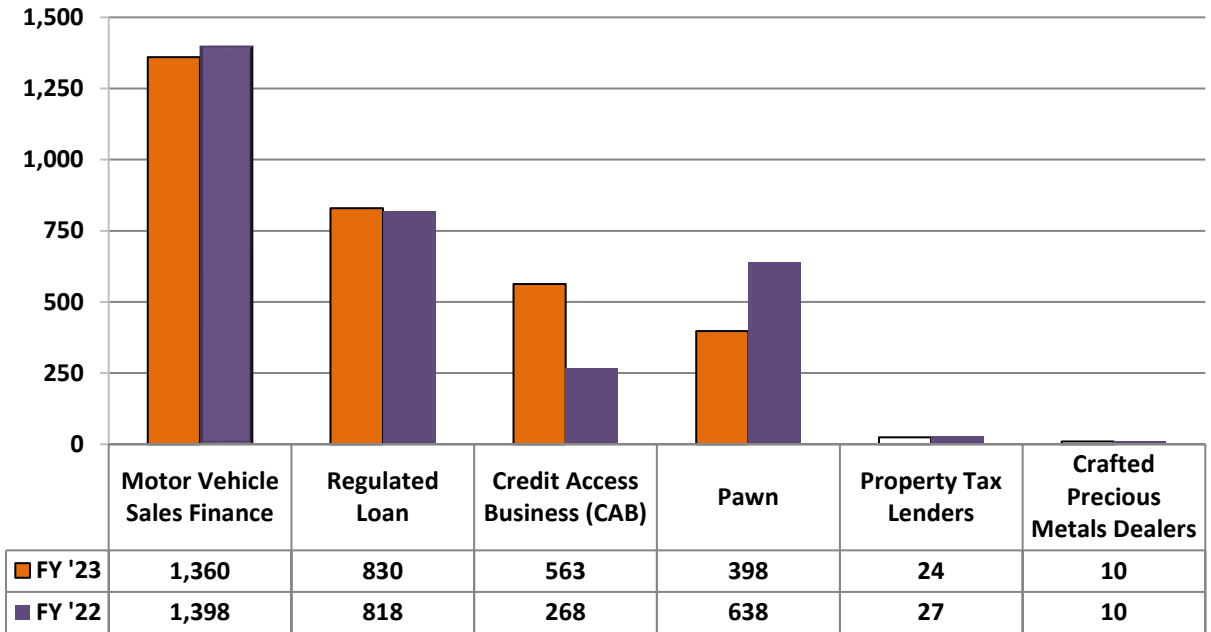
As noted in the August briefing, work has begun on multi-state exam for fiscal year 2024. The agency will be participating in three multi-state mortgage exams in fiscal year 2024.

Examiner training and development remains a high priority for the examination department. The two examiners hired in June have been certified in pawnshop and small loan examinations and are working independently in the field for these types of examinations. Training in motor vehicle finance examinations for these examiners is expected to begin early in calendar year 2024. Classroom training for mortgage examinations was conducted during the first week of October. Four examiners are expected to be certified in Credit Access Business examinations during the second week of October. January will see a large classroom training experience (eight examiners) related to Texas Finance Code 342-E exams. In spring 2024, a large classroom training experience has been scheduled for mortgage and property tax lender exams. Finally, classroom training (six examiners) related to credit access business examinations is scheduled for the summer of 2024. These classroom training events are a vital component of our examiner career ladder progression.

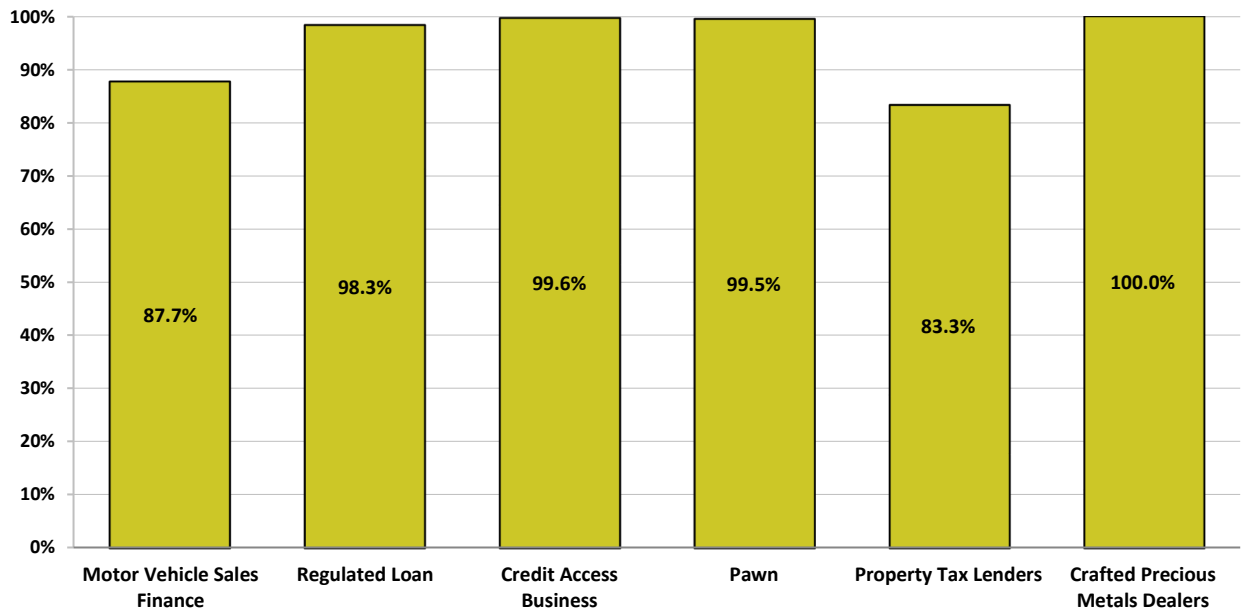
Five examiners are projected to be hired in Fiscal Year 2024. Recruiting for these examiner positions will begin in the spring of 2024.

Financial Examiner Certifications						
	Pawn	342-F Regulated Lending	Motor Vehicle Sales Finance	342-E Regulated Lending	Property Tax Lending	Total
				-	-	
FY 2023	5	5	4	4	2	20

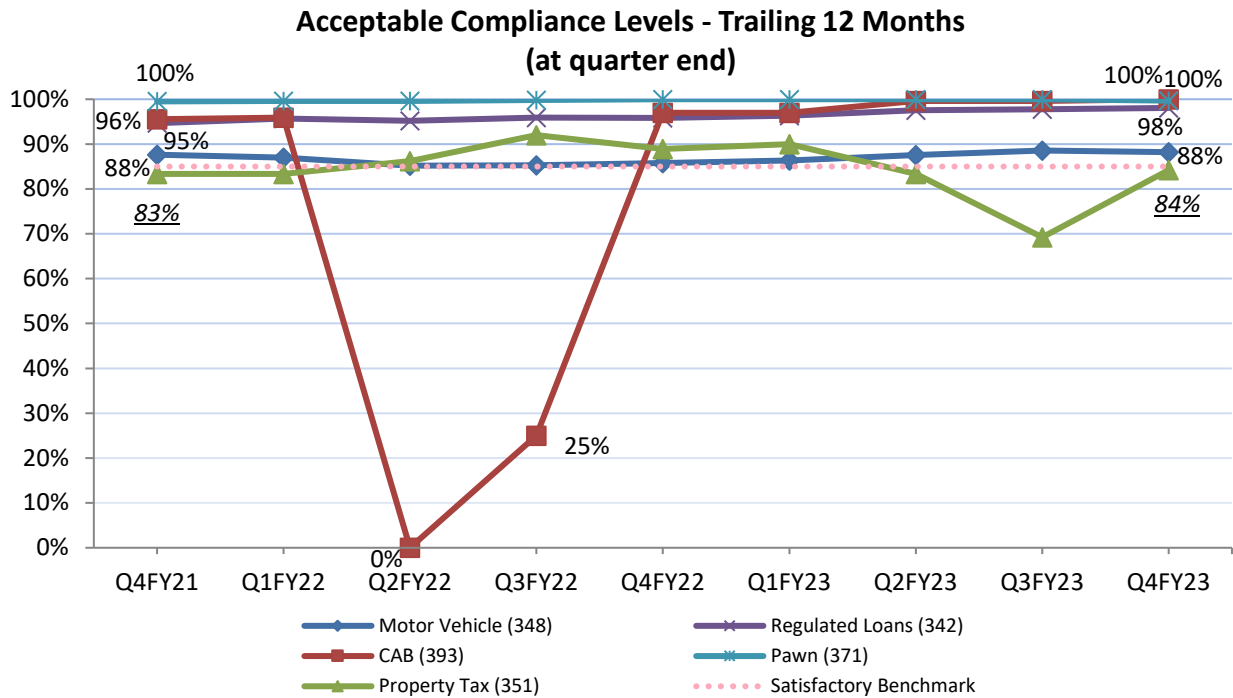
**Examinations Conducted: Sept - Aug
Fiscal Year Comparison**



**Acceptable Level of Compliance FY '23
(Sept 2022 - Aug 2023)**



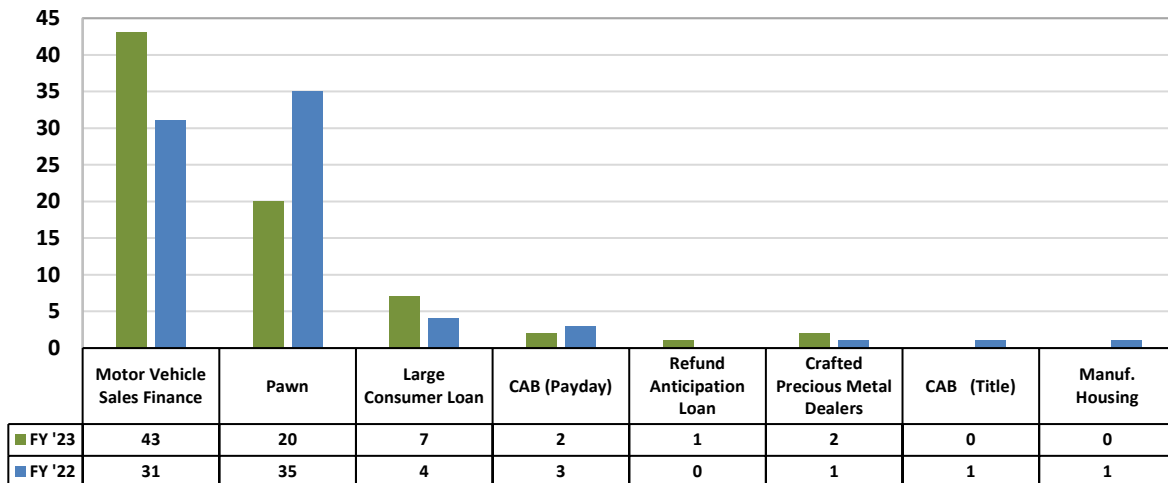
The following chart denotes the acceptable level of compliance on a trailing 12-month basis through the end of August 2023.



Investigations

For FY 2023, the OCC completed 75 investigations out of the annual goal of 75. Motor Vehicle Sales Finance issues comprise 57.3% of the overall number of completed investigations.

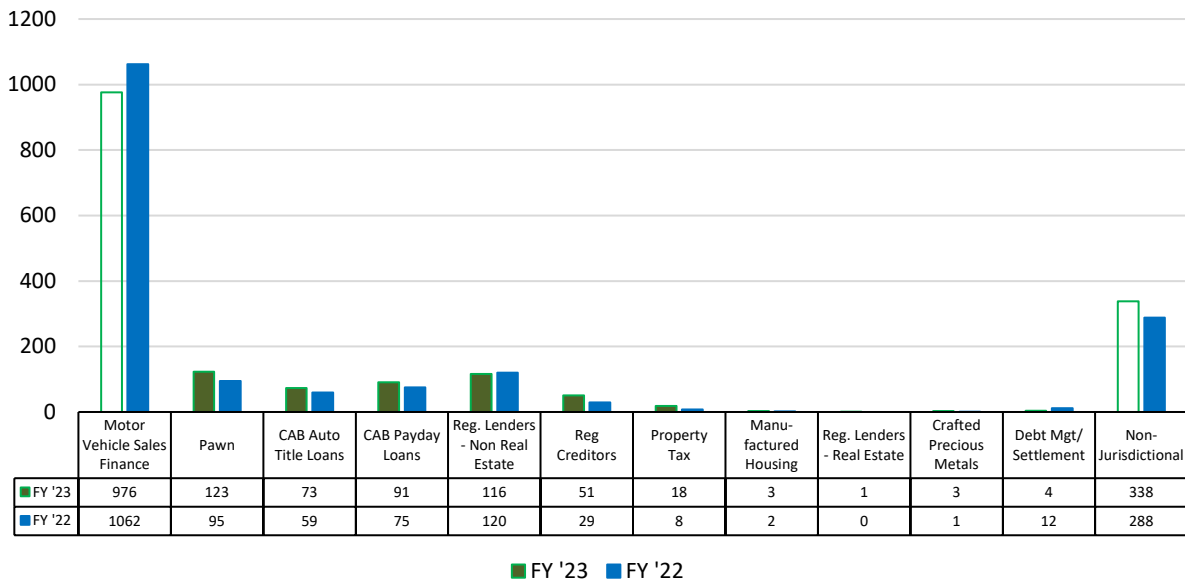
Investigations Completed FY '23: Sept 2022 - Aug 2023 Total: 75 FY '22: Sept 2021 - Aug 2022 Total: 76



Consumer Assistance

During Fiscal Year 2023, 1797 complaints were closed, of which 338 were classified as non-jurisdictional. Non-jurisdictional complaints are primarily received online or by referrals from other organizations. The top area of jurisdictional complaints was Motor Vehicle Sales Finance, followed by Credit Access Businesses, Pawnshops, and Regulated Lenders – Non-Real Estate. Motor Vehicle Sales Finance complaints accounted for 54.3% of all complaints, down from 60.6% of all complaints during FY '22. The second largest category was CAB complaints at 9.1% collectively, separately this was 5.1% for payday loans and 4.1% for title loans. The third largest was Pawnshops at 6.8%, and the fourth largest was Regulated Lenders Non-Real Estate at 6.5%.

Complaints Closed
FY '23: Sept 2022 - Aug 2023 Total: 1797
FY '22: Sept 2021 - Aug 2022 Total: 1751



Fiscal Year 2023: 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	442	417	407	368
Business	0	0	1	4
Law Enforcement	0	1	0	0
State or Federal Agency	31	41	42	31
OCCC	2	1	3	1
Whistleblower	0	0	0	0
Other	0	0	2	3
Total	475	460	455	407

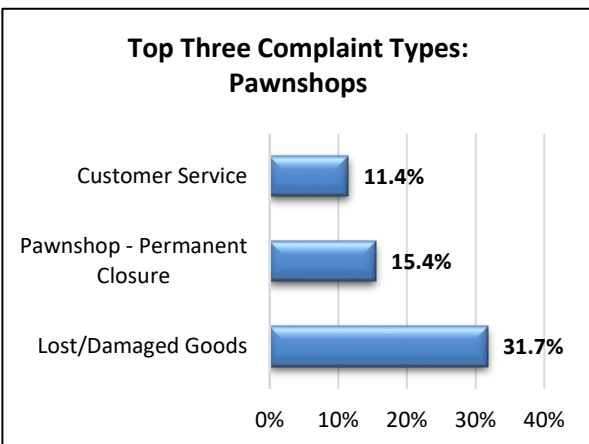
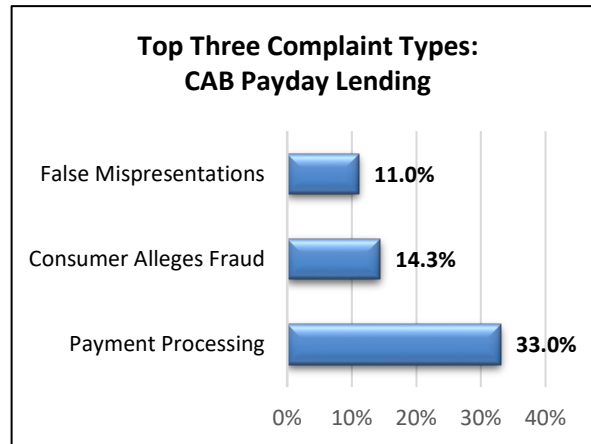
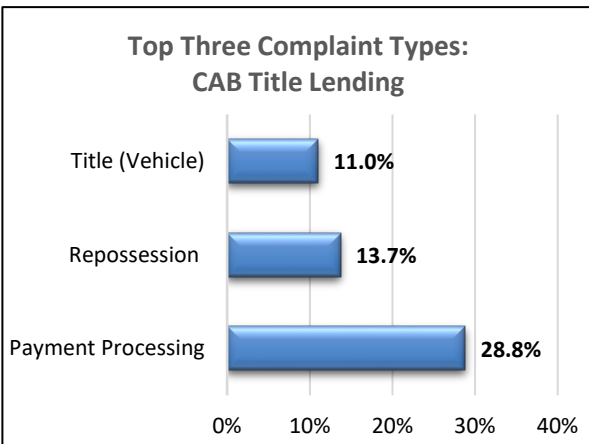
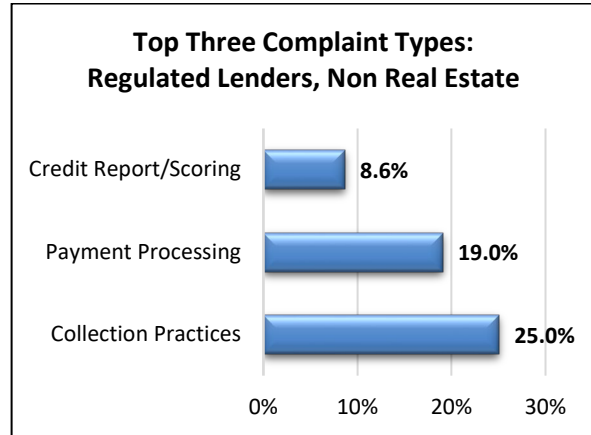
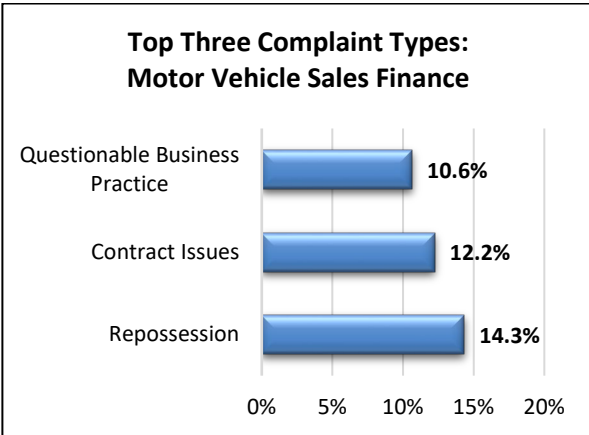
Table 2

Subject	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Motor Vehicle Sales Finance	273	245	238	220
CAB Payday Loans	20	24	21	26
CAB Auto Title Loans	19	28	10	16
Reg. Lenders – Non-Real Estate	33	31	20	32
Pawn	28	30	38	27
Registered Creditors	11	6	24	10
Crafted Precious Metal Dealers	0	2	0	1
Regulated Lenders - Real Estate	0	0	1	0
Manufactured Housing	0	1	2	0
Property Tax Lenders	4	3	7	4
Debt Management/Settlement	1	1	1	1
Refund Anticipation Loan	0	0	0	0
Non-Jurisdictional	86	89	93	70
Total	475	460	455	407

Table 3

Disposition	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Closed to Investigation	5	12	2	2
Closed to Legal	0	0	0	0
Closed - Action Taken	106	66	66	46
Closed - No Violation	145	176	179	143
Closed - Administratively	133	117	115	147
Closed - Non-Jurisdictional	86	89	93	69
Total	475	460	455	407

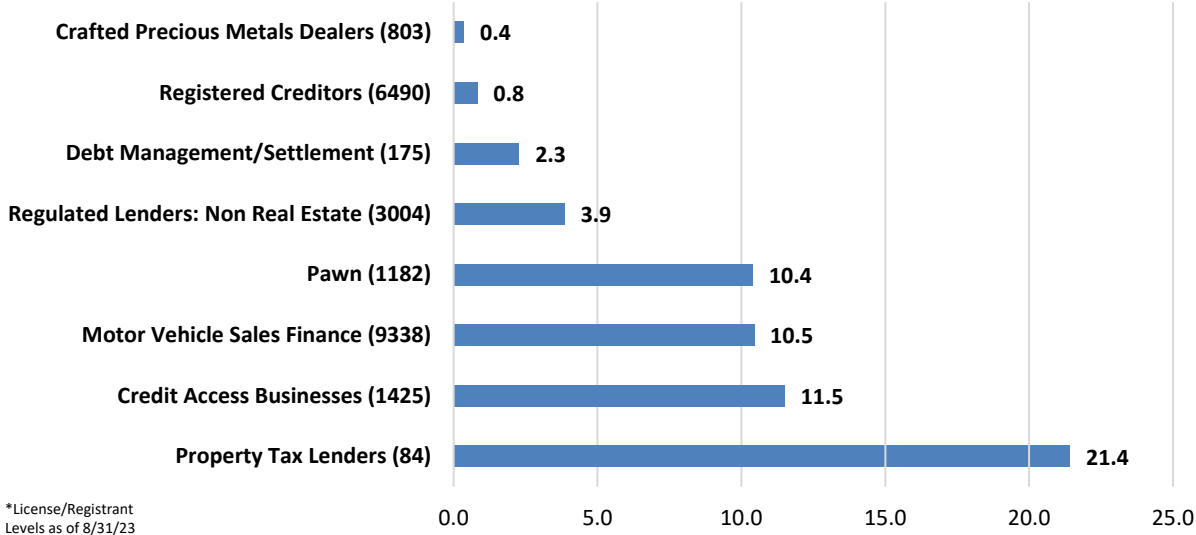
The following charts represent the top three complaint areas per license type. Complaints in the *Questionable Business Practice* category continue to include complaints related to allegations of dealers refusing to accept outside financing. The *Questionable Business Practice* category was 10.6% of all motor vehicle sales finance complaints for FY '23; this is approximately a 4% decline from FY'22.



Production Targets and Priorities	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Percentage of Written Complaints Closed within 90 days	88.6%	90.8%	95%	96.6%
Average Number of Days to Close a Complaint	41.5	39.2	34.6	37.8
Number of Complaints Closed	475	460	455	407

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 is Property Tax Lenders, followed by Credit Access Businesses, Motor Vehicle Sales Finance, and Pawn.

Ratio of Complaints to Total Active Licenses and Registrants*
FY '23: Sept 2022 - Aug 2023



CAB Reporting Update

Summaries of CAB reports through the second quarter of 2023 are available on the OCCC website. Presented are selected statistics of first and second quarter reports compared with previous years. New loan origination in 2023 has remained steady from 2022, decreasing less than 1% in the first two quarters of the year. Installment payday loans made up 90% of all new payday loan originations in the first two quarters of the year. Repossessions in the first half of 2023 have decreased 4% from the same period in 2022. Additional repossession information is available on the following page.

Data Highlights (All Loan Types) Q1-Q2 Comparison	2023	2022	2021	2020	2019	2018
Number of new payday loans	809,989	820,368	708,826	704,447	985,394	1,000,386
Number of new auto title loans	107,534	105,843	90,573	89,048	140,604	149,604
Percentage of payday loans due in multiple installments	90%	83%	70%	61%	56%	50%
Percentage of auto title loans due in multiple installments	44%	48%	45%	54%	58%	55%
Number of vehicles repossessed under all auto title loans	21,108	22,000	23,473	18,396	22,005	16,620
Total number of locations reporting activity	1,232	1,347	1,454	1,538	1,756	1,832

Payday Loans Q1-Q2	Single Installment			Multiple Installment		
	2023	2022	2021	2023	2022	2021
Number of consumers obtaining loans	55,695	97,280	145,281	642,877	593,638	439,274
Number of new loans	82,379	140,657	213,229	727,610	679,711	495,597
Number of total refinances ¹	91,489	154,000	186,979	172,582	153,634	100,110
Average loan amount	\$511	\$506	\$495	\$635	\$593	\$553
Average fee per \$100 borrowed	\$27	\$27	\$24	\$119	\$125	\$128
Average original term (in days)	19	20	22	129	145	141
Average Fee Converted to a Daily Rate ²	1.44%	1.32%	1.12%	0.92%	0.86%	0.91%

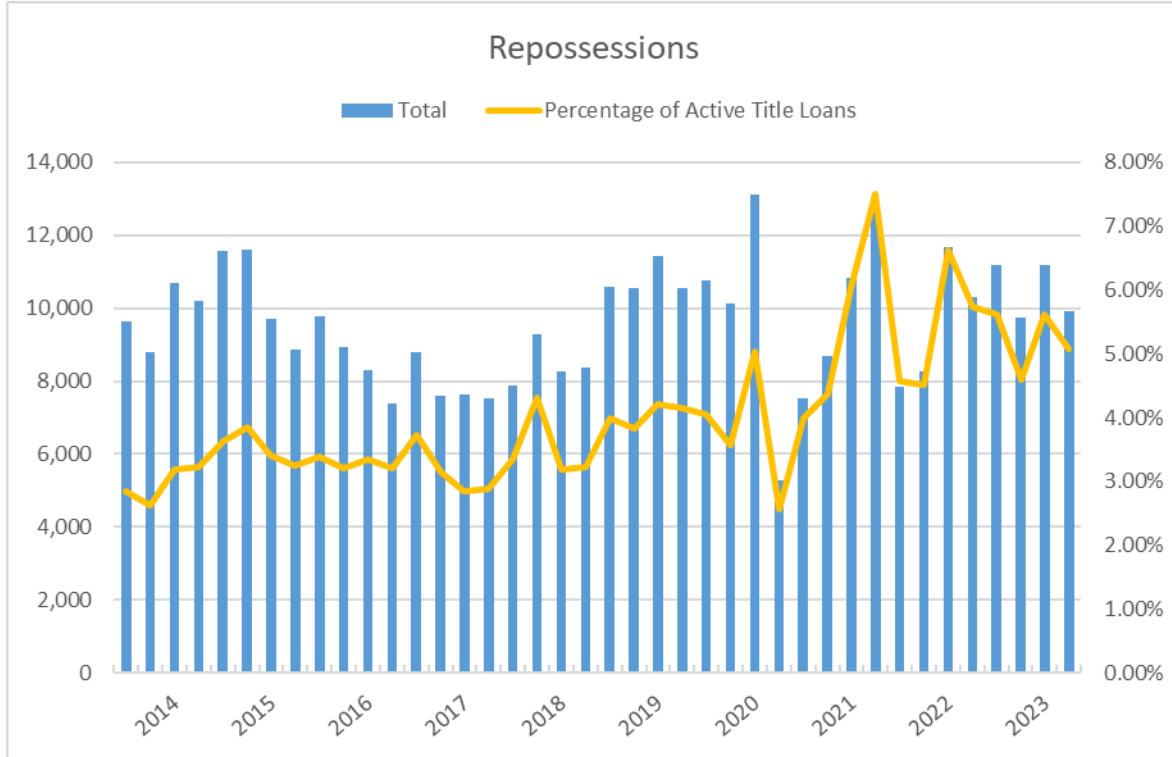
Title Loans Q1-Q2	Single Installment			Multiple Installment		
	2023	2022	2021	2023	2022	2021
Number of consumers obtaining loans	46,114	44,451	39,126	43,768	47,089	38,077
Number of new loans	60,735	55,540	50,098	46,799	50,303	40,493
Number of total refinances ¹	252,699	199,368	228,291	45,540	43,759	46,276
Average loan amount	\$1,559	\$1,784	\$1,792	\$1,672	\$1,651	\$1,596
Average fee per \$100 borrowed	\$17	\$16	\$15	\$105	\$103	\$106
Average original term (in days)	30	31	31	156	162	161
Average Fee Converted to a Daily Rate ²	0.55%	0.53%	0.50%	0.67%	0.64%	0.66%

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

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

Additional Repossession Information

The repossession rate (as a percentage of active title loans) was 5.07% in Q2 2023. The historical 10-year average number of repossessions is 9,576 per quarter with a repossession rate of 4.04% of accounts.





Licensing Report-October 2023

Mirand Diamond, Director of Licensing, Finance & HR

Renewals

The department is currently in the middle of renewal for motor vehicle sales finance licenses and commercial motor vehicle sales finance licenses. The department estimates that 90% of both groups will renew. Registration renewal for registered creditors is currently open as well and it is estimated that 65% of this group will renew based on historical trends.

The department will begin analyzing the discount rate for regulated lenders to prepare for the opening of renewal in November.

Applications Processing

At the end of FY 23 the licensing department processed 1,295 business license applications, which is 100% of the application processing goal. The department processed 81% of the goal, or 305 pawn employee applications, mostly due to lower volume of incoming applications than initially projected.

Regarding applications received, approximately 1,200 business license applications were received, short of the initial estimate of 1,300 for the fiscal year. Pawn employee applications differed from 375 projected applications received to 287. Both estimates for applications received have been reduced for FY 24 to reflect the current trend.

Other Updates

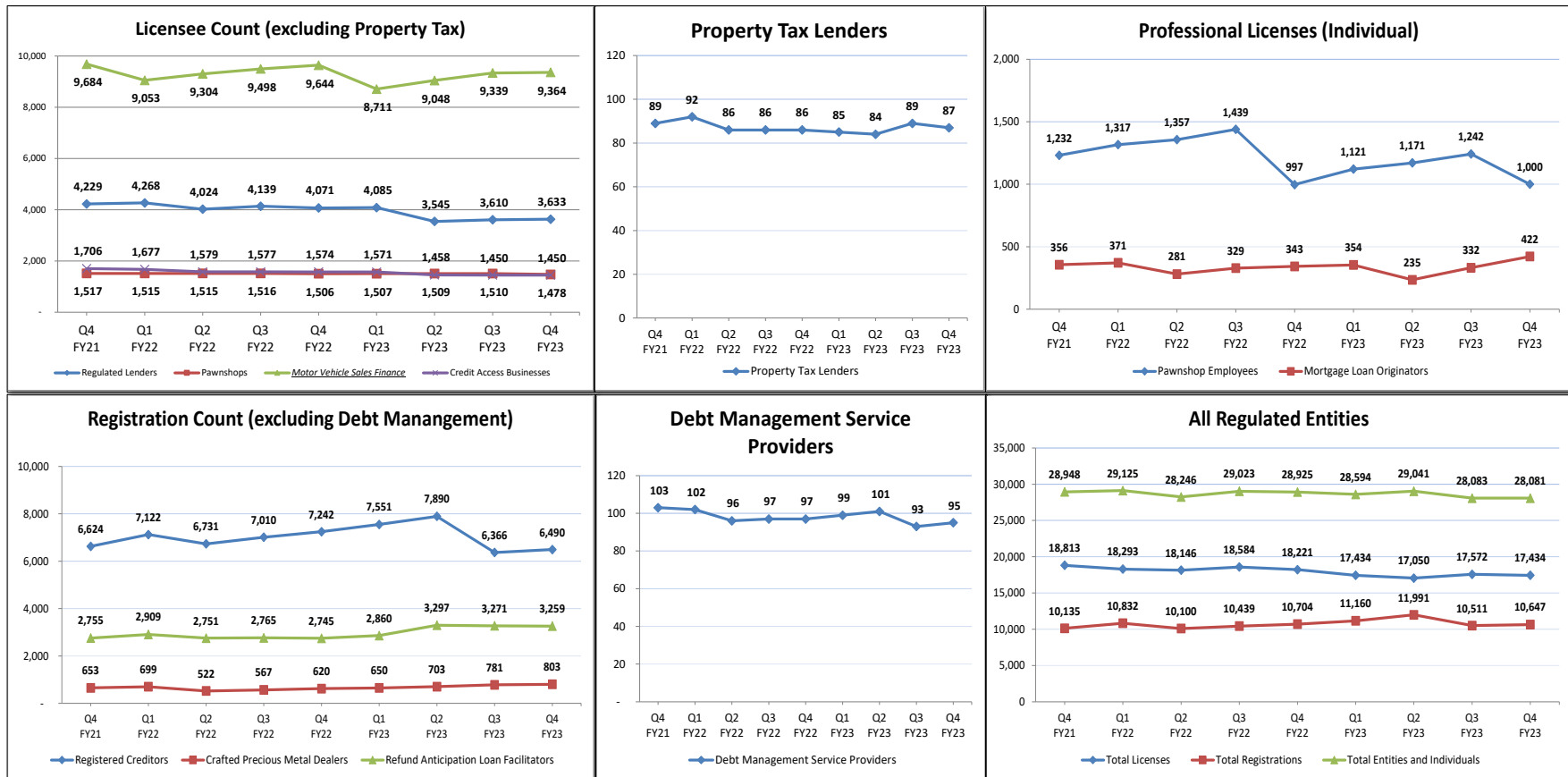
The department has a vacancy for the manager position and is conducting interviews to fill this vacancy.

The department, along with IT and legal staff, is conducting work to outsource the digitization of certain historical paper files through a vendor from DIR's shared technology services.

Regulated Entity Population Trends

The following charts reflect the number of OCCC regulated entities at the end of each quarter in fiscal years 2021 - 2023.

Number of OCCC Regulated Entities Quarterly Comparison of FY 21-23





Administration

Financial Education and TFEF

Financial Education staff are scheduled to make presentations to the General Land Office and the Texas County and District Retirement System in October. Staff members will also make presentations in November in collaboration with the Texas Department of Banking, as well as at Employee Retirement System events in Kyle, Dallas, Houston, and Austin.

The TFEF third semi-annual reporting period ended on June 30, 2023. The fourth and final semi-annual reporting period runs from July 1, 2023 through December 31, 2023. Applications for the 2024-2025 grant cycle were due on September 22, 2023. Over 50 applications were received with applicants requesting a total of nearly \$4 million in funding. Recommendations for grant award recipients have been made. The 2024-2025 grant cycle will begin on January 1, 2024.

Communication

On September 9, 2023, OCCC leadership kicked off the new fiscal year by hosting a virtual town hall for all staff to recap FY '23 and discuss objectives and goals for FY '24. During the week of September 18th, Consumer Protection staff attended their annual examiner conference and training school. Additionally, the agency-wide staff conference is scheduled for later this month. The OCCC continues to communicate with stakeholders, and staff have provided presentations to regulated entities and other groups as follows:

- On August 3, 2023, Financial Examiner Fancher provided a presentation to automobile dealers at a webinar sponsored by the Texas Department of Motor Vehicles (DMV).
- On August 22, 2023 Assistant Director Graham provided information regarding motor vehicle sales financing products to a reporter with KPRC out of Houston.
- On August 24, 2023 Program Specialist Hord provided a presentation on “Building Healthy Financial Habits” at a webinar sponsored by the Employee Retirement System of Texas.

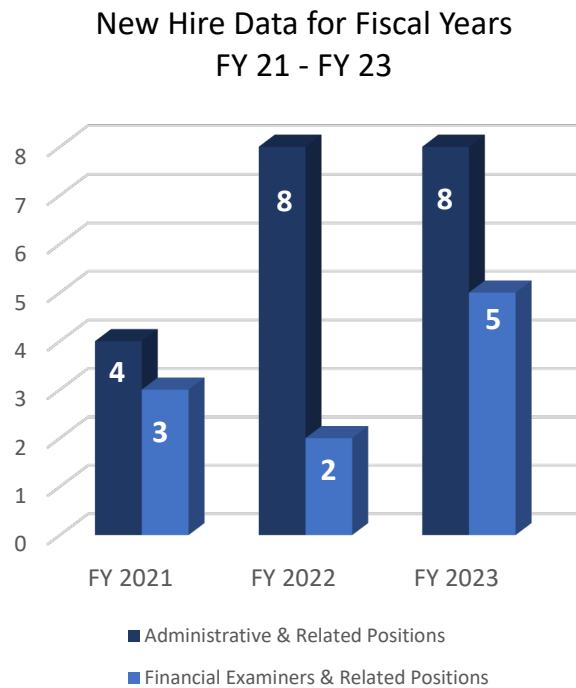
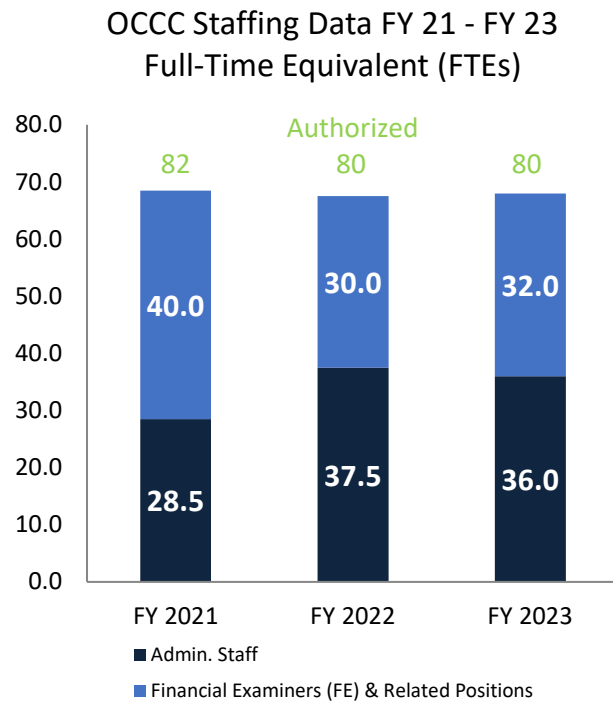
Human Resources

On August 31, 2023, the OCCC was staffed with a total of 68 FTEs. The OCCC filled the Information Technology Support Specialist position in September.

Currently the OCCC has the following open positions.

Vacancy	Status
Attorney I-II	Open - 1
Manager I-II	Open - 1

The following charts represent staffing data for Fiscal Years 2021 - 2023.

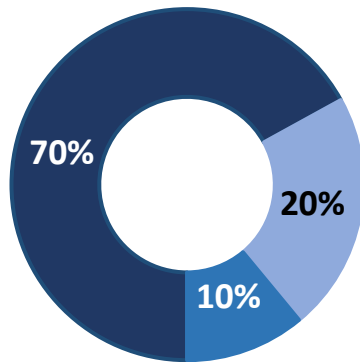


The turnover ratio as of August 31, 2023, was 12.50%, and the chart(s) below represents FY23 data.

OCCC Turnover Categories FY 23 - All Employees

(09/01/2022 - 08/31/2023)

10 total: 7 - Voluntary Resignations, 2 - Retirements,
and 1 - Interagency Transfer

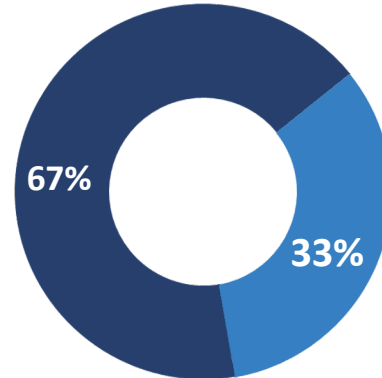


- Voluntary Resignation
- Retirement
- Interagency Transfer

OCCC Turnover Categories FY 23 - FE Series

(09/01/2022 - 08/31/2023)

3 total - 2 Voluntary
Resignations, 1 Interagency Transfer



- Voluntary Resignation
- Interagency Transfer

Retention efforts improved from FY22 (83%) across FY23 (87.5%). Factors impacting the gains are competitive salary adjustments, financial examiner career ladder promotions, the salary increase implemented in August 2023, and increased training for staff, among other items.

Information Technology

Technology modernization and deployment

ALECS has been relocated successfully to a new hosting vendor, meeting the TX-RAMP certification mandate. The “lift and shift” was complex, but challenges were navigated and resolved. The relocated ALECS was live in mid-September.

Updating of the agency’s laptop fleet to fully Windows 11-compatible has been completed. One of the OCCC’s older virtual servers has been decommissioned.

Cybersecurity

IT has begun a comprehensive reorganization of its policies and procedures, fully aligned with NIST SP 800-53 and the DIR Control Security Control Catalog as part of its regular policy update review and in response to the Texas Cybersecurity Framework assessment. Policies are presented to the intra-agency Security Policy and Compliance Committee (SPCC) for a period of review and comment. Following the

comment period and consideration of comments, final policies are presented to SPCC for adoption. The project is expected to conclude by the end of fiscal year 2024.

Facilitation

The Consumer Assistance (CA) suite in the neighboring Nob Hill apartments was fully vacated and relinquished by the end of September. All IT improvements were cleanly removed and the CA staff rehomed in the main office in the Texas Finance Commission Building.

A significant amount of unneeded shelving was disassembled and removed from the File Room and surplus, prefatory to reconfiguring the IT office space.

Staffing

IT welcomed our new System Specialist, Ryan Therrien.



Accounting Report- October 2023

Mirand Diamond, Director of Licensing, Finance & HR

Financial Reporting

The fourth quarter of fiscal year 2023 ended on August 31, 2023. The fourth quarter financial statements are included elsewhere in the material. In compliance with Government Code, Section 2101.011, and in accordance with the requirements established by the Comptroller of Public Accounts, the department is finalizing the Annual Financial Report for fiscal year 2023.

Accounting staff has also begun preparation of the annual SDSI report which is due in November.

Budget

Staff are compiling monthly expenditure reports for management to monitor departmental spending.

Other Items

In accordance with statutory requirements, quarterly reports due to other agencies are scheduled to be completed over the next 60 days.

The department reported information to the Comptroller of Public Accounts on emergency leave granted to employees during the prior fiscal year pursuant to Government Code Section 661.902(d).

OFFICE OF CONSUMER CREDIT COMMISSIONER
EXECUTIVE SUMMARY

As of August 31, 2023

	FY 2021	FY 2022	FISCAL YEAR 2023				
			1st QTR	2nd QTR	3rd QTR	4th QTR	FYTD
CONSUMER PROTECTION							
Monies Returned (000)	3,386	24,756	753	4,845	1,021	7,101	13,720
Regulated Lenders Examinations	656	818	160	210	192	268	830
Property Tax Lender Examinations	12	27	4	0	13	7	24
Pawnshop Examinations	415	638	99	98	119	82	398
Motor Vehicle Examinations	1,364	1,398	215	300	414	431	1,360
Credit Access Businesses Examinations	293	268	120	143	194	106	563
Crafted Precious Metal Examinations	0	10	0	0	1	9	10
CONSUMER ASSISTANCE							
Telephone Complaints Received	489	491	127	107	118	144	496
Written Complaints Received	1,241	1,252	318	314	346	332	1,310
Total Complaints Closed	1,725	1,751	475	460	455	407	1,797
% of Written Complaints Closed within 90 Calendar Days	96.6%	92.3%	88.6%	90.8%	95.0%	96.6%	92.5%
ADMINISTRATIVE ENFORCEMENT ACTIONS							
Originated	224	114	34	4	27	59	124
Finalized	197	138	70	15	19	29	133
LICENSING AND REGISTRATION							
Licenses							
Regulated Lender Licenses	4,229	4,071	4,085	3,545	3,599	3,633	3,633
Pawnshop Licenses	1,517	1,506	1,507	1,509	1,510	1,478	1,478
Pawnshop Employee Licenses	1,232	997	1,121	1,171	1,123	1,000	1,000
Commercial MV Sales Fin. Licenses	57	59	56	61	65	65	65
Motor Vehicle Sales Finance Licenses	9,627	9,585	8,711	8,987	9,227	9,364	9,364
Property Tax Lender Licenses	89	86	85	84	91	87	87
Mortgage Loan Originators	356	343	354	235	299	422	422
Credit Access Business Licenses	1,706	1,574	1,571	1,458	1,454	1,450	1,450
Registrations							
Registered Creditors	6,624	7,242	7,551	7,890	6,288	6,490	6,490
Crafted Precious Metal Dealers	653	620	650	703	740	803	803
Debt Management Service Providers	103	97	99	101	94	95	95
Refund Anticipation Loan Facilitators	2,755	2,745	2,860	3,297	3,275	3,259	3,259
Applications							
Business -- New	1,579	1,434	160	372	276	310	1,118
Business -- Change of Ownership	141	58	9	38	21	17	85
Pawnshop Employees -- New	408	366	94	67	54	71	286
HUMAN RESOURCES DATA							
Field Examiners Staffing	40	30	30	31	32	32	32
Total Staffing	68.5	67.5	66.5	69	68.0	68.0	68

Office of Consumer Credit Commissioner
Actual Performance for Output Measures
Fiscal Year 2023

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	
Output Measures-Key					
CONSUMER PROTECTION					
1-1-1	Complaint Resolution				
	1. # Complaints Closed				
Quarter 1	1,750	475	475	27.1%	
Quarter 2	1,750	460	935	53.4%	
Quarter 3	1,750	455	1,390	79.4%	
Quarter 4	1,750	407	1,797	102.7%	
2-1-1	Examination and Enforcement				
	1. # Examinations Completed				
Quarter 1	3,150	598	598	19.0%	*
	Examination results are more than 5% under the quarterly target primarily due to one examiner resignation, an abbreviated work week related to examiner training in September, and abbreviated work weeks combined with personal leave taken during the last two weeks of November. This trend continued through December, with normalized exam production patterns beginning in January.				
Quarter 2	3,150	751	1,349	42.8%	*
	Examination results are more than 5% under the mid year target due to focus on field training of 4 newer examiners. Also a large Enterprise Exam had to be postponed.				
Quarter 3	3,150	932	2,281	72.4%	
Quarter 4	3,150	903	3,184	101.1%	
EFFECTIVE LICENSING & REGISTRATION					
2-2-1	Licensing and Registration				
	1. # Business License Applications Processed				
Quarter 1	1,300	169	169	13.0%	*
	Applications processed in Q1 is low due to the licensing department being short-staffed and having increased customer contact due to renewal periods. Application processing will increase in Q2.				
Quarter 2	1,300	372	541	41.6%	*
	Applications processed in Q2 was under the goal for year to date, but higher than Q1 due to being fully-staffed and shifting focus back to application processing.				
Quarter 3	1,300	431	972	74.8%	*
Quarter 4	1,300	323	1,295	99.6%	*
FINANCIAL EDUCATION					
3-3-1	Financial Education				
	1. # People Receiving Direct Educational Services				
Quarter 1	650	171	171	26.3%	
Quarter 2	650	79	250	38.5%	*
	The OCCC held several financial education classes during the 2nd quarter but attendance was less than forecasted. The agency has several financial education events scheduled over the next few months and anticipates that attendance will increase during Q3.				
Quarter 3	650	478	728	112.0%	*
	The OCCC hosted more financial education classes than forecasted as a result of Financial Capability Month combined with increased outreach to other government agencies, community partners, and organizations.				
Quarter 4	650	324	1,052	161.8%	*
	Attendance at financial education events was higher than forecasted due to increased outreach by agency staff.				

*Varies by 5% or more from target.

Actual Performance for Key Outcome & Efficiency Measures

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target	
Outcome Measures-Key				
CONSUMER PROTECTION				
A.1 CONSUMER COMPLAINTS				
1. % WRITTEN COMPLAINTS CLOSED WITHIN 90 DAYS The consumer assistance team was able to address more complaints within the 90 days guideline and performance exceeded the expectation.	85%	92.5%	108.8%	*
A.2 ENSURE COMPLIANCE				
1. % EXAMINATIONS REPORTING ACCEPTABLE LEVEL OF COMPLIANCE Five of six examination categories reported compliance ratings above 85%. Property Tax Examinations compliance rating is 83.33% due primarily to the results from an enterprise examination.	85%	94.3%	110.9%	*
2. MONIES RETURNED TO CONSUMERS Several large multi-year restitution situations resolved in Fiscal Year 2023. The restitution variance results include 2 large enforcement actions, more effective utilization of the exam review program and processes, and restitution related to Consumer Assistance Activities.	\$12,000,000	\$13,719,625	114.3%	*
EFFECTIVE LICENSING & REGISTRATION				
B.1 1. % BUSINESS LICENSE APPLICATIONS PROCESSED WITHIN 60 DAYS The department had staffing issues during part of the fiscal year and was not able to complete follow up review in a timely manner. Maintaining full staff and focusing on time and performance management should improve processing time in the future period.	80%	44.0%	55.0%	*
EFFICIENT AND EFFECTIVE AGENCY OPERATION				
C.1 1. % REGULAR EMPLOYEES SEPARATED FROM AGENCY The turnover rate was below the estimated projection which is a positive outcome. This shows the OCCC attempts to stabilize retention are making a difference.	16%	12.5%	78.1%	*
Efficiency Measures-Key				
CONSUMER PROTECTION				
A.1 1. AVERAGE NUMBER OF DAYS TO CLOSE AN ENFORCEMENT ACTION The legal department was able to close older cases from previous fiscal years, including cases with complex litigation, bringing down the overall number of pending cases.	100	142	142.0%	
EFFECTIVE LICENSING & REGISTRATION				
B.1 2. AVERAGE PROCESSING TIME (DAYS) FOR BUSINESS LICENSE APPS The department had staffing issues during part of the fiscal year and was not able to complete follow up review in a timely manner. Maintaining full staff and focusing on time and performance management should improve processing time in the future period.	45	90	200%	*

* Varies by 5% or more from quarterly or year-end targets.

OCCC Actual Performance for Non-Key Measures
Fiscal Year 2023
For Period Ending August 31, 2023

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target	
Non-Key Measures				
A. CONSUMER PROTECTION				
A.1.1	AVERAGE NUMBER OF DAYS FOR ALL COMPLAINTS TO REACH FINAL DISPOSITION	60	42.1	70.2%
A.1.2	AVERAGE NUMBER OF DAYS TO CLOSE A COMPLAINT	45	41.5	92.2%
A.1.3	AVERAGE COST PER COMPLAINT	\$165	\$157	95.2%
A.2.1	AVERAGE COST PER EXAMINATION	\$1,550	\$1,313	84.7%
	Five of six examination categories reported compliance ratings above 85%. Property Tax Examinations compliance rating is 83.33% due primarily to the results from an enterprise examination.			
A.2.2	% OF LICENSED LOCATIONS AND REGISTERED OFFICES EXAMINED ANNUALLY	18%	19.4%	107.8%
	Several large multi-year restitution situations resolved in Fiscal Year 2023. The restitution variance results include 2 large enforcement actions, more effective utilization of the exam review program and processes, and restitution related to Consumer Assistance Activities.			
A.2.3	NUMBER OF INVESTIGATIONS COMPLETED	75	75	100.0%
A.3.2	% OF ENFORCEMENT ACTIONS CLOSED WITHIN TARGETED TIMEFRAME	75%	83%	110.7%
A.3.3	NUMBER OF ENFORCEMENT ACTIONS TAKEN AND CLOSED	200	126	63.0%
	The legal department received fewer referrals for enforcement matters than anticipated. Based on information from FY23, the OCCC adjusted this target to 150 for FY24.			
A.3.4	NUMBER OF CONTESTED CASES DOCKETED AT SOAH	4	2	50.0%
	The legal department received fewer hearing requests than anticipated and was able to resolve the majority of cases with compliance and without the need to docket a contested case at SOAH.			
A.3.5	NUMBER OF COMPLIANCE AIDS AND TOOLS PUBLISHED	45	25	55.6%
	The agency received fewer requests for compliance aids and tools than forecasted.			
A.3.6	NUMBER OF INDUSTRY STAKEHOLDER AND OUTREACH EVENTS HOSTED OR ATTENDED BY OCCC STAFF	30	49	163.3%
B. EFFECTIVE LICENSING AND REGISTRATION				
B.1.1	AVERAGE PROCESSING TIME (DAYS) FOR PAWNSHOP EMPLOYEE APPS	30	49	163.3%
	The department faced longer processing times in FY 23 for pawn employee applications, but will work to decrease processing times for all applications in FY 24.			
B.1.2	AVERAGE PROCESSING TIME (DAYS) FOR RMLO APPS	15	216	1440.0%
	The department faced personnel and productivity issues with RMLO application processing in FY 23. New staff has been assigned to process this application type and application processing will be monitored monthly to track this closely.			
B.1.3	NUMBER OF PAWNSHOP EMPLOYEE LICENSE APPLICATIONS PROCESSED	375	305	81.3%
	This reduced volume of applications processed is primarily due to fewer applications received that initially anticipated, which has been adjusted for FY 24.			
B.1.4	NUMBER OF RMLO APPLICATIONS PROCESSED	125	203	162.4%
C. FINANCIAL EDUCATION				
C.2	% OF TFEF AWARD RECIPIENTS WHO REACHED THEIR CONSUMER PARTICIPATION GOAL WITHIN THE GRANT PERIOD	100%	75.0%	75.0%
	TFEF grant cycles are every two calendar years and agency performance targets are reported per fiscal year. This presents a challenge in reporting grant-related data. As of the end of FY '23, 9 out of 12 organizations met their pro-rated goals. However, aggregate participation goals, across all TFEF recipients, is 134% of the projected participation targets.			
D. EFFICIENT AND EFFECTIVE AGENCY OPERATION				
D.1	PERCENTAGE OF ACTUAL EXPENDITURES TO BUDGETED EXPENDITURES	95%	91.0%	95.8%
D.2.1	PERCENTAGE OF PUBLIC INFORMATION REQUESTS ADDRESSED WITHIN 5 BUSINESS DAYS	80%	84.0%	105.0%
D.2.2	NUMBER OF PUBLIC INFORMATION REQUESTS CLOSED	185	155	83.8%
	The OCCC received fewer public information requests than anticipated.			
D.2.3	NUMBER OF PUBLIC INFORMATION REQUESTS WITHDRAWN	8	7	87.5%
D.2.4	AVERAGE NUMBER OF DAYS TO ADDRESS A PUBLIC INFORMATION REQUEST	3	2.3	76.7%
D.2.5	NUMBER OF PUBLIC INFORMATION REQUESTS RECEIVED	193	162	83.9%
	The OCCC received fewer public information requests than anticipated.			

* Varies by 5% or more from target.



Legal Department Report

Matthew Nance, General Counsel

October 2023

Enforcement Report

Contested Cases

As of September 30, 2023, the OCCC does not have any contested cases pending before the State Office of Administrative Hearings (SOAH) and does not have any hearings scheduled before SOAH.

Enforcement Case Highlights

Regulated lender annual reports

Under Chapter 342 of the Texas Finance Code and its implementing rules, each regulated lender is required to file an annual report by May 1 describing the previous year's activity. If a regulated lender violates this requirement, the OCCC's typical practice is to send an injunction for the first violation, followed by administrative penalties for subsequent violations. In August 2023, the OCCC issued 38 orders against regulated lenders for failing to file 2022 annual reports by the deadline of May 1, 2023.

Unlicensed motor vehicle sales finance activity

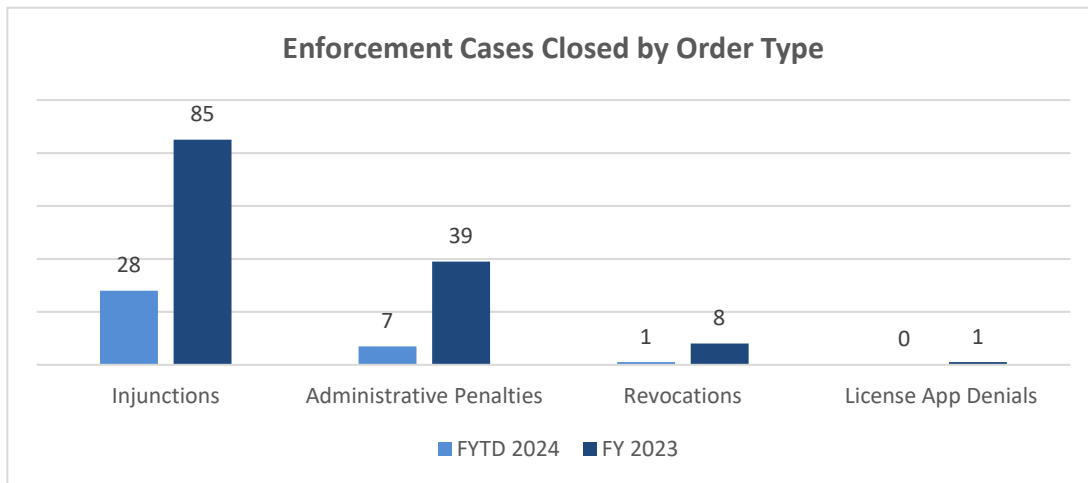
Under Chapter 348 of the Texas Finance Code, a person must hold a motor vehicle sales finance license in order to sell motor vehicles on credit. In certain cases where a license applicant has engaged in previous unlicensed activity, the OCCC will enter an agreed order with the applicant before approving the application and granting the license. Under these agreed orders, the applicant pays an administrative penalty and refunds finance charges to affected consumers before receiving a license. In September 2023, the OCCC entered an agreed order with a motor vehicle sales finance license applicant to pay a \$3,100 administrative penalty and refund finance charges to affected consumers.

Enforcement Case Tracking

The following table includes enforcement case tracking information for FY 2024 to date (September 1 through September 30, 2023) and FY 2023.

Enforcement Case Tracking Information	FYTD 2024	FY 2023
Enforcement Cases Opened	1	124
Enforcement Cases Closed	36	133
Enforcement Cases Closed by Final Order	33	126
*Average Number of Days to Close an Enforcement Action	76	142
Contested Cases Docketed at SOAH	0	2

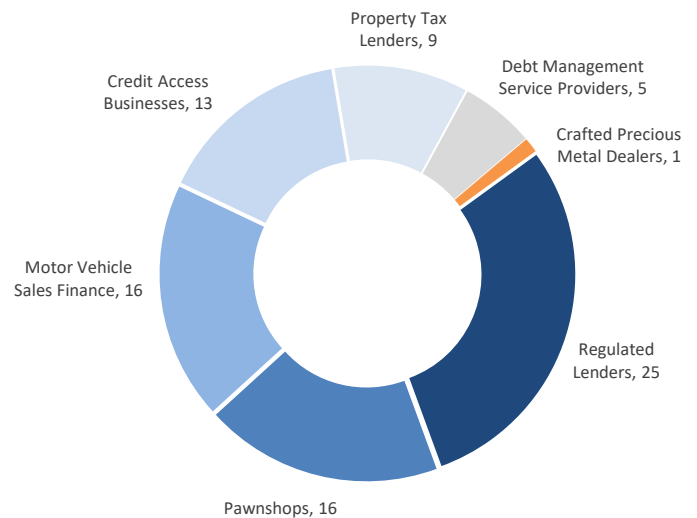
* Key Measure



Cases Closed by Industry FYTD 2024



Cases Closed by Industry FY 2023



Litigation

Ernest Polk v. Texas Office of Consumer Credit Commissioner

This is an employment discrimination lawsuit pending before the First Court of Appeals in Houston (case no. 01-22-00712-CV). The district court dismissed the plaintiff's case, and the plaintiff appealed the case. The parties have filed their briefs in the court of appeals. On October 4, 2023, the court of appeals issued a letter that identified the three justices who will decide the case, stated that the court will not hear oral argument, and set a case submission date of November 28, 2023. The appeal is still pending.

Rulemaking

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

- Adoption of amendments to Chapter 2 (relating to residential mortgage loan originators) to specify military licensing requirements for RMLOs, implementing SB 422 (2023)
- Adoption of amendments to Chapter 85, Subchapter A (relating to pawnshops) to specify military licensing requirements for pawnshop employees, implementing SB 422 (2023)
- Readoption of 7 TAC Chapter 83, Subchapter B (relating to credit access businesses), as well as proposed amendments to the subchapter, resulting from rule review
- Proposed amendments to 7 TAC Chapter 84 (relating to motor vehicle sales finance) to specify recordkeeping requirements for debt cancellation agreements following HB 2746 (2023) and to make technical corrections

At the December meeting, the OCCC intends to present the readoption of 7 TAC Chapter 85, Subchapter B (relating to crafted precious metal dealers), as well as any proposed amendments to the subchapter, resulting from rule review.

Advisory Guidance

From August 1, 2023, to September 30, 2023, the OCCC did not issue any advisory bulletins.

From August 1, 2023, to September 30, 2023, the OCCC did not receive any requests for official interpretations of the Texas Finance Code. As of July 31, 2023, there were no pending requests for official interpretations of the Texas Finance Code.

Public Information Requests

Public Information Tracking Information	FYTD 2024	FY 2023
Public Information Requests Received	6	162
Public Information Requests Closed	5	155
Public Information Requests Withdrawn	0	7
Public Information Requests Referred to Office of Attorney General	0	0
Average Number of Days to Address a Public Information Request	1.4	2.3

Gifts Received by the OCCC

From August 1, 2023, to September 30, 2023, 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 in 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner

PURPOSE: The purpose of the rule changes to 7 TAC Chapter 2 is to specify residential mortgage loan originator licensing requirements for military service members, military veterans, and military spouses, in accordance with Chapter 55 of the Texas Occupations Code, as amended by SB 422 (2023).

RECOMMENDED ACTION: The OCCC requests that the Finance Commission approve the adoption of the amendments to 7 TAC Chapter 2.

RECOMMENDED MOTION: I move that the Finance Commission approve the adoption of 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
Subchapter A. Application Procedures

The Finance Commission of Texas (commission) adopts amendments to §2.108 (relating to Military Licensing) in 7 TAC Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

The commission adopts the amendments to §2.108 without changes to the proposed text as published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4729).

The commission received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 2 govern residential mortgage loan originators (RMLOs) licensed by the Office of Consumer Credit Commissioner (OCCC) under Texas Finance Code, Chapter 180. In general, the purpose of the adopted rule changes is to specify RMLO licensing requirements for military service members, military veterans, and military spouses, in accordance with Chapter 55 of the Texas Occupations Code, as amended by SB 422 (2023).

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

Chapter 55 of the Texas Occupations Code describes licensing requirements for

military service members, military veterans, and military spouses. Chapter 55 applies to licenses that "must be obtained by an individual to engage in a particular business." Tex. Occ. Code §55.001(3). Chapter 55 includes an expedited license application procedure for certain previously licensed individuals, and authorizes certain individuals licensed in other jurisdictions to engage in licensed occupations in Texas. SB 422, which the Texas Legislature passed in 2023, amends various provisions in Chapter 55. Specifically, SB 422 amends Texas Occupations Code, §55.0041 to extend recognition of licenses in other jurisdictions to military service members, and to specify a 30-day period for an agency to verify that a qualifying military service member or spouse is licensed in good standing with another jurisdiction. SB 422 also amends Texas Occupations Code, §55.005 to specify that agencies will review certain license applications from qualifying military service members, veterans, and spouses within 30 days after the agency received a complete application. SB 422 went into effect on September 1, 2023.

The amendments to §2.108 implement SB 422's statutory changes for RMLOs licensed by the OCCC. Amendments to §2.108(d) specify that the OCCC will process an RMLO license application no later than 30 days after receiving a complete license application from a qualifying applicant who is a military service member, military veteran, or military spouse. These changes implement SB 422's amendments to Texas Occupations Code, §55.005(a). Amendments

throughout §2.108(e) specify that the authorization to engage in business in Texas applies to military service members, and that the OCCC will review information in NMLS (the nationwide system for licensing RMLOs) no later than the 30th day after the military service member or military spouse submits required information. These changes implement SB 422's amendments to Texas Occupations Code, §55.0041.

The rule amendments are adopted under Texas Occupations Code, §55.004 and §55.0041 (as amended by SB 422), which authorize a state agency to adopt rules implementing requirements of Chapter 55 of the Texas Occupations Code. 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 adoption are contained in Texas Occupations Code, Chapter 55 and Texas Finance Code, Chapter 180.

§2.108. Military Licensing

(a) Purpose. The purpose of this section is to specify residential mortgage loan originator licensing requirements for military service members, military veterans, and military spouses, in accordance with Texas Occupations Code, Chapter 55.

(b) Definitions. In this section, the terms "military service member," "military spouse," and "military veteran" have the meanings provided by Texas Occupations Code, §55.001.

(c) Late renewal. As provided by Texas Occupations Code, §55.002, an individual is exempt from any increased fee or other penalty for failing to renew a residential

mortgage loan originator license in a timely manner, if the individual establishes to the satisfaction of the OCCC that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

(d) Expedited license procedure. As provided by Texas Occupations Code, §55.004 and §55.005, no later than the 30th day after the OCCC receives a complete residential mortgage loan originator license application from a qualifying applicant who is a military service member, military veteran, or military spouse, the OCCC will process ~~the [a license]~~ application ~~[as soon as practicable]~~ and issue a license to ~~the [a qualifying]~~ applicant ~~[who is a military service member, military veteran, or military spouse]~~, if the applicant:

(1) holds a current license in another jurisdiction as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117; or

(2) held a residential mortgage loan originator license in Texas within the five years preceding the application date.

(e) Authorization for military service members and military spouses ~~[spouse]~~.

(1) As provided by Texas Occupations Code, §55.0041, a military service member or military spouse may engage in business as a residential mortgage loan originator if the member or spouse is currently licensed in good standing in another jurisdiction as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117.

(2) Before engaging in business in Texas, the military service member or military spouse must comply with the notification requirements described by Texas Occupations Code, §55.0041(b). If the member or [military] spouse does not obtain a residential mortgage loan originator license in Texas, then the member or [military] spouse is limited to the time period described by Texas Occupations Code, §55.0041(d)-(d-1) [§55.0041(d)].

(3) For purposes of this subsection and Texas Occupations Code, §55.0041, a residential mortgage loan originator license issued in another jurisdiction is substantially equivalent to a Texas residential mortgage loan originator license if it is issued in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117. The OCCC will verify a license issued in another jurisdiction through NMLS. The OCCC will review available information in NMLS no later than the 30th day after the military service member or military spouse submits the information required by Texas Occupations Code, §55.0041(b)(1)-(2).

(f) Credit toward licensing requirements. As provided by Texas Occupations Code, §55.007, with respect to an applicant who is a military service member or military veteran, the OCCC will credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a residential mortgage loan originator license, by considering the service, training, or education as part of the applicant's employment history.

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 October 27, 2023.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

3. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 85, Subchapter A, Concerning Rules of Operation for Pawnshops

PURPOSE: The purpose of the rule changes to 7 TAC Chapter 85 is to specify pawnshop employee licensing requirements for military service members, military veterans, and military spouses, in accordance with Chapter 55 of the Texas Occupations Code, as amended by SB 422 (2023).

RECOMMENDED ACTION: The OCCC requests that the Finance Commission approve the adoption of amendments to 7 TAC Chapter 85.

RECOMMENDED MOTION: I move that the Finance Commission approve the adoption of the amendments to 7 TAC Chapter 85.

Title 7, Texas Administrative Code
Part 5. Office of Consumer Credit Commissioner
Chapter 85. Pawnshops and Crafted Precious Metal Dealers
Subchapter A. Rules of Operation for Pawnshops
Division 3. Pawnshop Employee License

The Finance Commission of Texas (commission) adopts amendments to §85.309 (relating to Military Licensing) in 7 TAC Chapter 85, Subchapter A, concerning Rules of Operation for Pawnshops.

The commission adopts the amendments to §85.309 without changes to the proposed text as published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4737).

The commission received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 85, Subchapter A govern pawnshops and pawnshop employees licensed by the Office of Consumer Credit Commissioner (OCCC) under Texas Finance Code, Chapter 371. In general, the purpose of the adopted rule changes is to specify pawnshop employee licensing requirements for military service members, military veterans, and military spouses, in accordance with Chapter 55 of the Texas Occupations Code, as amended by SB 422 (2023).

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

Chapter 55 of the Texas Occupations Code describes licensing requirements for military service members, military veterans,

and military spouses. Chapter 55 applies to licenses that "must be obtained by an individual to engage in a particular business." Tex. Occ. Code §55.001(3). Chapter 55 includes an expedited license application procedure for certain previously licensed individuals, and authorizes certain individuals licensed in other jurisdictions to engage in licensed occupations in Texas. SB 422, which the Texas Legislature passed in 2023, amends various provisions in Chapter 55. Specifically, SB 422 amends Texas Occupations Code, §55.0041 to extend recognition of licenses in other jurisdictions to military service members, and to specify a 30-day period for an agency to verify that a qualifying military service member or spouse is licensed in good standing with another jurisdiction. SB 422 also amends Texas Occupations Code, §55.005 to specify that agencies will review certain license applications from qualifying military service members, veterans, and spouses within 30 days after the agency received a complete application. SB 422 went into effect on September 1, 2023.

The amendments to §85.309 implement SB 422's statutory changes for pawnshop employees licensed by the OCCC. Amendments to §85.309(d) specify that the OCCC will process a pawnshop employee license application no later than 30 days after receiving a complete license application from a qualifying applicant who is a military service member, military veteran, or military spouse. These changes implement SB 422's amendments to Texas Occupations Code, §55.005(a). Amendments throughout

§85.309(e) specify that the authorization to engage in business in Texas applies to military service members, and that the OCCC will send a request for records to the appropriate licensing authority no later than the 30th day after the military service member or military spouse submits required information. These changes implement SB 422's amendments to Texas Occupations Code, §55.0041.

The rule amendments are adopted under Texas Occupations Code, §55.004 and §55.0041 (as amended by SB 422), which authorize a state agency to adopt rules implementing requirements of Chapter 55 of the Texas Occupations Code. The rule amendments are also adopted under Texas Finance Code, §371.006, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 371. 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, Chapter 14 and Title 4.

The statutory provisions affected by the adoption are contained in Texas Occupations Code, Chapter 55 and Texas Finance Code, Chapter 371.

§85.309. Military Licensing

(a) Purpose and scope. The purpose of this section is to specify pawnshop employee licensing requirements for military service members, military veterans, and military spouses, in accordance with Texas Occupations Code, Chapter 55. This section applies only to employees of pawnbrokers that participate in the pawnshop employee license program.

(b) Definitions. In this section, the terms "military service member," "military spouse," and "military veteran" have the meanings provided by Texas Occupations Code, §55.001.

(c) Late renewal. As provided by Texas Occupations Code, §55.002, an individual is exempt from any increased fee or other penalty for failing to renew a pawnshop employee in a timely manner, if the individual establishes to the satisfaction of the OCCC that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

(d) Expedited license procedure. As provided by Texas Occupations Code, §55.004 and §55.005, no later than the 30th day after the OCCC receives a complete pawnshop employee license application from a qualifying applicant who is a military service member, military veteran, or military spouse, the OCCC will process the [a license] application [~~as soon as practicable~~] and issue a license to the [a qualifying] applicant [~~who is a military service member, military veteran, or military spouse~~], if the applicant:

(1) holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for a pawnshop employee license in Texas; or

(2) held a pawnshop employee license in Texas within the five years preceding the application date.

(e) Authorization for military service members and military spouses [~~spouse~~].

(1) As provided by Texas Occupations Code, §55.0041, a military

service member or military spouse may engage in business as a pawnshop employee if the member or spouse is currently licensed in good standing in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for a pawnshop employee license in Texas.

(2) Before engaging in business in Texas, the military service member or military spouse must comply with the notification requirements described by Texas Occupations Code, §55.0041(b), and must notify the OCCC of the jurisdiction where the military spouse is licensed and how the license can be verified. If the member or [military] spouse does not obtain a pawnshop employee license in Texas, then the member or [military] spouse is limited to the time period described by Texas Occupations Code, §55.0041(d)-(d-1) [§55.0041(d)].

(3) For purposes of this section and Texas Occupations Code, §55.0041, the OCCC will determine whether the other jurisdiction's licensing requirements are substantially similar to Texas's by reviewing the applicable legal requirements that a license holder must comply with in the other jurisdiction, as well as the application review process in the other jurisdiction. The OCCC will verify a license issued in another jurisdiction by requesting records from the appropriate licensing authority. The OCCC will send a request for records to the appropriate licensing authority no later than the 30th day after the military service member or military spouse submits the information required by Texas Occupations Code, §55.0041(b)(1)-(2).

(f) Credit toward licensing requirements. As provided by Texas Occupations Code, §55.007, with respect to an applicant who is a military service member or military

veteran, the OCCC will credit verified military service, training, or education toward the licensing requirements for a pawnshop employee license, by considering the service, training, or education as part of the applicant's employment history.

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 October 27, 2023.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

4. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Chapter 83, Subchapter B, Concerning Rules for Credit Access Businesses, Resulting from Rule Review

PURPOSE: Pursuant to Texas Government Code, §2001.039, the OCCC has completed the review of 7 TAC Chapter 83, Subchapter B, and believes that the reasons for initially adopting the rules contained in this subchapter continue to exist.

RECOMMENDED ACTION: The OCCC requests that the Finance Commission readopt 7 TAC Chapter 83, Subchapter B following rule review, because the reasons for the rules continue to exist.

RECOMMENDED MOTION: I move that the Finance Commission readopt 7 TAC Chapter 83, Subchapter B following rule review, because the reasons for the rules continue to exist.

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

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 83, Subchapter B, concerning Rules for Credit Access Businesses. The rule review was conducted under Texas Government Code, §2001.039.

Before publishing notice of the review in the Texas Register, the Office of Consumer Credit Commissioner (OCCC) issued an informal advance notice of the rule review to stakeholders. The OCCC received one informal precomment in response to the advance notice. This precomment expressed general support for the rules in 7 TAC Chapter 83, Subchapter B but suggested changes to: (1) adopt rules to implement Texas Finance Code, §393.303 (prohibiting a credit service organization from charging a fee for referring a consumer to a retail seller who will extend consumer credit that is substantially the same as that available to the public), and (2) revise quarterly report instructions to change the manner in which refinances are counted. The OCCC appreciates the thoughtful input provided by stakeholders but believes that these issues are outside the intended scope of the rule review for this subchapter. First, the prohibited conduct is described in the text of Texas Finance Code, §393.303, so it is unclear whether a rule implementing this section is necessary. Second, the required elements for credit access business quarterly reports are listed in Texas Finance Code, §393.627 and in the OCCC's written reporting instructions, and the OCCC believes at this time that the instructions appropriately implement the statutory reporting requirement.

Notice of the review of 7 TAC Chapter 83, Subchapter B was published in the August 4, 2023, issue of the *Texas Register* (48 TexReg 4283). The commission received no official comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this subchapter 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 83, Subchapter B continue to exist, and readopts this subchapter in accordance with the requirements of Texas Government Code, §2001.039.

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

5. Discussion of and Possible Vote to Take Action on the Proposal of Amendments in 7 TAC, Part 5, Chapter 83, Subchapter B, Concerning Rules for Credit Access Businesses, Resulting from Rule Review

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

RECOMMENDED ACTION: The OCCC requests that the Finance Commission approve the amendments to 7 TAC Chapter 83, Subchapter B for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that the Finance Commission approve for publication and comment the amendments to 7 TAC Chapter 83, Subchapter B.

Title 7, Texas Administrative Code
Part 5. Office of Consumer Credit Commissioner
Chapter 83. Regulated Lenders and Credit Access Businesses
Subchapter B. Rules for Credit Access Businesses

The Finance Commission of Texas (commission) proposes amendments to §83.3002 (relating to Filing of New Application), §83.3007 (relating to Processing of Application), §83.4003 (relating to Denial, Suspension, or Revocation Based on Criminal History), and §83.6007 (relating to Consumer Disclosures) in 7 TAC Chapter 83, Subchapter B, concerning Rules for Credit Access Businesses.

The rules in 7 TAC Chapter 83, Subchapter B govern credit access businesses (CABs). In general, the purpose of the proposed rule changes to 7 TAC Chapter 83, Subchapter B is to implement changes resulting from the commission's review of the subchapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 83, Subchapter B was published in the *Texas Register* on August 4, 2023 (48 TexReg 4283). The commission received no official comments in response to that notice.

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

Proposed amendments to §83.3002 would update requirements for filing a new CAB license application. Currently, §83.3002(1)(A)(ii) requires a CAB license application to identify a "responsible person" with substantial management responsibility for each proposed office. The proposal would

replace the "responsible person" requirement in §83.3002(1)(A)(ii) with a requirement to list a "compliance officer," who must be an individual responsible for overseeing compliance, and must be authorized to receive and respond to communications from the OCCC. The amendment would enable CABs to identify an individual who can be contacted on a company-wide basis. The amendment is intended to ensure that each CAB lists an individual who can be contacted about compliance issues. In addition, a proposed amendment to §83.3002(2)(A)(v) would remove language suggesting that CAB license applicants send fingerprints directly to the OCCC. Currently, license applicants submit fingerprints through a party approved by the Texas Department of Public Safety.

Proposed amendments to §83.3007 would revise provisions governing the OCCC's denial of a CAB license application. Under Texas Finance Code, §393.603(b), if the OCCC finds that a CAB license applicant has not met the eligibility requirements for a CAB license, then the OCCC will notify the applicant. Under Texas Finance Code, §393.603(c), an applicant has 30 days after the date of the notification to request a hearing on the denial. Proposed amendments at §83.3007(d) would specify that if the eligibility requirements for a license have not been met, the OCCC will send a notice of intent to deny the license application, as described by Texas Finance Code, §393.603(b). Proposed amendments at §83.3007(e) would revise current language to specify that an affected applicant has 30 days from the date of the notice of intent to deny to request a hearing, as provided by Texas

Finance Code, §393.603(c). These amendments would ensure consistency with the license application denial process in Texas Finance Code, §393.603. The amendments are consistent with the OCCC's current practice for notifying an applicant of the intent to deny a license application.

Proposed amendments to §83.4003 relate to the OCCC's review of the criminal history of a CAB applicant or licensee. The OCCC is authorized to review criminal history of CAB applicants and licensees under Texas Occupations Code, Chapter 53; Texas Finance Code, §14.151; and Texas Government Code, §411.095. The proposed amendments to §83.4003 would ensure consistency with HB 1342, which the Texas Legislature enacted in 2019. HB 1342 included a change to Texas Occupations Code, §53.022 relating to factors considered in determining whether an offense relates to the duties and responsibilities of the licensed occupation. Proposed amendments to §83.4003(c)(2) would implement this statutory change from HB 1342. A proposed amendment to §83.4003(d) would correct an internal cross-reference in the rule.

Proposed amendments to the figures accompanying §83.6007 would revise the model forms for the consumer cost disclosure used by CABs. The proposed amendments implement Texas Finance Code, §393.223(a), which authorizes the commission to adopt rules including the disclosure. The proposed amendments include updated information regarding the cost of comparable forms of consumer credit, as well as updated information on patterns of repayment based on 2022 quarterly and annual reports provided by CABs to the OCCC.

Mirand Diamond, Director of Licensing, Finance and Human Resources, 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 rule changes 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, will better enable licensees to comply with Chapter 393 of the Texas Finance Code, and will aid licensees in preparing disclosures that clearly disclose up-to-date information to consumers.

Additional economic costs may be incurred by persons who are required to comply with the proposed amendments to the consumer disclosure rule at §83.6007. The anticipated costs would include the costs associated with producing new forms, and costs attributable to the loss of obsolete forms inventory. For licensees not using the fillable forms provided by the agency online, any additional economic costs are anticipated to be minimal, with an estimated programming time of less than five hours to produce the updated forms.

The agency has attempted to lessen any potential costs by providing on the agency's website fillable PDF versions of the disclosure forms free of charge. Additionally, the agency is considering a delayed implementation date for use of the revised forms, which will help minimize potential costs and allow use of current forms inventory. In particular, the agency is considering a possible implementation date

of July 1, 2024, and invites comments on this issue.

The OCCC does not anticipate economic costs to persons who are required to comply with the other 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 §83.3002 by specifying a requirement to identify a compliance officer, would expand current §83.3007 to specify the process to deny a CAB license application, and would expand current §83.4003 to specify requirements for the by amending grounds on which the OCCC may deny, suspend, or revoke a license on grounds of criminal history. The

proposal would limit current §83.3002 by removing a requirement for a license applicant to identify a responsible person for each office. The proposal would not 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, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before 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 changes are proposed under Texas Finance Code, §393.622, which authorizes the commission to adopt rules necessary to enforce and administer Texas Finance Code, Chapter 393, Subchapter G (governing CABs). In addition, Texas Finance Code, §393.223 authorizes the commission to adopt rules regarding the cost disclosure used by CABs.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapter 393.

Division 3. Application Procedures

§83.3002. Filing of New Application

An application for issuance of a new credit access business license must be

submitted in a format prescribed by the commissioner at the date of filing and in accordance with the commissioner's instructions. The commissioner may accept the use of prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. Appropriate fees must be filed with the application and the application must include the following:

(1) Required application information. All questions must be answered.

(A) Application for license.

(i) (No change.)

(ii) Compliance officer. The application must list a compliance officer. The compliance officer must be an individual responsible for overseeing compliance, and must be authorized to receive and respond to communications from the OCCC. [~~Responsible person. For each of the applicant's proposed offices, the person with substantial management responsibility for operations must be named.~~]

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

(B) - (E) (No change.)

(2) Other required filings.

(A) Fingerprints.

(i) - (iv) (No change.)

(v) For individuals who have previously submitted fingerprints to another state agency (e.g., Texas Department of Savings and Mortgage Lending), fingerprints are still required to be submitted under [~~to the~~ OCCC, as per] Texas Finance Code, §14.152.

Fingerprints cannot be disclosed to others, except as authorized by Texas Government Code, §560.002.

(B) - (F) (No change.)

(3) (No change.)

§83.3007. Processing of Application

(a) - (c) (No change.)

(d) Notice of intent to deny application. If the OCCC does not find that the eligibility requirements for a license have been met, then the OCCC will send a notice of intent to deny the license application to the applicant.

(e) [~~(d)~~] Hearing. An [~~Whenever an application is denied, the~~] affected applicant has 30 calendar days from the date of the notice of intent to deny the license application [~~the application was denied~~] to request in writing a hearing to contest the denial. This hearing will be conducted pursuant to the Administrative Procedure Act, Texas Government Code, Chapter 2001, and the rules of procedure applicable under §9.1(a) of this title (relating to Application, Construction, and Definitions), before an administrative law judge who will recommend a decision to the commissioner. The commissioner will then issue a final decision after review of the recommended decision.

(f) [~~(e)~~] Denial. If an application has been denied, the assessment fee will be refunded to the applicant. The investigation fee and the fingerprint processing fee in §83.3010 of this title (relating to Fees) will be forfeited.

(g) [~~(f)~~] Processing time.

(1) - (3) (No change.)

Division 4. Application Procedures

§83.4003. Denial, Suspension, or Revocation Based on Criminal History

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

(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 credit access business, as provided by Texas Occupations Code, §53.021(a)(1).

(1) (No change.)

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

(A) the nature and seriousness of the crime;

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

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

(D) the relationship of the crime to the ability or [;] capacity [~~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) (No change.)

(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, §393.607(a). 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) - (f) (No change.)

Division 6. Consumer Disclosures and Notices

§83.6007. Consumer Disclosures

(a) Consumer disclosure for single payment payday loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a single payment payday loan is presented in the following figure.

Figure: 7 TAC §83.6007(a) {See attached amendments.}

(b) Consumer disclosure for multiple payment payday loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a multiple payment payday loan is presented in the following figure.

Figure: 7 TAC §83.6007(b) {See attached amendments.}

(c) Consumer disclosure for single payment auto title loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a single payment auto title loan is presented in the following figure.

Figure: 7 TAC §83.6007(c) {See attached amendments.}

(d) Consumer disclosure for multiple payment auto title loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a multiple payment auto title loan is presented in the following figure.

Figure: 7 TAC §83.6007(d) {See attached amendments.}

(e) - (f) (No change.)

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 October 27, 2023.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner

CAB NAME HERE

Payday Loan

\$_____, One Payment

Cost Disclosure

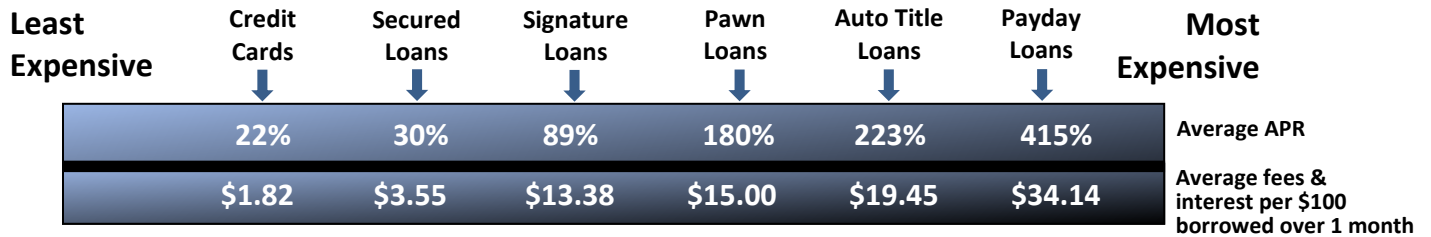
Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u>	\$ _____
Total of payments (if I pay on time)	\$ _____





APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____

Cost of other types of loans:



Repayment:

Of 10 people who get a new single-payment payday loan:	
	5 ¾ will pay the loan on time as scheduled (typically before 30 days)
	1 ½ will renew 1 time before paying off the loan
	1 ¾ will renew 2 to 4 times before paying off the loan
	1 will renew 5 or more times or will never pay off the loan

This data is from 2022 reports to the OCCC.

Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

OCCC notice:

- This company is regulated by the Texas Office of Consumer Credit Commissioner (OCCC).
- OCCC Consumer Helpline: (800) 538-1579, consumer.complaints@occc.texas.gov.
- Visit occc.texas.gov for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

CAB NAME HERE

Payday Loan

\$ _____, _____ Payments

Cost Disclosure

Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u>	\$ _____
Payment amounts (payments due every _____)	Payments #1-# _____ \$ _____ (Final) Payment # _____ \$ _____
Total of payments (if I pay on time)	\$ _____




APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____
_____	\$ _____	\$ _____

Cost of other types of loans:



Repayment:

Of 10 people who get a new multi-payment payday loan:	
	6 ¾ will pay the loan on time as scheduled (typically 5 months)
	¾ will renew 1 to 4 times before paying off the loan
	2 ½ will renew 5 or more times or will never pay off the loan.

This data is from 2022 reports to the OCCC.

Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

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- Visit occc.texas.gov for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

CAB NAME HERE

Auto Title Loan \$_____, One Payment Cost Disclosure



You can lose your car.

If you miss a payment or make a late payment, your car can be repossessed.

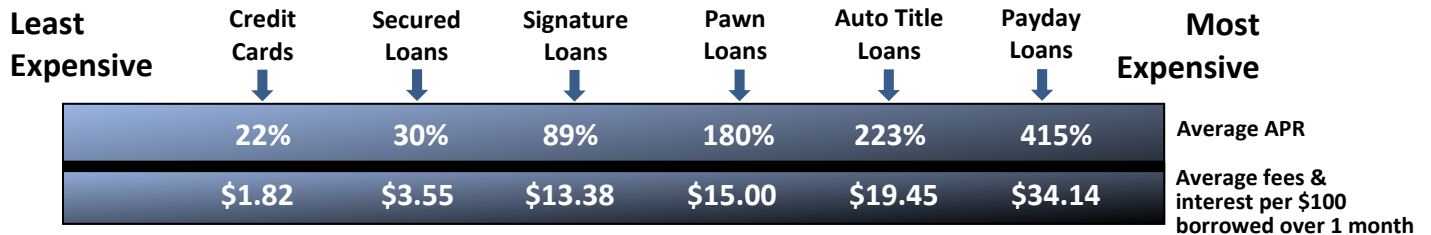
Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u> (includes a one-time \$__ title fee)	\$ _____
Total of payments (if I pay on time)	\$ _____

APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____

Cost of other types of loans:



Repayment:

Of 10 people who get a new single-payment auto title loan:	
	1 ¼ will pay the loan on time as scheduled (typically 30 days)
	¼ will renew 1 time before paying off the loan
	¾ will renew 2 to 4 times before paying off the loan
	7 ¼ will renew 5 or more times or will never pay off the loan

This data is from 2022 reports to the OCCC.

Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

OCCC notice:

- This company is regulated by the Texas Office of Consumer Credit Commissioner (OCCC).
- OCCC Consumer Helpline: (800) 538-1579, consumer.complaints@occc.texas.gov.
- Visit occc.texas.gov for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

CAB NAME HERE

Auto Title Loan

\$_____, ____ Payments

Cost Disclosure



You can lose your car.

If you miss a payment or make a late payment, your car can be repossessed.

Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u> (includes a one-time \$__ title fee)	\$ _____
Payment amounts (payments due every _____)	Payments #1-# _____ \$ _____ (Final) Payment # _____ \$ _____
Total of payments (if I pay on time)	\$ _____





APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____
_____	\$ _____	\$ _____

Cost of other types of loans:



Repayment:

Of 10 people who get a new multi-payment auto title loan:	
	4 ¼ will pay the loan on time as scheduled (typically 5 - 6 months)
	¾ will renew 1 time before paying off the loan
	1 will renew 2 to 4 times before paying off the loan
	4 will renew 5 or more times or will never pay off the loan

This data is from 2022 reports to the OCCC.

Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

OCCC notice:

- This company is regulated by the Texas Office of Consumer Credit Commissioner (OCCC).
- OCCC Consumer Helpline: (800) 538-1579, consumer.complaints@occc.texas.gov.
- Visit occc.texas.gov for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

C. OFFICE OF CONSUMER CREDIT COMMISSIONER

6. Discussion of and Possible Vote to Take Action on the Proposal of Amendments in 7 TAC, Part 5, Chapter 84, Concerning Motor Vehicle Installment Sales

PURPOSE: The purposes of the proposed rule changes to 7 TAC Chapter 84 are to implement changes relating to recordkeeping for debt cancellation agreements under HB 2746 (2023) and to make technical corrections and updates.

RECOMMENDED ACTION: The OCCC requests that the Finance Commission approve the amendments to 7 TAC Chapter 84 for publication in the *Texas Register*.

RECOMMENDED MOTION: I move that the Finance Commission approve for publication and comment the amendments to 7 TAC Chapter 84.

Title 7, Texas Administrative Code
Part 5. Office of Consumer Credit Commissioner
Chapter 84. Motor Vehicle Installment Sales
Subchapter G. Examinations

The Finance Commission of Texas (commission) proposes amendments to §84.707 (relating to Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)), §84.708 (relating to Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)), and §84.709 (relating to Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)) in 7 TAC Chapter 84, concerning Motor Vehicle Installment Sales.

The rules in 7 TAC Chapter 84 govern motor vehicle retail installment transactions. In general, the purposes of the proposed rule changes to 7 TAC Chapter 84 are: (1) to implement changes relating to recordkeeping for debt cancellation agreements under HB 2746 (2023), and (2) to make technical corrections and updates.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received one informal precomment on the rule text draft. The OCCC appreciates the thoughtful input provided by stakeholders.

Proposed amendments to §84.707 would update recordkeeping requirements for retail sellers that assign motor vehicle retail installment contracts to another holder. Proposed amendments at §84.707(d)(2)(A)(iv) would remove a reference to the Tax Collector's Receipt for Texas Title Application/Registration/Motor

Vehicle Tax handwritten receipt (Form 31-RTS). Based on information from the Texas Department of Motor Vehicles (TxDMV), the OCCC understands that this form is obsolete for motor vehicle dealer sales. A proposed amendments would remove current §84.707(d)(2)(E), which requires retail sellers to maintain the County of Title Issuance form (Form VTR-136). The OCCC understands that this form is now obsolete and is no longer used, following the passage of SB 876 (2021) and amendments to Texas Transportation Code, Chapter 501. Other proposed amendments throughout §84.707 would renumber provisions to be consistent with these amendments and would make technical corrections.

Proposed amendments at §84.707(d)(2)(I) would update recordkeeping requirements for motor vehicle debt cancellation agreements. Under Texas Finance Code, §354.007, a buyer is entitled to a refund of a debt cancellation agreement fee when the agreement terminates due to prepayment of the retail installment contract. The OCCC has identified failure to provide these refunds as a recurring issue in its examinations of licensees. In examinations conducted between 2016 and 2023, the OCCC instructed licensees to provide more than \$26 million in refunds to consumers as a result of this issue. In the 2023 regular legislative session, the Texas Legislature passed HB 2746, which amended requirements for debt cancellation agreement refunds. In particular, HB 2746 amended Texas Finance Code, §354.007 to specify: (1) that retail sellers and third-party administrators are responsible for

providing refunds upon cancellation or termination of a debt cancellation agreement (based on the portion of the debt cancellation agreement fee that the retail seller and administrator received), (2) that holders must either refund a debt cancellation agreement fee or provide written instruction to the administrator and retail seller to make the refund, and (3) that administrators and retail sellers are responsible for maintaining records of a refund. The proposed amendments to §84.707(d)(2)(I) would specify that retail sellers must maintain documentation of the disbursement of the debt cancellation agreement fee, any written instruction from a holder to make a refund, and documentation of any refund. These amendments would help ensure that retail sellers maintain records to show compliance with Texas Finance Code, §354.007, as amended by HB 2746. Licensees must maintain these records to document that consumers are receiving legally required refunds.

In an informal precomment, an attorney representing an association of motor vehicle dealers asked two questions regarding the proposed amendments to §84.707. First, the attorney asked: "With respect to the required 'written instruction' from a holder and the documentation of any refund of the DCA, if the written instructions are sent electronically, may the written instructions be maintained electronically by the retail seller?" Second, the attorney asked: "With the recognition that the DCA is to be maintained in each retail installment transaction file or a copy of any page of the DCA with a signature, transaction-specific term, the cost of the DCA and any blank spaces completed and a master copy of each DCA maintained as required, do the written instructions and refund documents have to be maintained in each retail buyer's file, or may

they be maintained collectively?" These issues are addressed in the current rule's introductory text to §84.707(d)(2), which includes the following two sentences: "A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. . . . If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request." These two sentences apply to the records that are normally part of the retail installment transaction file, and these sentences are not being changed in this proposal. As described in these two sentences, a retail seller could maintain an electronic record that is not included in the transaction file, as long as the electronic record can be accessed on request within a reasonable amount of time.

Proposed amendments to §84.708 would update recordkeeping requirements for retail sellers that collect payments on motor vehicle retail installment contracts. The proposed amendments to §84.708 are substantially similar to the proposed amendments to §84.707 described in the previous two paragraphs. In particular, the proposed amendments would delete a reference to Form 31-RTS, delete a reference to Form VTR-136, make technical corrections, and require sellers to maintain records of debt cancellation agreement refunds to ensure consistency with HB 2746.

Proposed amendments to §84.709 would update recordkeeping requirements for holders that take assignment of motor vehicle retail installment contracts. Specifically,

proposed amendments to §84.709(e)(2)(D) would explain that holders must maintain any written instruction to another person to make a refund, and must maintain any other refunding documentation that comes into their possession. Proposed amendments to §84.709(e)(2)(F) would specify that holders must maintain documents relating to the cancellation or termination of a debt cancellation agreement that come into their possession, and must cooperate in obtaining related documents. These proposed amendments are consistent with a holder's current responsibility under §84.709(e)(2)(F) to maintain (and cooperate in obtaining) documents relating to a debt cancellation agreement claim. It is important that licensees maintain these records to document that consumers are receiving legally required refunds.

Mirand Diamond, Director of Licensing, Finance and Human Resources, 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 benefit 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 better enable licensees to comply with Texas Finance Code, Chapters 348 and 354.

The OCCC does not anticipate that the proposed rule changes will result in any economic costs to persons who are required to comply with the proposed rule changes. If there are any new costs of maintaining

records for debt cancellation agreements, these costs would result from HB 2746's amendments to Chapter 354, not from the proposed rule changes.

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 §§84.707, 84.708, and 84.709 by specifying certain records that a licensee must maintain. The proposal would limit current §§84.707, 84.708, and 84.709 by removing references to certain records that a licensee must maintain. The proposal would not 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, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before 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, §11.304, which authorizes the Finance Commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4. In addition, Texas Finance Code, §348.513 authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapters 348 and 354.

§84.707. Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)

- (a) - (c) (No change.)
- (d) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction

report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract entered into by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (7) [(6)] of this subsection.

(B) - (D) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) - (iii) (No change.)

(iv) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) [~~Tax Assessor's Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax~~]

~~handwritten receipt (Form 31-RTS),] or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;~~

(v) (No change.)

(vi) any records applicable to the retail installment transaction outlined by subparagraphs (B) - ~~(P)~~ [(Q)] of this paragraph.

(B) - (D) (No change.)

~~[(E) for a retail installment sales transaction in which the retail buyer elects to have the vehicle registered in another county as permitted by Texas Transportation Code, §501.0234, a completed copy of the Texas Department of Motor Vehicles' County of Title Issuance form (Form VTR-136) signed by the retail buyer.]~~

~~(E) [(F)] for a retail installment sales transaction involving a downpayment, a copy of any document relating to the downpayment including:~~

(i) - (iv) (No change.)

~~(F) [(G)] for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).~~

~~(G) [(H)] for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document relating to the disbursement of funds for money advanced.~~

~~(H) [(I)] for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.~~

~~(I) [(J)] for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction from a holder to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:~~

~~(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;~~

~~(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (7) of this subsection;~~

~~(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt~~

cancellation agreement used in each individual transaction.

(J) [~~(K)~~] for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(K) [~~(L)~~] for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) - (ii) (No change.)

(L) [~~(M)~~] for a retail installment sales contract that has an itemized charge for the inspection of a used motor vehicle, access to a copy of the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

(M) [~~(N)~~] for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(N) [~~(O)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(O) [~~(P)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(i) - (ii) (No change.)

(P) [~~(Q)~~] any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) - (7) (No change.)

§84.708. Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)

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

(e) Records required.

(1) Retail installment sales transaction report.

(A) General requirements. Each licensee must maintain records sufficient to produce a retail installment sales transaction report that contains a listing of each Texas Finance Code, Chapter 348 retail installment sales contract made or acquired by the licensee. The report is only required to include those retail installment sales contracts that are subject to the record retention period of paragraph (10) [~~(9)~~] of this subsection.

(B) - (D) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to

produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) - (iv) (No change.)

(v) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS) [~~-, Tax Assessor's Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax handwritten receipt (Form 31-RTS),~~] or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(vi) (No change.)

(vii) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (U) [~~(V)~~] of this paragraph.

(B) - (D) (No change.)

~~[(E) for a retail installment sales transaction in which the retail buyer elects to have the vehicle registered in another county as permitted by Texas Transportation Code, §501.0234, a completed copy of the Texas Department of Motor Vehicles' County of Title Issuance form (Form VTR-136) signed by the retail buyer.]~~

(E) [~~(F)~~] for a retail installment sales transaction involving a downpayment, a copy of any record or document relating to the downpayment including:

(i) - (iv) (No change.)

(F) [~~(G)~~] for a retail installment sales transaction involving a trade-in motor vehicle, a copy of the Texas Disclosure of Equity in Trade-In Motor Vehicle required by Texas Finance Code, §348.0091 and §84.204 of this title (relating to Disclosure of Equity in Retail Buyer's Trade-in Motor Vehicle).

(G) [~~(H)~~] for a retail installment sales contract that has an itemized charge for the inspection of a new or used motor vehicle, a copy of or access to the work order, inspection receipt, or other verifiable evidence that reflects that the inspection was performed including the date and cost of the inspection.

(H) [~~(I)~~] for a retail installment sales transaction involving the disbursement of funds for money advanced pursuant to Texas Finance Code, §348.404(b) and (c), a copy of any document, form, or agreement relating to the disbursement of funds for money advanced.

(I) [~~(J)~~] for a retail installment sales transaction in which the licensee issues a certificate of insurance regarding insurance

policies issued by or through the licensee in connection with the retail installment sales transaction, copies of the certificates of insurance.

(J) [(K)] for a retail installment sales transaction in which the licensee issues a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer, documentation of disbursement of the debt cancellation agreement fee to the retail seller or a third-party administrator, any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and documentation of any refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (10) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(K) [(L)] for a retail installment sales transaction in which the licensee issues a certificate of coverage regarding ancillary products issued by or through the licensee in connection with the retail installment sales transaction, records of the ancillary products (motor vehicle theft protection plans, service contracts, maintenance agreements, identity recovery service contracts, etc.) including all certificates of coverage.

(L) [(M)] for a retail installment sales transaction involving insurance claims for credit life, credit accident and health, credit property, credit involuntary unemployment, collateral protection, or credit gap insurance:

(i) - (ii) (No change.)

(M) [(N)] for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle:

(i) - (ii) (No change.)

(N) [(O)] for a retail installment sales transaction where separate disclosures are required by federal or state law including the following:

(i) - (ii) (No change.)

(O) [(P)] for a retail installment sales transaction that has been repaid in full, evidence of the discharge or release of lien as prescribed by 43 TAC §217.106 (relating to Discharge of Lien).

(P) [(Q)] for a retail installment sales transaction involving a repossession, the records required by subsection (f) of this section.

(Q) [~~(R)~~] for a retail installment sales transaction in which the licensee agrees to defer all or part of one or more payments:

(i) - (ii) (No change.)

(R) [~~(S)~~] for a retail installment sales transaction involving the sale of a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(S) [~~(T)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a trade-in credit agreement under Texas Finance Code, §348.125:

(i) - (iii) (No change.)

(T) [~~(U)~~] for a retail installment sales transaction in which a retail buyer requests or receives a benefit under a depreciation benefit optional member program under Texas Occupations Code, §1304.003(a)(2)(C):

(i) - (ii) (No change.)

(U) [~~(V)~~] any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) - (10) (No change.)

(f) (No change.)

§84.709. *Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)*

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

(e) Records required.

(1) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) - (C) (No change.)

(D) for a retail installment sales transaction in which the licensee issues or takes assignment of a debt cancellation agreement, a complete copy of the debt cancellation agreement provided to the retail buyer and any written instruction to another person to make a full or partial refund of the debt cancellation agreement fee, and any documentation that comes into the licensee's possession regarding a refund provided upon cancellation or termination of the debt cancellation agreement. As an alternative to maintaining a complete copy of the debt cancellation agreement in the retail

installment sales transaction file, the licensee may maintain all of the following:

(i) in the retail installment sales transaction file, a copy of any page of the debt cancellation agreement with a signature, a transaction-specific term, the cost of the debt cancellation agreement, or any blank space that has been filled in;

(ii) in the licensee's general business files, a complete master copy of each debt cancellation agreement form used by the licensee during the period described by paragraph (9) of this subsection;

(iii) in the licensee's general business files, policies and procedures that show a verifiable method for ensuring that the master copy of the debt cancellation agreement accurately reflects the debt cancellation agreement used in each individual transaction.

(E) (No change.)

(F) for a retail installment sales transaction involving the cancellation of a full or partial balance under a debt cancellation agreement for total loss or theft of an ordinary vehicle, or involving the cancellation or termination of a debt cancellation agreement, the licensee must:

(i) maintain any documents that come into its possession relating to the creation, processing, ~~[or]~~ resolution, cancellation, or termination of a debt cancellation agreement; and

(ii) upon request of the agency, cooperate in requesting and obtaining access to the type of documents described in clause (i) of this subparagraph that are not in its possession.

(G) - (J) (No change.)

(3) - (9) (No change.)

(f) (No change.)

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 October 27, 2023.

Matthew J. Nance
General Counsel
Office of Consumer Credit Commissioner

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D.

**Department of Savings and
Mortgage Lending**

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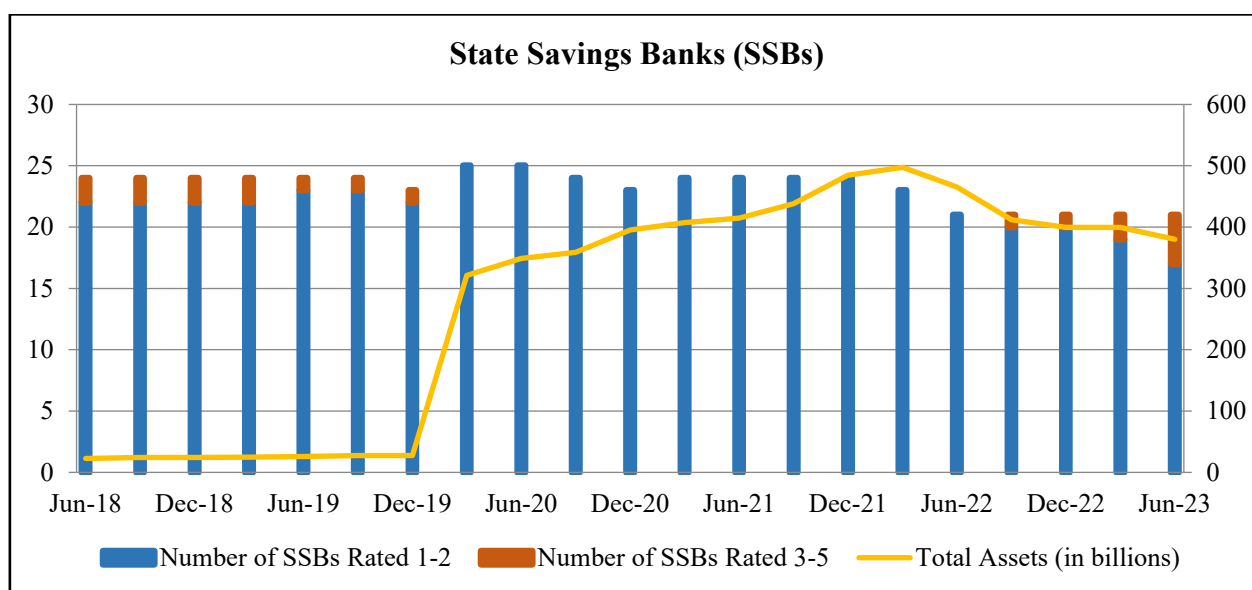
D. Department of Savings and Mortgage Lending

a) Thrift Regulation Division Activities

Industry Status

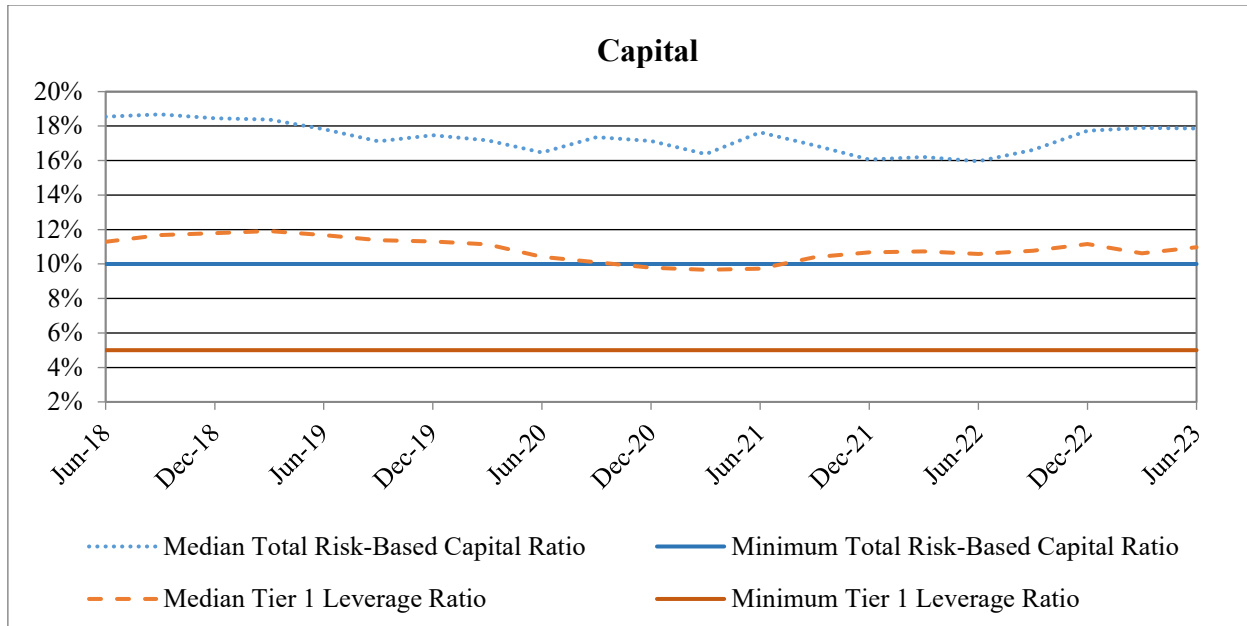
The Department continues to monitor various local, state, and national data sources to understand the risks facing the industry and individual savings banks.

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 is comprised of 21 state savings banks with assets totaling \$380.2 billion as of June 30, 2023. The industry consists of 76% of banks being well rated as of August 31, 2023, with three informal supervisory actions in place.

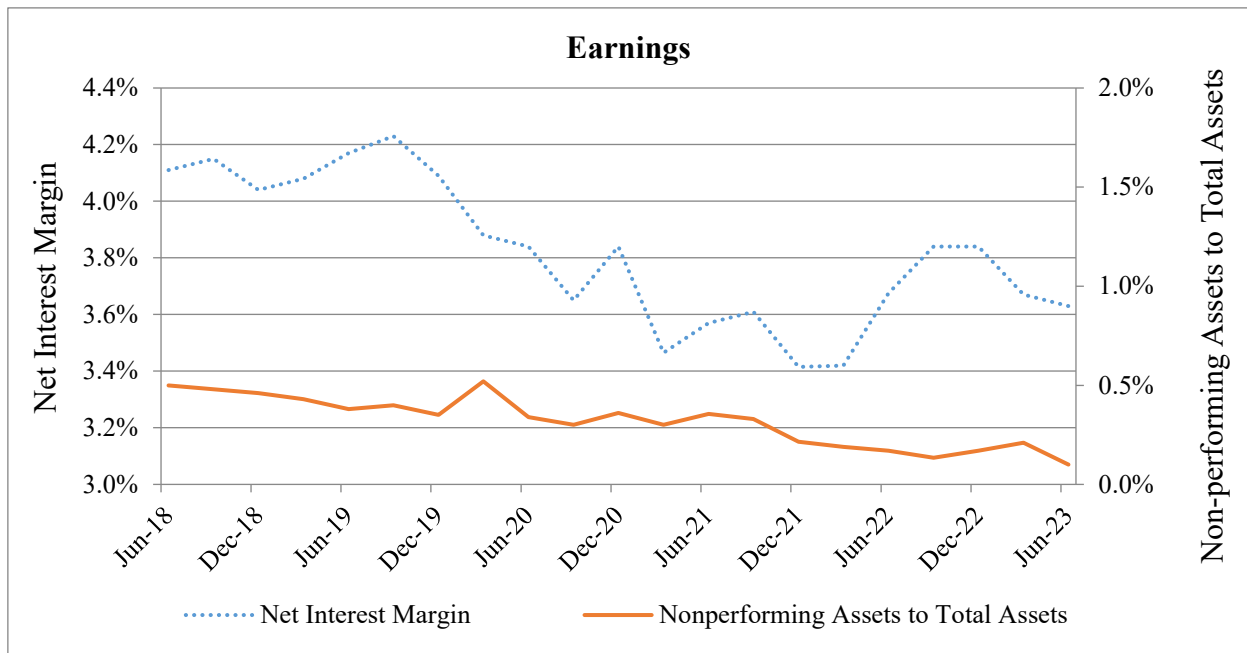


All SSBs are subject to quarterly offsite reviews. Those with the highest risk profiles receive enhanced scrutiny, as warranted, with targeted visitations, accelerated examinations, and/or corrective actions. Below are specific areas that the Department monitors in relation to changes in the state and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

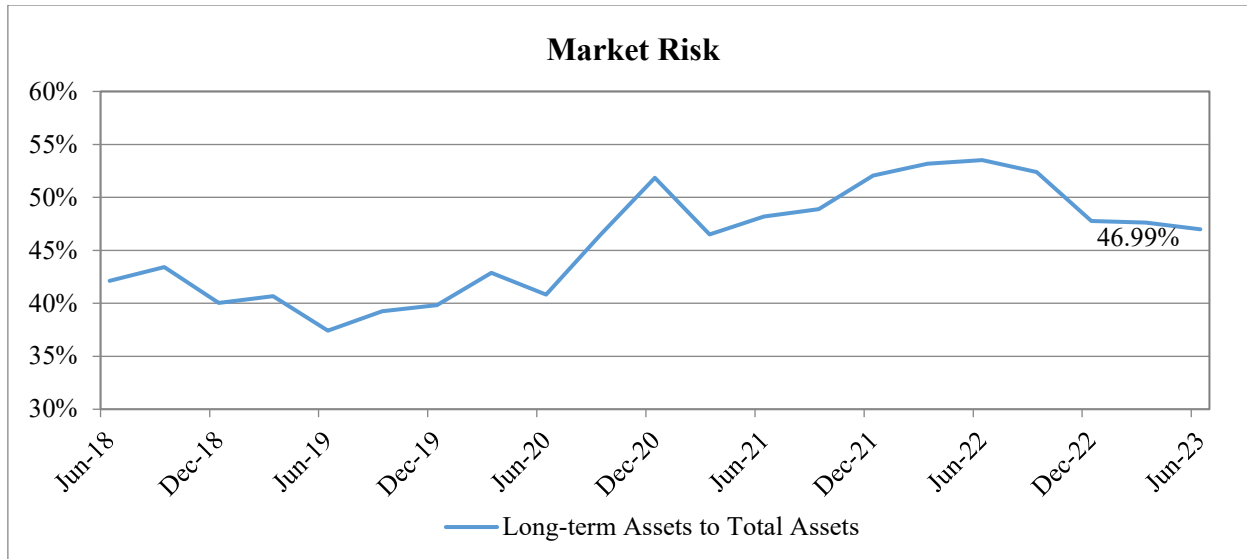
Bank capital performs several very important functions, including absorbing losses, promoting public confidence, helping restrict excessive asset growth, and providing protection to the depositors. Regulatory capital standards are designed to strengthen the quality and quantity of bank capital and promote a stronger financial industry that is more resilient to economic stress. As of June 30, 2023, 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 17.86% and 10.98%, respectively.



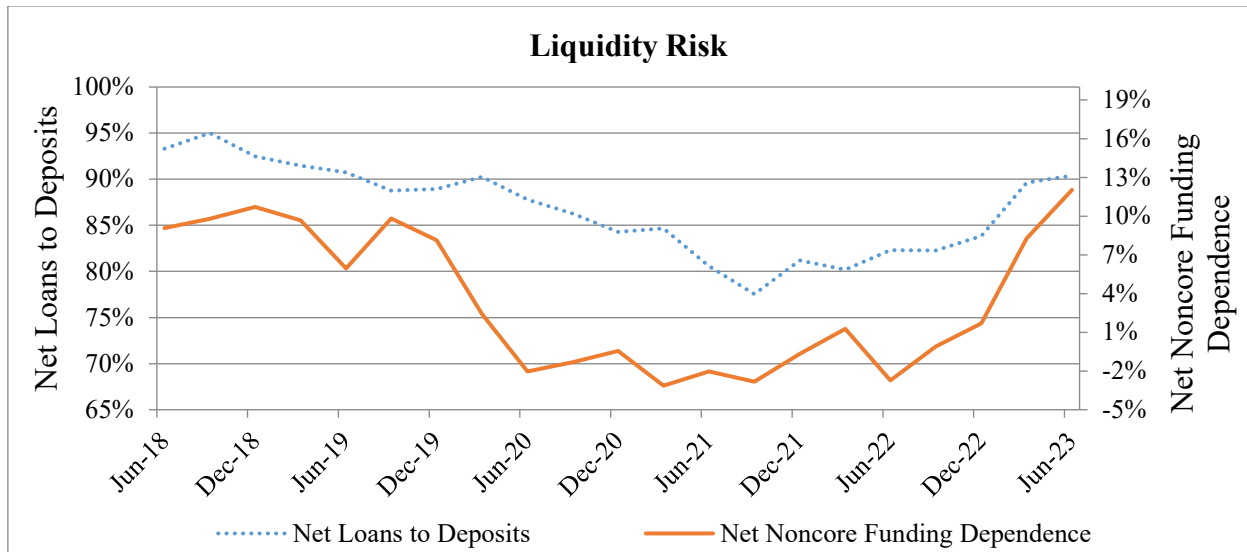
Earnings are the initial safeguard against the risk of engaging in the banking business and are the first line of defense against capital depletion resulting from shrinkage in asset value. Earnings performance should allow the bank to remain competitive by providing the resources required to implement management’s strategic initiatives. The net interest or profit margin is 3.63%. Non-performing asset levels remain low at 0.10% 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 June 30, 2023, the long-term assets to total assets ratio decreased to 46.99%.



Liquidity risk reflects the banks’ 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 12.03%. The loan-to-deposit ratio, a measure of the use of deposits to fund lending activities, is 90.40%.



Thrift Examination Activity Report

On-site examinations are being conducted. Risk scoping, availability of bank staff, and request of bank management are taken into consideration when determining the examination approach.

Thrift Supervision Activity Report

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

On June 30, 2023, Integrity Bank, SSB, a proposed de novo bank, filed an application for a state savings bank charter to be located in Houston, Texas. The application is under review.

On July 27, 2023, Richard Warner and George Henderson III filed an application to acquire more than 10% of the outstanding shares of Angelina Savings Bank, SSB. The application was approved on October 9, 2023.

Outreach and Training

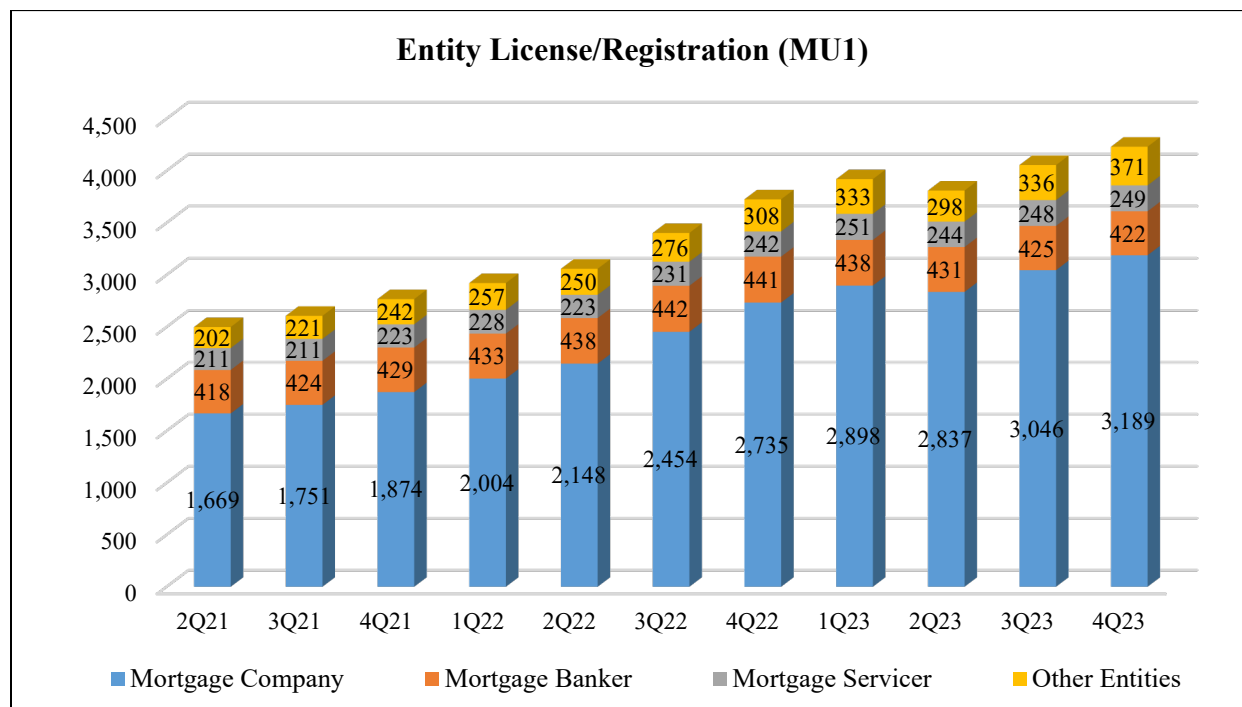
On September 17-19, 2023, Commissioner Retta and Deputy Commissioner Trotti attended the Independent Bankers Association of Texas Annual Convention in Frisco, Texas.

b) Mortgage Regulation Division Activities

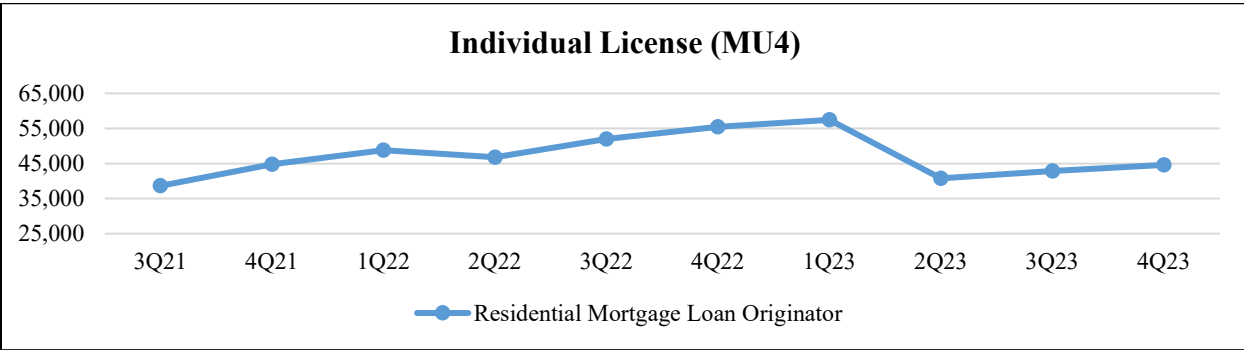
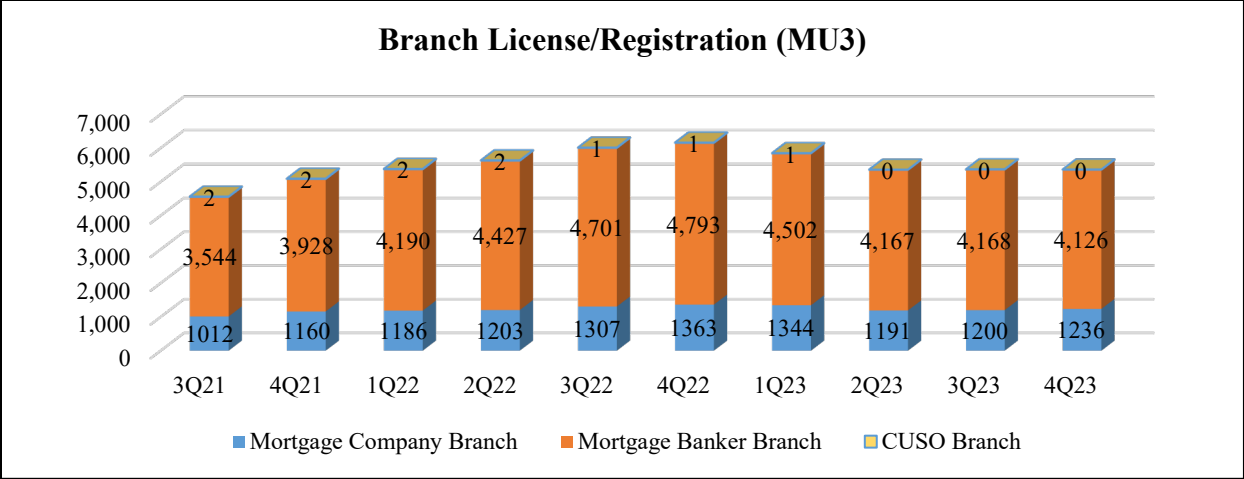
Industry Status

The Department continues to monitor various local, state, and national sources to identify issues impacting the mortgage industry including interest rate changes, housing supply and demand, availability and affordability of homeowner’s and flood insurance, mortgage-backed securities (MBSs) market, and trends in homeownership.

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



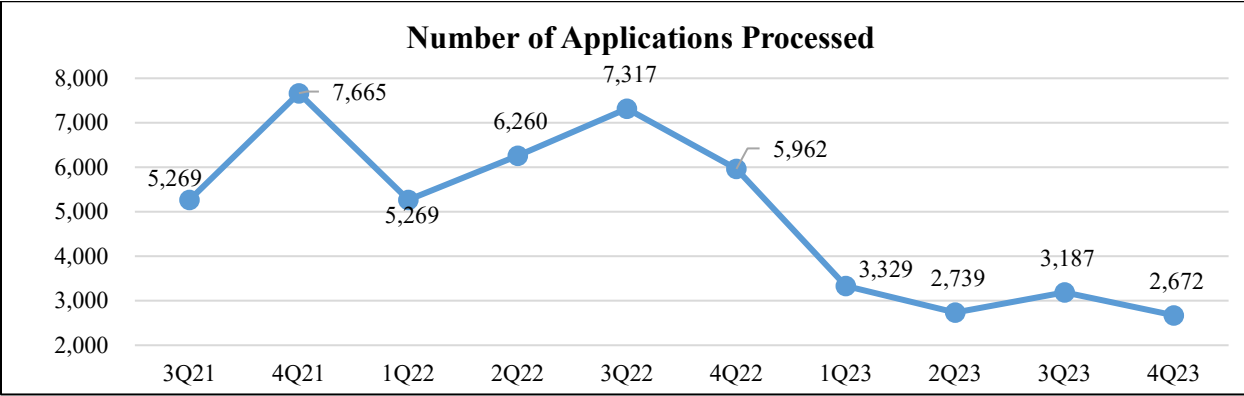
Other entities include Auxiliary Mortgage Loan Activity Company, Credit Union Subsidiary Organization (CUSO), Financial Services Company, and Independent Contractor Processor/Underwriter Company.



The most notable point from the three graphs shown above is the continued growth in the number of licensed mortgage companies. For FY2023, the Department approved 787 new mortgage companies. After adjusting for the number of residential mortgage loan companies that voluntarily surrendered their license or did not renew their existing mortgage company license, the Department added 454 mortgage companies for FY2023 - a year-over-year increase of 16.60%.

Licensing Activity Report

For the fourth quarter of FY2023, the Mortgage Licensing section processed 2,672 applications and approved 2,356 applications, including 212 mortgage entities, 431 branch offices, and 1,713 residential mortgage loan originators. The remaining 316 applications were either withdrawn by the applicant or denied by the Department.



As observed in the chart above, the number of applications processed for FY2023 was substantially lower than the previous fiscal year and was directly impacted by the 45% decline in the number of license requests received by the Department.

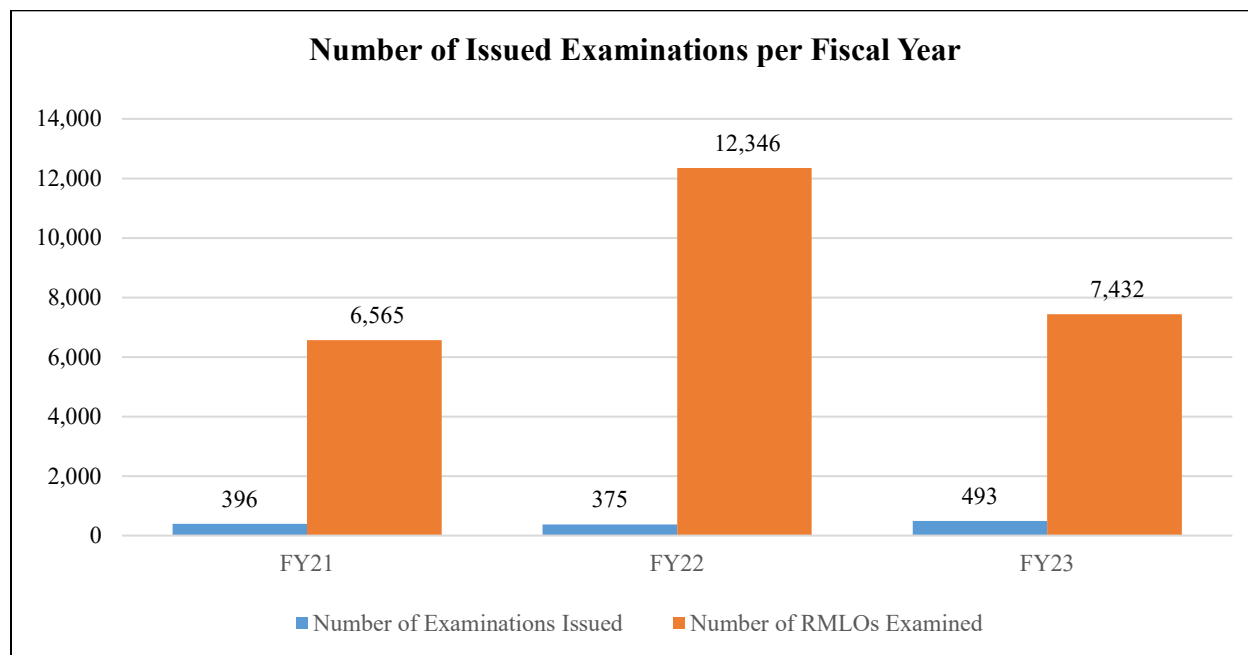
According to NMLS Data Analytics for the fourth quarter of FY2023, the Mortgage Licensing section processed 29,159 license amendments, 1,379 credit report reviews, 4,043 sponsorship removals, and 4,275 sponsorship requests.

For FY2023, the Mortgage Licensing section processed 114,151 license amendments, 11,564 credit report reviews, 33,735 sponsorship removals, and 19,168 sponsorship requests.

Mortgage Examination Activity Report

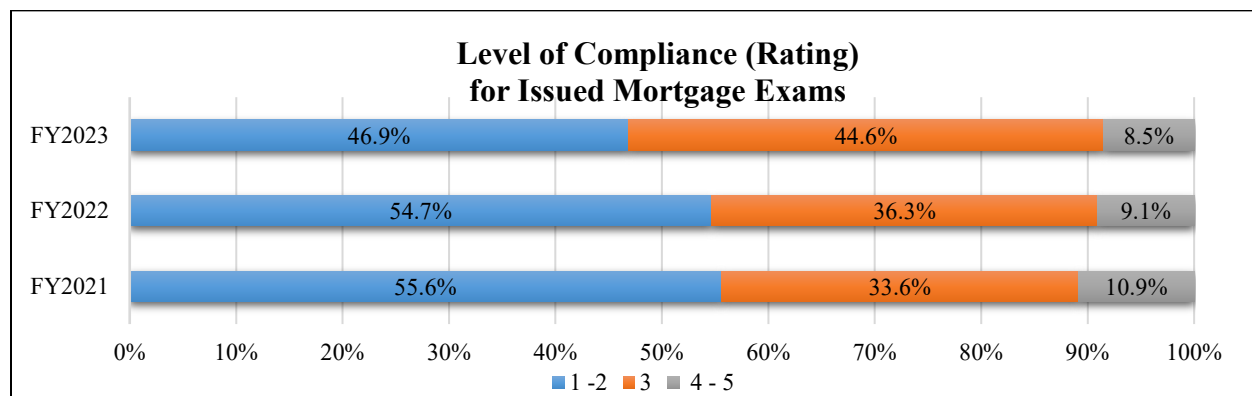
For the fourth quarter of FY2023, the Mortgage Examination section issued 166 examinations covering 1,831 individual licensees. Compared to the same reporting period in FY2022, the overall number of examinations issued (166 versus 76) and the number of individual licensees examined (1,831 versus 1,720) were 118.42% and 6.45% higher respectively.

The chart below shows the number of issued examinations and the corresponding number of licensed residential mortgage loan originators (RMLOs) employed by the licensee/registrant for those examinations for the last three fiscal years.



One of the priorities for FY2023 was the adoption and implementation of the Conference of State Bank Supervisors (CSBS) State Examination System (SES) for multi-state and coordinated examinations of non-depository mortgage entities. To date, the Mortgage Examination section has participated in a multi-state SES examination and investigation and conducted and issued a single-state SES examination. Because of the success of this initiative, the Mortgage Examination section is fully adopting the use of SES. To fully implement SES, the Department provided both virtual and in-person training courses to the Mortgage Examiners that will be discussed in the Outreach and Training section shown below. This commitment to training will impact the number of examinations issued for the first quarter of FY2024.

Below is a breakdown of mortgage examination results by compliance rating for FY2023. As shown in the chart below, the stratification of examination ratings for FY2023 reflected an increased number of 3-rated examination reports and a declining number of combined 1 and 2 rated examination reports when compared to FY2022. Examination ratings of 1, 2, or 3 are considered acceptable levels of compliance. The mortgage examination ratings for FY2023 fell within a satisfactory range for the Department (90% or more of the examinations within an acceptable level of compliance).



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 Approval Letters.

Outreach and Training

During the week of August 6, 2023, Director of Mortgage Regulation William Purce, Chief Mortgage Examiner Ellena Meier, Manager of Licensing Chris Osuna, and Senior Review Examiner Justin Accola attended the 33rd American Association of Residential Mortgage Regulators (AARMR) Annual Conference. As part of the conference, Director Purce participated in a panel discussion providing an update regarding the CSBS Proposal: Mortgage Business Specific Requirements to fellow state regulators. Chief Mortgage Examiner Ellena Meier was the Chair of the Conference and moderator of the Exam Hot Topics sessions.

During the week of October 2, 2023, the Conference of State Bank Supervisors (CSBS) provided an in-depth virtual training course on SES to the entire Mortgage Examination staff. The virtual training included numerous facets of SES including:

- scheduling or initiating a supervisory activity (examination),
- scoping, planning, and establishing areas for review for the examination,
- sending and responding to information requests,
- reviewing information requests,
- entering findings and observations,
- conducting an exit meeting,
- issuing a report of examination,

- creating issues required for a response by the licensee/registrant (a.k.a. matters requiring attention), and
- other issues.

During the week of October 23, 2023, the Mortgage Regulation division held a Mortgage Examiner training school to discuss: (1) the new SES Exam Procedures, (2) Team Effectiveness: Decision Making (a seminar provided by Alliance Work Partners), (3) gathering and developing evidence for an enforcement action, (4) a review of the enforcement process including penalty matrix, (5) unlicensed activity examples, and (6) other team building exercises.

c) Operations Division Activities

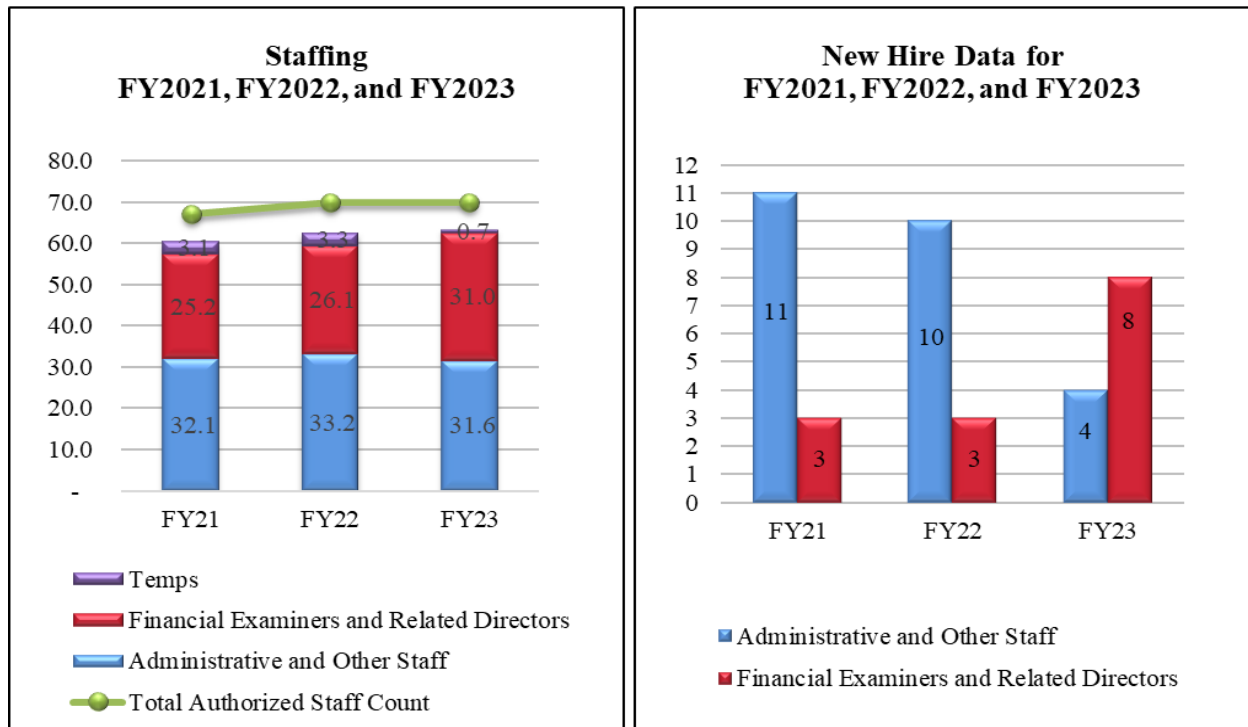
Accounting, Budget, and Financial Reporting

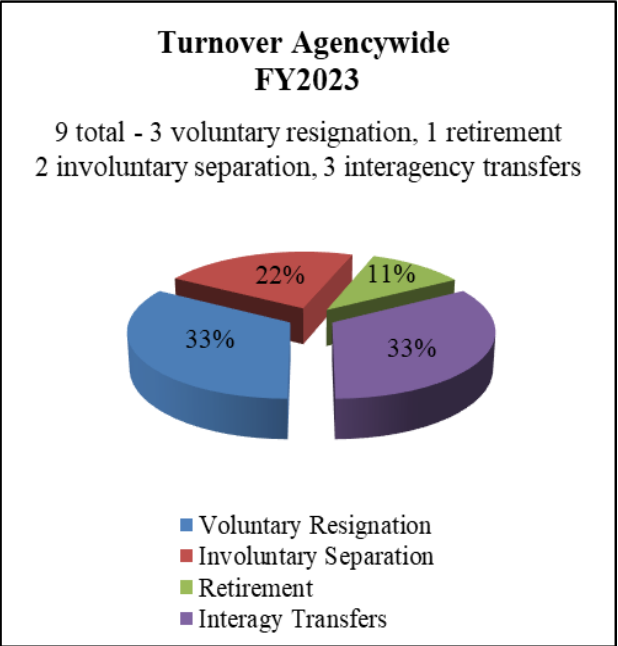
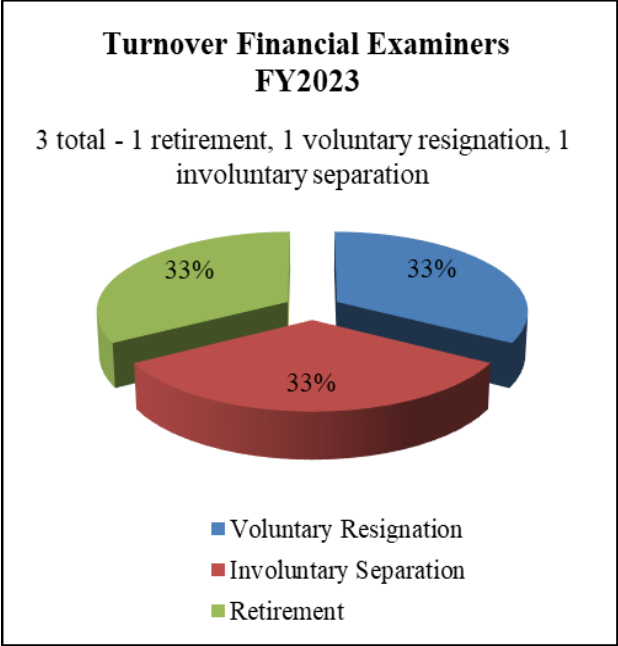
Staff closed fiscal year 2023. In compliance with Government Code, Section 2101.011, and in accordance with the requirements established by the Comptroller of Public Accounts, the Department has prepared and submitted the Annual Financial Report for fiscal year 2023 to oversight agencies.

Pursuant to Government Code, Section 661.902(d), the Department has reported information to the Comptroller of Public Accounts on emergency leave granted to employees during the prior fiscal year.

Human Resources

Staffing Charts as of August 31, 2023





As of October 1, 2023, the Department was staffed at 61 regular full-time employees and 1 temporary worker. In August and September, a Financial Examiner-Thrift and a Management Analyst separated for the Department.

Below is the status of the Department’s vacancies:

Vacancy Status	
Financial Examiner VI/VII – Thrift Examinations - 3	Collecting and reviewing applications, interviewing candidates
Investigator II-V - 2	
Financial Examiner I-II -Thrift Examinations (Information Technology)	
Financial Examiner I – Thrift Examinations - 2	Collecting and reviewing applications
Administrative Assistant II/III	
Management Analyst III-IV	
Financial Examiner VII - Thrift	

Outreach and Training

The quarterly agencywide meeting and training was held on August 31, 2023. Sessions covered topics related to Information and Human Resources, and Safety and Risk Management. Additionally, the agenda included a webinar on using plain language.

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

Type/Strategy/Measure	2023	2023	2023	Percent of Annual Target	Comparable Historical Data for the same quarter ending time period			
	Target	Actual	YTD		FY2022	FY2021	FY2020	FY2019
Output Measures-Key								
1-1-1 Thrift Safety and Soundness								
1. Number of State Chartered Savings Institution Examinations Performed								
Quarter 1	19	2	2	10.53% *				
Quarter 2	19	4	6	31.58% *				
Quarter 3	19	6	12	63.16% *				
Quarter 4	19	3	15	78.95% *	18	16	20	22
* 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	13,000	3,329	3,329	25.61%				
Quarter 2	13,000	2,739	6,608	46.68%				
Quarter 3	13,000	3,187	9,255	71.19%				
Quarter 4	13,000	2,672	11,927	91.75% *	24,808	20,373	10,801	8,922
* The number of applications received was lower than anticipated; therefore, the number of applications processed is affected in the same manner.								

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

2. Number of Examination Reports Issued

Quarter 1 550 88 88 16.00% *

* The overall production was affected by a vacancy, and the attendance of the entire Mortgage Examination staff at reverse mortgage training.

Quarter 2 550 112 200 36.36% *

Quarter 3 550 127 327 59.45% *

Quarter 4 550 166 493 89.64% *

* The overall production was affected by turnover, the attendance of the entire Mortgage Examination staff at reverse mortgage and home equity training, complexity of the examination issues discovered, and participation in the first multi-state examination in the State Examination System.

N/A N/A N/A N/A

3-1-1 Consumer Responsiveness

1. Number of Complaints Closed

Quarter 1 1,300 297 297 22.85%

Quarter 2 1,300 335 632 48.62%

Quarter 3 1,300 394 1,026 78.92%

Quarter 4 1,300 348 1,374 105.69% *

* The volume of complaints received for the fiscal year was slightly higher than anticipated, resulting in more complaints being closed.

1,506 1,264 1,024 1,134

*Varies by 5% or more from target.

Department of Savings and Mortgage Lending
Actual Performance for Outcome Key Measures

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target
Outcome Measures			
1-1-1 Thrift Safety and Soundness			
1. Percentage of State Chartered Savings Institutions Receiving Examination within the Required Timeframes	100%	100%	100%
2. Percentage of Savings Institutions Classified Safe and Sound	90%	76%	85% *
*The current interest rate environment has presented challenges to the portfolio requiring supervisory response.			
2-1-1 Mortgage Regulation			
1. Percentage of Satisfactory Levels of Compliance Reported Through Examination	90%	91%	102%
2. Percentage of Examinations Initiated within Established Timeframes	90%	96%	107% *
*The newly hired examiners were able to contribute to examinations earlier than originally anticipated.			
3. Percentage of Applications Processed within Established Timeframes	65%	85%	131% *
*With the reduction in the number of applications received for the fiscal year, the processing times significantly improved.			
3-1-1 Consumer Responsiveness			
1. Percentage of Complaints Closed within Ten Business Days of Receipt of Complete Information	99%	99%	100%
2. Percentage of Written Complaints Closed within 90 Days	95%	96%	101%
4-1-1 Agency Administration			
1. Percentage of Employees Separated from the Agency	10%	15%	150% *
*The Department had nine separations during the year, including one retirement.			
2. Percentage of Actual Expenditures to Budgeted Expenditures	95%	89%	94%

Department of Savings and Mortgage Lending
Actual Performance for Explanatory Key Measures

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target
Explanatory Measures			
1-1-1 Thrift Safety and Soundness			
1. Number of State-Chartered Savings Institutions	20	21	105% *
* Three savings banks left the state system during the year.			
2. Dollar Amount of Assets under Regulation (in Billions)	\$385.0	\$380.2	99%

*Varies by 5% or more from target.

Department of Savings and Mortgage Lending
Actual Performance for Non-key Measures

Type/Strategy/Measure	2023 Target	2023 YTD	Percent of Annual Target
Outcome Measures			
1-1 Thrift Safety and Soundness			
Outcome Measure			
1. Percentage of State Chartered Savings Institutions Processed within the Required Timeframes	100%	100%	100%
Output Measure			
1. Number of State Chartered Savings Institutions Applications Processed	15	12	80% *
* Volume of applications received varies with business needs of the institutions.			
Efficiency Measures			
1. Assets Examined per Examiner Day (in Millions)	\$240.7	\$202.7	84% *
* Assets per examiner were lower than projected due to shrinkage in the portfolio			
2. Average Time (Business Days) to Complete Analysis of Quarterly Financial Data	7	7	100%
2-1 Mortgage Regulation			
Efficiency Measure			
1. Average Cost per Application Processed	\$75	\$107	143% *
* The average cost per application increased due to lower than targeted number of applications received and processed.			
Explanatory Measures			
1. Total Number of Licensees in an Approved Status	60,000	54,212	90% *
* The number of residential mortgage loan originators that did not renew their license exceeded the anticipated projection amount.			
2. Number of Licensees Examined	10,500	7,432	71% *
* The number of residential mortgage loan originators employed by the mortgage entities declined with the current mortgage market; therefore, the corresponding number of licensees examined declined.			

Department of Savings and Mortgage Lending
Actual Performance for Non-key Measures

3-1 Consumer Responsiveness

Efficiency Measure

1. Average Cost Per Complaint Closed	\$475	\$356	75% *
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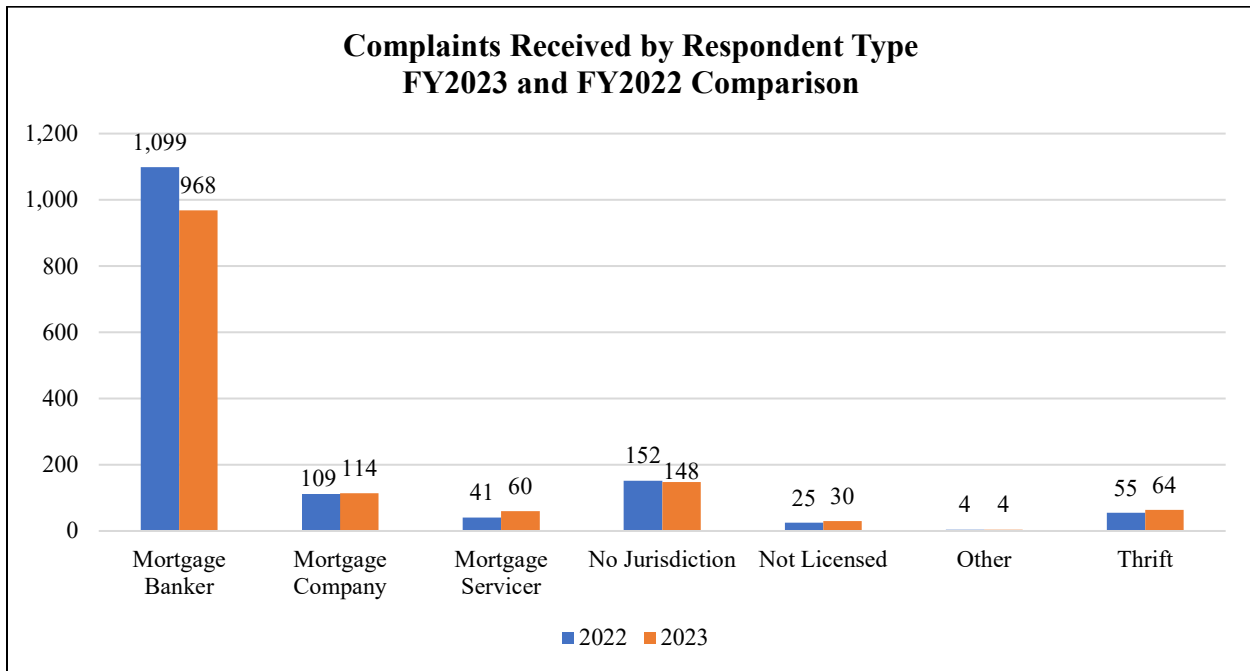
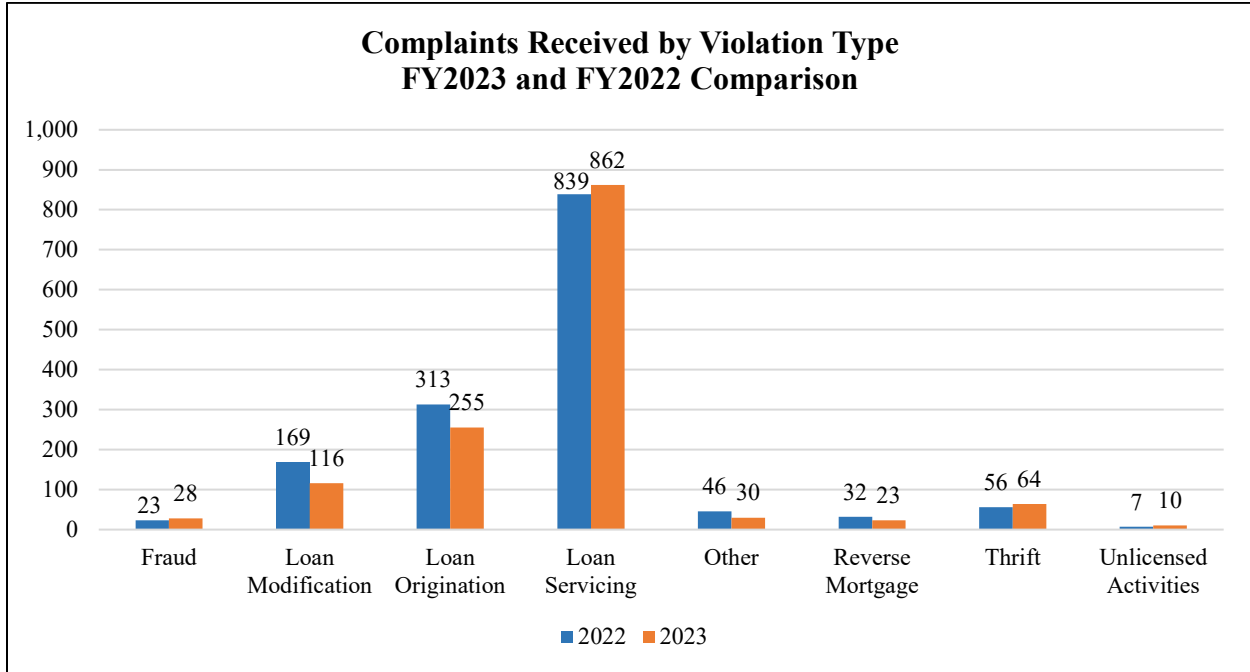
*The average cost per complaint decreased as a result of lower costs due to staff turnover and vacancies, and a higher volume of complaints received and closed.

*Varies by 5% or more from target.

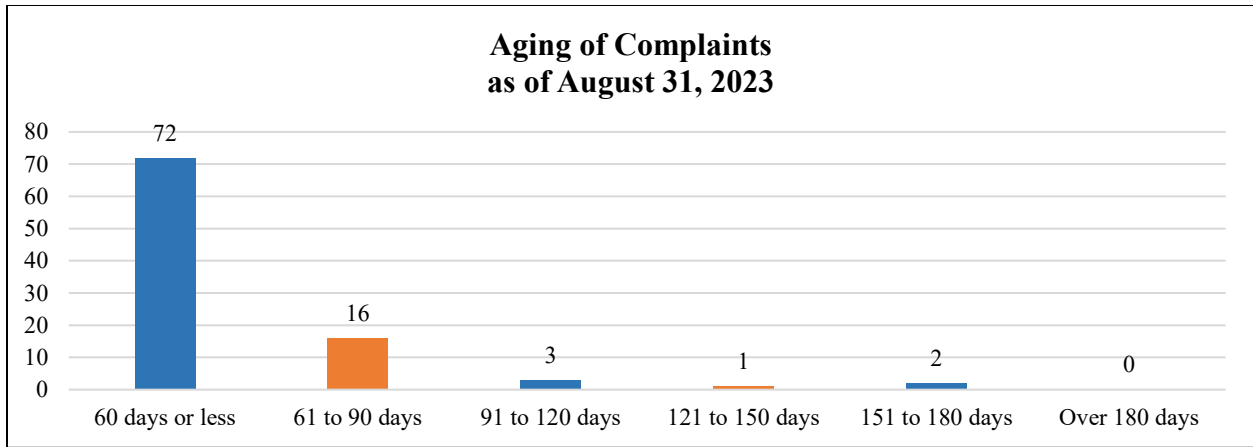
d) Legal Division Activities, including Consumer Complaints and Gift Reporting

Consumer Complaints Activity Report

Complaints Received – In FY2023, the Department received 1,388 complaints, compared to 1,485 received in FY2022, representing a 6.53% decrease.



Aging of Open Complaints – As of August 31, 2023, there were 94 open complaint files. Complaint aging is acceptable with 96% of complaints aged 120 days or less.



Closed Complaints	FY2023			
	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr
Servicing Complaints				
Number of Servicing Complaints Closed	177	212	262	206
Average Number of Days to Close a Complaint	26	23.56	20.40	29.48
Percentage of Complaints Closed Within 90 Days	99.4%	97.64%	98.47%	88.35%
Non-Servicing Complaints				
Number of Non-Servicing Complaints Closed	120	123	132	142
Average Number of Days to Close a Complaint	20	26.24	20.48	24.58
Percentage of Complaints Closed Within 90 Days	100%	93.5%	94.70%	93.66%
Total	297	335	394	348

Legal and Enforcement Activity Report

Mortgage Enforcement Actions

In FY2023, the Department took 102 enforcement actions, compared to 114 taken in FY2022, representing an 11.76% decrease.

Enforcement Action	FY2023			
	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr
Advisory Letter	14	7	17	0
Agreed Order to Take Affirmative Action	1	1	0	0
Agreed Order – Other	0	0	1	0
Notice of Suspension/Revocation	3	0	1	1
Order to Cease and Desist	10	3	2	0
Order to Take Affirmative Action	19	8	9	2
Order of Suspension/Revocation	0	0	0	3
Total	47	19	30	6

Recovery Claims

In FY2023, the Department received 9 recovery claim applications, compared to 13 received in FY2022, representing a 44.44% decrease.

Recovery Claim Applications Received	FY2023			
	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr
	2	3	2	2

Status of Pending Recovery Claim Applications as of August 31, 2023	
Pending Investigation	4
Pending Preliminary Determination Letter	4
Preliminary Determination Letter Issued, Pending Opportunity to Appeal	0
On Appeal	0
Open to Facilitate Resolution by the Parties	0
Total	8

Closed Recovery Claim Files	FY2023			
	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr
Granted	1	0	0	1
Denied	4	0	0	0
Resolved by the Parties	0	0	0	0
Claim Withdrawn	0	0	1	0
Total	5	0	1	1

Contested State Office of Administrative Hearings (SOAH) Cases

The Department does not have any cases pending at SOAH.

Litigation

Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending (Cause No. JPC-23-02334-32; in the Justice Court, Precinct 3, Place 2, Dallas, County, Texas) In this lawsuit, Mr. Schoenbauer seeks to compel the Department to take action that would, in turn, cause the insurer on a lender-placed homeowner's insurance policy (a policy that insures Mr. Schoenbauer's home and protects the mortgagee against loss) to add Mr. Schoenbauer as an insured. On May 5, 2023, Mr. Schoenbauer filed his original petition. On June 16, 2023, the Department, represented by the Office of the Attorney General, filed its original answer. On June 29, 2023, Mr. Schoenbauer filed his response to the Department's original answer. No activity has occurred in this proceeding since the Finance Commission meeting on August 18, 2023.

Julius Lamunn North v. Texas Department of Savings and Mortgage Lending, et al. (Cause No. 2023-50470; in the District Court, 270th Judicial District, Harris County, Texas) In this lawsuit, Mr. North alleges violations of the Texas Deceptive Trade Practices-Consumer Protection Act (Tex. Civ. Prac. & Rem. Code Ch. 17, Subchapter E). Mr. North seeks unspecified damages in excess of \$1 million and unspecified injunctive relief. On August 7, 2023, Mr. North filed his

original petition. On September 5, 2023, the Department, represented by the Office of the Attorney General, filed its original answer. On September 12, 2023, the court issued a scheduling order establishing various deadlines for the proceeding. On October 4, 2023, the Department filed its plea to the jurisdiction and motion to dismiss, seeking to dismiss the case. A hearing on the motion is anticipated in November. Trial is presently set for March 18, 2024.

Public Information Requests

Public Information Requests	FY2023			
	1 st Qtr	2 nd Qtr	3 rd Qtr	4 th Qtr
Requests Received	50	37	46	42

Rulemaking

SML Future Rule Activity		
Rule	Rulemaking Action	Projected Date for Presentation
Chapter 78, Wrap Mortgage Loans	Rule Review	FY2024
Chapter 79, Residential Mortgage Loan Servicers	Rule Review	FY2024
Chapter 80, Residential Mortgage Loan Companies	Rule Review	FY2024
Chapter 81, Mortgage Bankers and Residential Mortgage Loan Originators	Rule Review	FY2024

Gift Reporting

During August 8-10, 2023, Chief Mortgage Examiner, Ellena Meier, and Supervisory Compliance Examiner, Justin Accola, attended the 33rd American Association of Residential Mortgage Regulators (AARMR) Annual Regulatory Conference and Training. Registration fees totaling \$1,790.00 were waived. Ellena Meier’s hotel expense of \$804.90 was paid by AARMR.

On August 17, 2023, Justin Accola, attended Texas Mortgage Bankers Association webinar, “Promoting Equitable Mortgage Lending.” The registration fee of \$59.00 was waived.

During September 16-19, 2023, Commissioner Retta and Deputy Commissioner and Director of Thrift Regulation, Stephany Trotti, attended the Independent Bankers Association of Texas 2023 Annual Convention. Registration fees totaling \$1,400 were waived. The Department also received a complimentary table in the exhibition hall, valued at \$1,995.00.

e) Legislative Activities

On October 5, 2023, the governor called a third special session of the 88th Legislature that convened on October 9, 2023.

2. *Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 4, Chapter 81, Concerning Mortgage Bankers and Residential Mortgage Loan Originators*

PURPOSE: The primary purpose of the amendments in 7 TAC Chapter 81 is to implement Senate Bill 422, enacted during the 88th Legislature, Regular Session. An explanation of and justification for the rules is contained in the proposed preamble for the rule adoption.

RECOMMENDED ACTION: The Department recommends that the Finance Commission approve adoption of the amendments in 7 TAC Chapter 81.

RECOMMENDED MOTION: I move that the Finance Commission approve adoption of the amendments in 7 TAC Chapter 81.

ADOPTION OF AMENDMENTS

7 TAC §81.103

PAGE 1 OF 3

TITLE 7. BANKING AND SECURITIES

PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CHAPTER 81. MORTGAGE BANKERS AND RESIDENTIAL MORTGAGE LOAN ORIGINATORS

SUBCHAPTER B. LICENSING OF INDIVIDUAL ORIGINATORS

7 TAC §81.103

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), adopts amendments to 7 TAC Chapter 81, §81.103, concerning Licensing of Military Service Members, Military Veterans, and Military Spouses. The commission's proposal was published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4735). The rule is adopted without changes to the published text and will not be republished.

Explanation of and Justification for the Rule

Preexisting §81.103 specifies licensing requirements for military service members, military veterans, and military spouses applying for an individual residential mortgage loan originator (RMLO) license, in accordance with Occupations Code Chapter 55.

Changes Concerning Implementation of SB422

Senate Bill 422 (SB422) was enacted during the 88th Legislature, Regular Session (2023) and became effective September 1, 2023. SB422 amended Occupations Code Chapter 55. The rule changes are designed to implement the requirements of SB422. The adopted rule: (i) amends preexisting §81.103(d) to specify that the department will process an RMLO application from a military service member, military veteran,

or military spouse on or before 30 days after the date the license application and request for expedited review are received; and (ii) amends preexisting §81.103(e) to specify that the subsection applies to military service members.

Changes Concerning Request for Expedited Review

In order for the department to have notice of an applicant's military-related status and for the department to receive documentation to verify such status, the adopted rule amends preexisting §81.103(d) to specify that a military service member, military veteran, or military spouse seeking expedited review of his or her application must make a written request on the appropriate form and provide supporting documentation concerning his or her status as a military service member, military veteran, or military spouse.

Other Modernization and Update Changes

The adopted rule makes changes to modernize and update the rule, including: adding and replacing language for clarity and improve readability; removing unnecessary or duplicative provisions; and updating terminology.

Summary of Public Comments

Publication of the commission's proposal recited a deadline of 30 days to receive public comments. No comments were received.

Statutory Authority

The rule is adopted under the authority of Finance Code §158.023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157, and as required to carry out the intentions of the Federal Secure and Fair Enforcement for Mortgage Licensing Act of

ADOPTION OF AMENDMENTS

7 TAC §81.103

PAGE 2 OF 3

2008 (12 U.S.C. §§5101-5117). 7 TAC §81.103 is also adopted under the authority of, and to implement, Occupations Code Chapter 53, Subchapter D.

The adopted rule affects the statutes contained in Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator Act, and Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

§81.103. Licensing of Military Service Members, Military Veterans, and Military Spouses.

(a) Purpose [~~and—Applicability~~]. ~~This~~ [The purpose of this] section specifies [~~is to specify~~] licensing requirements for military service members, military veterans, and military spouses, in accordance with Occupations Code Chapter 55.

(b) (No change.)

(c) Late Renewal (Reinstatement). As provided by Tex. Occ. Code §55.002, an individual is exempt from any increased fee or other penalty for failing to renew his or her originator license in a timely manner if the individual establishes to the satisfaction of the Commissioner that he or she [~~the individual~~] failed to timely renew the license because the individual was serving as a military service member. A military service member who fails to timely renew his or her originator license must seek reinstatement of the license within the time period prescribed by Tex. Fin. Code §157.016; otherwise, the individual must obtain a new license, including complying with the requirements and procedures then in existence for obtaining an original license.

(d) Expedited Review and Processing [~~License Procedure~~]. [~~As provided by~~] Tex. Occ. Code [~~§55.004 and~~] §55.005[;] provides that a military

service member, military veteran, or military spouse is entitled to expedited review and processing of his or her application for an originator license. A military service member, military veteran, or military spouse seeking expedited review of his or her application must, after applying for the license in NMLS, make a written request for expedited review using the form prescribed by the Commissioner and posted on the Department's website (sml.texas.gov), including providing the supporting documentation specified by the form, to enable the Department to verify the individual's status as a military service member, military veteran, or military spouse. The [~~the~~] Department, on or before 30 days after the date it receives a complete application and request for expedited review from a qualifying applicant who is a military service member, military veteran, or military spouse, will process the [~~a license~~] application [~~as soon as practicable~~] and, provided the applicant is otherwise eligible to receive the license, issue a license to the [~~a qualifying~~] applicant [~~who is a military service member, military veteran, or military spouse~~], if the applicant:

(1) is licensed as an originator in another jurisdiction with substantially equivalent licensing requirements [~~holds a current license in another jurisdiction as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117~~]; or

(2) was licensed as an originator [~~held a residential mortgage loan originator license~~] in Texas within the 5 [~~five~~] years preceding the date of the application.

(e) Temporary Authority for Military Service Member or Military Spouse. Tex. Occ. Code §55.0041 provides that a military service member or military spouse may engage in a business or occupation for which a license is

ADOPTION OF AMENDMENTS

7 TAC §81.103

PAGE 3 OF 3

required without obtaining the applicable license if the member or spouse is currently licensed in good standing in another jurisdiction with substantially equivalent [~~similar~~] licensing requirements. However, federal law imposes specific, comprehensive requirements governing when and under what circumstances an individual licensed [~~sanctioned~~] to act as an originator in another jurisdiction may act under temporary authority in this state (12 U.S.C. §5117 (relating to Employment Transition of Loan Originators)). Tex. Occ. Code §55.0041(c) further requires that a military service member or military spouse "comply with all other laws and regulations applicable to the business or occupation." As a result, a military service member or military spouse seeking to avail himself or herself of the temporary authority conferred by Tex. Occ. Code §55.0041 must apply for and seek temporary authority in accordance with Tex. Fin. Code §180.0511 and §81.102 of this title (relating to Temporary Authority).

(f) Substantial Equivalency. For purposes of this section and Tex. Occ. Code §55.004, an originator [~~a residential mortgage loan originator~~] license issued in another jurisdiction is substantially equivalent to a Texas [~~residential mortgage loan~~] originator license if it is issued in accordance with the requirements of the S.A.F.E Mortgage Licensing Act, 12 U.S.C. §§5501-5117. The Department will verify a license issued in another jurisdiction through NMLS.

(g) Credit for Military Experience. As provided by Tex. Occ. Code §55.007, with respect to an applicant who is a military service member or military veteran, the Department will credit verified military service, training, or education toward the requirements for an originator license by considering the service, training, or education as part of the applicant's employment history. The following items cannot be substituted for military service, training, or education:

(1) the pre-licensing examination, as provided by Tex. Fin. Code §180.057;

(2) the required pre-licensing education [~~training~~] and coursework, as provided by Tex. Fin. Code §180.056 and §81.104 of this title (relating to Required Education); and

(3) continuing education [~~training~~] and coursework, as provided by Tex. Fin. Code §180.060 and §81.104 of this title [~~(relating to Required Education)~~].

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
General Counsel
Department of Savings and Mortgage Lending



3. Discussion of and Possible Action Regarding Anticipated and Pending Litigation

Anticipated Litigation

None

Pending Litigation

Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending (Cause No. JPC-23-02334-32; in the Justice Court, Precinct 3, Place 2, Dallas, County, Texas)

Julius Lamunn North v. Texas Department of Savings and Mortgage Lending, et al. (Cause No. 2023-50470; in the District Court, 270th Judicial District, Harris County, Texas)