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## **Finance Commission**

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## FINANCE COMMISSION OF TEXAS

**MEETING DATE** .....August 18, 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](http://www.fc.texas.gov)

**FUTURE MEETING DATES** .....October 27, 2023  
December 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. Finance Code §11.106*

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# FINANCE COMMISSION AGENDA

Friday, August 18, 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

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***Section A.3 will take up agenda items A1, B2, and D2 – D6, 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 June 16, 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 Third Quarter Investment Officer Reports

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

B. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Readoption of the Investment Policies for:

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

C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' 2023 Third Quarter Financial Statements

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

D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Agencies' Fiscal Year 2024 Operating Budgets

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

- 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
  - 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
  - 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
  - H. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Texas Department of Banking's 2023 Annual Internal Audit Report as Prepared and Presented by Garza/Gonzalez and Associates
  - I. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Activities of the Texas Financial Education Endowment Fund
  - 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
  - K. Discussion of the Activities of the Mortgage Grant Fund
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 the Texas Department of Banking
  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
  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
  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
  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
  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

**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
2. *Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors*
3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments in 7 TAC, Part 1, Chapter 2, Concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner
4. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments in 7 TAC, Part 5, Chapter 85, Subchapter A, Concerning Rules of Operation for Pawnshops
5. 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*

**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; and e) Legislative Activities
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
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*

**D. TEXAS DEPARTMENT OF BANKING**

1. Industry Status and Departmental Operations: a) Current Issues Affecting Department's Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Non-Depository Supervision Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities
2. *Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 1, Chapter 6, Concerning Banking Development Districts, Resulting from Rule Review*
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*
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*
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*

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*
7. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to and Repeals of Certain Sections of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses
8. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation

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

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

# MINUTES OF THE FINANCE COMMISSION MEETING Friday, June 16, 2023

The Finance Commission of Texas convened at 9:28 a.m., on Friday, June 16, 2023, with the following members present:

**Finance Commission Members in Attendance:**

Phillip Holt, Chairman  
George "Cliff" McCauley, Vice Chairman  
G. Martin "Marty" Green  
Will Lucas

Sharon McCormick  
Vince Puente  
Debbie Scanlon

**Finance Commission Members Absent:**

Bob Borochoff  
Hector Cerna

Roselyn "Rosie" Morris  
Laura Warren

Chairman Phillip Holt made a motion to excuse Bob Borochoff, Hector Cerna, Rosie Morris, and Laura Warren from the Finance Commission meeting held on June 16, 2023. There were no objections and the motion passed unanimously. (0:41 on audio file)

Commissioner Charles G. Cooper announced there was a quorum with seven (7) members present. (1:10 on audio file).

| AGENDA ITEM                                                                                                                                                                                                                                                                                  | ACTION                                                                                                                                                                                                                                                                                                         | LOCATION ON AUDIO FILE                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| <b>A. Finance Commission Matters</b>                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                |                                                    |
| 1. Review and Approval of the Minutes of the April 21, 2023, Finance Committee Meeting                                                                                                                                                                                                       | <b>On Consent Agenda – Item A1</b><br>This item Approved on the Consent Agenda.                                                                                                                                                                                                                                | n/a                                                |
| 2. General Public Comment                                                                                                                                                                                                                                                                    | No Action Required.                                                                                                                                                                                                                                                                                            | 1:20<br>Start of<br>Discussion                     |
| 3. Consent Agenda – Items A1, B2–B4, B6-B13 and C2–C5                                                                                                                                                                                                                                        | Will Lucas made a motion to Approve Consent Agenda items A1, B2-B4, B6-B13 and C2–C5. Sharon McCormick seconded, and the motion passed.                                                                                                                                                                        | 1:51<br>Start of<br>Discussion<br><br>2:18<br>Vote |
| 4. Finance Commission Operations                                                                                                                                                                                                                                                             | No Action Required.                                                                                                                                                                                                                                                                                            | 2:39<br>Start of<br>Discussion                     |
| 5. Audit Committee Report                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                |                                                    |
| A. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Office of Consumer Credit Commissioner's Texas Financial Education Endowment Fund Investment Portfolio Administration Audit Report as Prepared and Presented by Garza/Gonzalez and Associates | Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Office of Consumer Credit Commissioner's Texas Financial Education Endowment Fund Investment Portfolio Administration Audit Report as Prepared and Presented by Garza/Gonzalez and Associates passed. | 4:04<br>Start of<br>Discussion<br><br>4:20<br>Vote |

| AGENDA ITEM                                                                                                                                                                                                                                                                                                                                                                                                                                                       | ACTION                                                                                                                                                                                                                                                                                                                                                                     | LOCATION ON AUDIO FILE                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| B. Discussion of the Activities of the Texas Financial Education Endowment (TFEE)                                                                                                                                                                                                                                                                                                                                                                                 | No Action Required.                                                                                                                                                                                                                                                                                                                                                        | n/a                                             |
| C. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action on the Revised Texas Financial Education Endowment Fund Grant Administration & Advisory Policy Manual and 2024-2025 Funding Priorities                                                                                                                                                                                                                                    | Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve the Revised Texas Financial Education Endowment Fund Grant Administration & Advisory Policy Manual and 2024-2025 Funding Priorities passed.                                                                                                                           | 4:37<br>Start of Discussion<br><br>4:50<br>Vote |
| D. Discussion of and Possible Vote to Recommend that the Finance Commission Take Action to Approve an Amount for the Upcoming 2024-2025 Grant Cycle for the Texas Financial Education Endowment                                                                                                                                                                                                                                                                   | Coming upon Recommendation from the Audit Committee, no second is required and the motion to Approve \$730,000 for the Upcoming 2024-2025 Grant Cycle for the Texas Financial Education Endowment passed.                                                                                                                                                                  | 5:02<br>Start of Discussion<br><br>5:15<br>Vote |
| E. Discussion of the Activities of the Mortgage Grant Fund                                                                                                                                                                                                                                                                                                                                                                                                        | No Action Required.                                                                                                                                                                                                                                                                                                                                                        | n/a                                             |
| 6. 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                                                | Martin Green made a motion to Approve a 5.0 percent increase in annual salary with a minimum of \$3,000 per annum increase on July 1, 2023, and another 5.0 percent increase on September 1, 2024, with a minimum of \$3,000 per annum increase for the Finance Commission of Texas agency staff, including the Commissioners. Will Lucas seconded, and the motion passed. | 5:53<br>Start of Discussion<br><br>6:44<br>Vote |
| 7. 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                                             |
| 8. 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                                             |

| AGENDA ITEM                                                                                                                                                                                                                                                                                                  | ACTION                                                                                                                                                                                                         | LOCATION ON AUDIO FILE                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| 9. 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                                               |
| 10. 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                                                                                                   | No Discussion.                                                                                                                                                                                                 | n/a                                               |
| <b>B. Department of Savings and Mortgage Lending</b>                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                |                                                   |
| 1. Industry Status and Departmental Operations: a) Thrift Regulation Division Activities; b) Mortgage Regulation Division Activities; c) Operations Division Activities; d) Legal Division Activities, including Consumer Complaints and Gift Reporting; e) Legislative Activities                           | No Action required.                                                                                                                                                                                            | 8:37<br>Start of Discussion                       |
| 2. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 52, Concerning Charter Applications, Resulting from Rule Review                                                                                                                                  | <b>On Consent Agenda – Item B2</b><br>This item Approved on the Consent Agenda.                                                                                                                                | n/a                                               |
| 3. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 53, Concerning Additional Offices, Resulting from Rule Review                                                                                                                                    | <b>On Consent Agenda – Item B3</b><br>This item Approved on the Consent Agenda.                                                                                                                                | n/a                                               |
| 4. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 57, Concerning Change of Office Location or Name, Resulting from Rule Review                                                                                                                     | <b>On Consent Agenda – Item B4</b><br>This item Approved on the Consent Agenda.                                                                                                                                | n/a                                               |
| 5. Discussion of and Possible Vote to Take Action on the Adoption of New Rules in 7 TAC, Part 4, Chapter 60, Concerning Savings Associations, Resulting from Rule Review                                                                                                                                     | Debbie Scanlon made a motion to Approve the Adoption of New Rules in 7 TAC, Part 4, Chapter 60, Concerning Savings Associations, Resulting from Rule Review. Sharon McCormick seconded, and the motion passed. | 29:06<br>Start of Discussion<br><br>30:34<br>Vote |
| 6. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 61, Concerning Hearings, Resulting from Rule Review                                                                                                                                              | <b>On Consent Agenda – Item B6</b><br>This item Approved on the Consent Agenda.                                                                                                                                | n/a                                               |

| AGENDA ITEM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | ACTION                                                                           | LOCATION ON AUDIO FILE       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------|
| 7. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 63, Concerning Fees and Charges, Resulting from Rule Review                                                                                                                                                                                                                                                                                                                        | <b>On Consent Agenda – Item B7</b><br>This item Approved on the Consent Agenda.  | n/a                          |
| 8. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 64, Concerning Books, Records, Accounting Practices, Financial Statements, Reserves, Net Worth, Examinations, Complaints, Resulting from Rule Review                                                                                                                                                                                                                               | <b>On Consent Agenda – Item B8</b><br>This item Approved on the Consent Agenda.  | n/a                          |
| 9. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 65, Concerning Loans and Investments, Resulting from Rule Review                                                                                                                                                                                                                                                                                                                   | <b>On Consent Agenda – Item B9</b><br>This item Approved on the Consent Agenda.  | n/a                          |
| 10. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 67, Concerning Savings and Deposit Accounts, Resulting from Rule Review                                                                                                                                                                                                                                                                                                           | <b>On Consent Agenda – Item B10</b><br>This item Approved on the Consent Agenda. | n/a                          |
| 11. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 69, Concerning Reorganization, Merger, Consolidation, Acquisition and Conversion, Resulting from Rule Review                                                                                                                                                                                                                                                                      | <b>On Consent Agenda – Item B11</b><br>This item Approved on the Consent Agenda. | n/a                          |
| 12. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 71, Concerning Change of Control, Resulting from Rule Review                                                                                                                                                                                                                                                                                                                      | <b>On Consent Agenda – Item B12</b><br>This item Approved on the Consent Agenda. | n/a                          |
| 13. Discussion of and Possible Vote to Take Action on the Adoption of Rule Repeals in 7 TAC, Part 4, Chapter 73, Concerning Subsidiary Corporations, Resulting from Rule Review                                                                                                                                                                                                                                                                                                                | <b>On Consent Agenda – Item B13</b><br>This item Approved on the Consent Agenda. | n/a                          |
| 14. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation                                                                                                                                                                                                                                                                                                                                                                                                       | No Action Required.                                                              | n/a                          |
| <b>C. Texas Department of Banking</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                  |                              |
| 1. Industry Status and Departmental Operations: a) Current Issues Affecting Department’s Regulated Entities; b) Bank and Trust Division Activities; c) Corporate Division Activities; d) Non-Depository Supervision Division Activities; e) Administrative, Staffing and Fiscal Division Activities; f) Strategic Support Division Activities including Consumer Complaint Data; g) Legal Division Activities including Enforcement Activity and Gift Reporting; and h) Legislative Activities | No Action Required.                                                              | 31:11<br>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 9, Concerning Rules of Procedure for Contested Case Hearings, Appeals and Rulemakings, Resulting from Rule Review                                                                       | <b>On Consent Agenda – Item C2</b><br>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 1, Chapter 10, Concerning Contract Procedures, Resulting from Rule Review                                                                                                                          | <b>On Consent Agenda – Item C3</b><br>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 12, Concerning Loans and Investments, Resulting from Rule Review                                                                                                                        | <b>On Consent Agenda – Item C4</b><br>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 25, Concerning Prepaid Funeral Contracts, Resulting from Rule Review                                                                                                                    | <b>On Consent Agenda – Item C5</b><br>This item Approved on the Consent Agenda.                                                                                                                     | n/a                                                   |
| 6. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation                                                                                                                                                                                               | No Discussion.                                                                                                                                                                                      | n/a                                                   |
| <b>D. Office of Consumer Credit Commissioner</b>                                                                                                                                                                                                                                      |                                                                                                                                                                                                     |                                                       |
| 1. Industry Status and Departmental Operations: a) Consumer Protection and Assistance Division Activities; b) Licensing Division Activities; c) Administration Division Activities; d) Financial Division Activities; and e) Legal Division Activities; and f) Legislative Activities | No Action Required.                                                                                                                                                                                 | 1:12:46<br>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 5, Chapter 86, Concerning Retail Creditors                                                                                                                 | Vince Puente made a motion to Approve the Proposal and Publication for Comment of Amendments in 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors. Will Lucas seconded, and the motion passed. | 1:38:33<br>Start of Discussion<br><br>1:41:30<br>Vote |
| 3. Discussion of and Possible Vote to Take Action on Anticipated and Pending Litigation<br><br><i>Ernest Polk v. Texas Office of Consumer Credit Commissioner; Cause No. 01-22-00712-CV, in the First Court of Appeals, Houston, Texas</i>                                            | No Discussion.                                                                                                                                                                                      | n/a                                                   |

There being no further business, Chairman Phillip Holt adjourned the meeting of the Finance Commission at 11:11 a.m.  
*(1:42:50 on the audio file).*

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Phillip Holt, Chairman  
Finance Commission of Texas

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Charles G. Cooper, Executive Director  
Finance Commission of Texas

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Ruth Wright, Executive Assistant  
Finance Commission of Texas

# Finance Commission of Texas

## Consent Agenda

August 18, 2023

**A. Finance Commission Matters**

1. Review and Approval of the Minutes of the June 16, 2023 Finance Commission Meeting

**B. Office Of Consumer Credit Commissioner**

2. Discussion of and Possible Vote to Take Action on the Adoption of 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors

**D. Texas Department of Banking**

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
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
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
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
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

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August 7, 2023

Chairman Philip Holt  
Finance Commission of Texas  
2601 N. Lamar Blvd  
Austin, Texas

Dear Chairman Holt:

On behalf of the Texas Bankers Association and our State Savings Bank (SSB) members, I write in support of the Department of Savings and Mortgage Lending (SML) proposed FY 2024 budget.

The Self-Directed and Semi-Independent (SDSI) status of SML, fully paid for by industry, is key to its ability to meet its regulatory mission. Further, an appropriately compensated and adequately staffed Department is vital to its supervisory role not only for SSBs, but for a regulated community including approximately 40,000 mortgage originators across the State of Texas.

In that regard, we are pleased to see Commissioner Retta and the SML leadership address agency flexibility and personnel needs in the FY24 budget. This will provide important resources both for the retention of its experienced staff and for attracting new talent.

The Department is adjusting licensing fees to ensure its ability to meet critical needs for competitive staffing as well as the communications and information technology infrastructure necessary to support SML personnel. Even with the proposed increases, Texas licensing fees will remain among the lowest in the United States.

Thank you for the opportunity to provide comment to the Finance Commission. Please contact me or TBA General Counsel Celeste Embrey ([celeste@texasbankers.com](mailto:celeste@texasbankers.com)) if we may answer questions.

Sincerely,

Chris Furlow  
President & CEO



August 7, 2023

Chairman Philip Holt  
Finance Commission of Texas  
2601 N. Lamar Blvd  
Austin, Texas

Dear Chairman Holt:

I write on behalf of the Texas Bankers Association and in support of the Proposed FY 2024 Texas Department of Banking (DOB) Budget.

Commissioner Cooper and his leadership team are effectively managing the Department of Banking through the post-pandemic period. The result is a Texas banking industry that is strong and stable. Our banks are well-managed, well-capitalized and well-regulated. The Texas regulatory environment stands in stark contrast to what was observed in California and New York earlier this year.

This is due, in large part, to the Department's concentration on its most important asset—its employees. Last year's FY23 DOB Budget focused on human capital and ensuring the Department's ability to be competitive with Federal regulatory agencies on workforce compensation. The Department's proposed FY24 Budget continues this commitment.

In particular, we are pleased with the Department's internal training program which is directed to maintain high standards and the Commissioner's "tough but fair" culture among Texas DOB examiners. The Department expects the proposed budget to support this program as well as its goal to fill existing vacancies by the conclusion of FY24.

TBA expresses our appreciation to Commissioner Cooper and the DOB for meaningful collaborations. The Texas DOB remains the national leader among state regulators on cybersecurity public-private partnerships. We are also grateful for DOB's collaboration with TBA on public service initiatives, to include a holiday anti-fraud TV/radio campaign and a joint project to combat the growing criminal activity known as "jugging."

Thanks to you and members of the Finance Commission for the opportunity to provide comment. Please let me or TBA General Counsel Celeste Embrey ([celeste@texasbankers.com](mailto:celeste@texasbankers.com)) know if we may answer questions.

Sincerely,

Chris Furlow  
President & CEO

# Office of Consumer Credit Commissioner

## Agency Priorities

FY 2024

### 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.

### 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. 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:** Reporting on compliance by regulated industry segment. Number of examinations completed. Report the rate of satisfactory compliance. Report the amount of restitution returned to consumers as a result of examinations.

**2.1.2. Objective:** Actively engage in regulatory activities and supervisory issues relating to consumer finance, auto finance, and payday lending at the national and multistate level. Engage in and respond as appropriate to developing issues that impact the OCCC or its regulated entities.

**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.

**2.1.3. 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.

**2.1.4. Objective:** Take appropriate enforcement actions to ensure compliance with state and federal law.

**Measure:** Report number of enforcement actions for each regulated industry.

## **2.2. Licensing.**

**2.2.1. Objective:** Maintain a focus on ensuring compliance of regulatory and agency standards. Process 80% of license applications within 60 days from received date to completion date.

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

**2.2.2 Objective:** Provide quality customer service to licensees and registrants. Provide professional development and training opportunities to licensing staff once a quarter.

**Measure:** Report on call abandonment rate and professional development training provided to staff.

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

### **3.1. Rulemaking.**

**3.1.1. Objective:** Complete rule reviews for the following rule chapters: 7 TAC Chapter 1 (relating to official interpretations), Chapter 82 (relating to OCCC administration), Chapter 83, Subchapter B (relating to credit access businesses), Chapter 84 (relating to motor vehicle sales finance), Chapter 85, Subchapter B (relating to crafted precious metal dealers), Chapter 87 (relating to refund anticipation loans), and Chapters 151-153.

**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.

**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.

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

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

**4.1.1. Objective:** Conclude the 2022-2023 TFEE grant cycle, including reporting on the progress and impact of grant award recipient performance. Launch the 2024-2025 TFEE grant cycle. Coordinate Grant Advisory Committee review and selection of applications. Report on grant award progress, monitor grant award recipient's programs, and process reimbursement requests. Conduct TFEE outreach, host a TFEE application webinar, and conduct risk assessment on 2024-2025 grant award recipients.

**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.

## **4.2 Financial Education**

**4.2.1. Objective:** Provide and support financial education by conducting financial education events. Conduct outreach to community organizations, state agencies, non-profit organizations, and consumer advocacy groups that may benefit from financial education events. Identify traditionally underserved populations and locations in need of financial education. Offer financial education content via remote and in person learning opportunities.

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

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

**4.3.1. Objective:** Communicate and build relationships with industry and interested stakeholders on matters of supervisory and industry interest. Monitor emerging issues in the 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.

# **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.

## **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 administrative 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.

- 5.2.2. Objective:** Ensure that Financial Examiners receive a minimum of 40 hours of continue education and training. Build examiner professional development through progressive certifications and the career ladder within the Financial Examiner series.

**Measure:** Report on the Financial Examiner training opportunities, attainment of minimum training hours, and examiner certification progression.

- 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.

### **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.

- 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.

- 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.

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

- 5.4.1 Objective: ALECS Enhancements.** Complete the cloud host relocation of the OCCC's regulatory application, ALECS. Implement an enhancement to provide an automated testing protocol, with the goal to improve UAT turnaround time and speedier completion of subsequent enhancements.

**Measure:** Reporting on ALECS enhancements. Successful implementation of the automated testing program.

- 5.4.2 Objective: Technology Modernization and Security Enhancements.** Continuously evaluate OCCC's technology posture, keeping resources up-to-date and deploying modern technology improvements and security enhancements. Migrate the agency to Microsoft Windows 11 as exclusive endpoint operating system in FY'24. Update the OCCC internal network stack, which is reliable yet but aging. Pursue DIR Dark Capacity emergency server recovery, recently made available, as a mitigation measure against disaster. Pursue a comprehensive overhaul of IT policies, procedures, and other operational documentation, capturing and codifying established and emerging knowledge. Deploy other projects and enhancements as appropriate.

**Measure:** Reporting on the update of endpoint computer fleet to Windows 11. Successful integration of new network component units with no loss of operations or communications. Reporting on other technology modernization efforts and security enhancements.

| FY 24 Performance Measures                       |                                                                                                           | FY 24 Target | FY 23 Target |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------|--------------|--------------|
| Office of Consumer Credit Commissioner           |                                                                                                           |              |              |
| <b>Consumer Protection:</b>                      |                                                                                                           |              |              |
| Outcome Measures (Annual)                        |                                                                                                           |              |              |
| Key                                              | Monies returned to consumers                                                                              | \$6,000,000  | \$12,000,000 |
| Key                                              | Percentage of written complaints closed within 90 days <sup>1</sup>                                       | 85%          | 85%          |
| Key                                              | Percentage of examinations reporting acceptable level of compliance <sup>2</sup>                          | 85%          | 85%          |
|                                                  | Percentage of licensed locations and registered offices examined annually                                 | 18%          | 18%          |
|                                                  | Percentage of enforcement actions closed within targeted timeframe                                        | 75%          | 75%          |
| Output Measures (Quarterly)                      |                                                                                                           |              |              |
| Key                                              | Number of complaints closed <sup>1</sup>                                                                  | 1750         | 1750         |
| Key                                              | Number of examinations completed <sup>1</sup>                                                             | 3000         | 3150         |
|                                                  | Number of investigations completed                                                                        | 75           | 75           |
|                                                  | Number of enforcement actions taken                                                                       | 150          | 200          |
|                                                  | Number of contested cases docketed at SOAH                                                                | 4            | 4            |
|                                                  | Number of compliance aids and tools published                                                             | 45           | 45           |
|                                                  | Number of industry stakeholder and outreach events hosted or attended by OCCC staff                       | 30           | 30           |
| Efficiency Measures (Annual)                     |                                                                                                           |              |              |
|                                                  | Average number of days for all complaints to reach final disposition                                      | 60           | 60           |
|                                                  | Average number of days to close a complaint                                                               | 45           | 45           |
|                                                  | Average direct cost per complaint <sup>2</sup>                                                            | \$145        | \$165        |
|                                                  | Average direct cost per examination                                                                       | \$1,500      | \$1,550      |
| Key                                              | Average number of days to close an enforcement action                                                     | 100          | 100          |
| <b>Effective Licensing &amp; Registration:</b>   |                                                                                                           |              |              |
| Outcome Measures (Annual)                        |                                                                                                           |              |              |
| Key                                              | Percentage of business license applications processed within 60 days                                      | 80%          | 80%          |
| Output Measures (Quarterly)                      |                                                                                                           |              |              |
| Key                                              | Number of business license applications processed <sup>1</sup>                                            | 1175         | 1300         |
|                                                  | Number of pawnshop employee license applications processed                                                | 300          | 375          |
|                                                  | Number of residential mortgage loan originator licenses processed <sup>1</sup>                            | 125          | 125          |
| Efficiency Measures (Annual)                     |                                                                                                           |              |              |
| Key                                              | Average processing time (days) for business license applications                                          | 45           | 45           |
|                                                  | Average processing time (days) for pawnshop employee applications                                         | 30           | 30           |
|                                                  | Average processing time (days) for residential mortgage loan originators                                  | 30           | 15           |
| <b>Efficient and Effective Agency Operation:</b> |                                                                                                           |              |              |
| Outcome Measures (Annual)                        |                                                                                                           |              |              |
| Key                                              | Percentage of regular employees separated from the agency <sup>1</sup>                                    | 15%          | 16%          |
|                                                  | Percentage of public information requests addressed within 5 business days                                | 80%          | 80%          |
|                                                  | Percentage of actual expenditures to budgeted expenditures <sup>1</sup>                                   | 94%          | 95%          |
| Output Measures (Quarterly)                      |                                                                                                           |              |              |
|                                                  | Number of public information requests closed                                                              | 185          | 185          |
|                                                  | Number of public information requests withdrawn                                                           | 8            | 8            |
| Efficiency Measures (Annual)                     |                                                                                                           |              |              |
|                                                  | Average number of days to address a public information request                                            | 3            | 3            |
| Explanatory Measures (Annual)                    |                                                                                                           |              |              |
|                                                  | Number of public information requests received                                                            | 193          | 193          |
| <b>Financial Education:</b>                      |                                                                                                           |              |              |
| Output Measures (Quarterly)                      |                                                                                                           |              |              |
| Key                                              | Number of people receiving direct educational services                                                    | 650          | 650          |
|                                                  | Percentage of TFEE award recipients who reached their consumer participation goal within the grant period | 100%         | 100%         |

<sup>1</sup> These measures are comparable to similar measures with the Departments of Banking and Savings and Mortgage Lending

<sup>2</sup> These measures are comparable to similar measures with the Department of Savings and Mortgage Lending

## Agency Priorities for Fiscal Year 2024

### I. Legislative

**I.1 Objective:** Monitor the activities of the Texas Legislature during the interim. Provide information to the Texas Legislature as may be requested.

**Measure:** Respond promptly to legislative requests for information. Report interim legislative activity that may affect the Department or its regulated industries to the Finance Commission.

### II. Regulatory Activities

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

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

**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.

**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.

**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.

**II.5 Objective:** Continue compliance examinations of mortgage companies and residential mortgage loan originators 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.

# DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

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

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

**Measure:** Report to the Finance Commission on enforcement actions taken.

**II.7 Objective:** Retain prompt resolution times on consumer complaints.

**Measure:**

- a. Report 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.

**II.8 Objective:** Process complete licensing applications and registrations in a timely manner.

**Measure:**

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

**II.9 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.

**II.10 Objective:** Adopt and implement the use of the CSBS State Examination System (SES) for single, multi-state and coordinated examinations of non-depository mortgage entities.

**Measure:**

- a. Provide virtual and in-person training to Financial Examiners necessary to adequately conduct examinations in SES.
- b. Develop examination policies, procedures, processes, and work items for the use of SES.
- c. Notify the residential mortgage loan companies and mortgage bankers of the use of SES for single-state compliance examinations.

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- d. Provide resource materials on the Department website for non-depository mortgage entities to onboard and use SES.

## III. Policy and Rule Development

**III.1 Objective:** Conduct rule review of 7 TAC: Chapter 78 (Wrap Mortgage Loans); Chapter 79 (Residential Mortgage Loan Services); Chapter 80 (Residential Mortgage Loan Companies); and Chapter 81 (Mortgage Bankers and Residential Mortgage Loan Originators).

**Measure:** Complete the rule review process. Present rule changes identified during rule review to the Finance Commission.

**III.2 Objective:** Adopt rule changes necessary to implement legislation enacted by the 88<sup>th</sup> Legislature.

**Measure:** Present rule changes to the Finance Commission for proposal and adoption.

## IV. Outreach and Communications

**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.

**IV.2 Objective:** Administer the Mortgage Grant Fund (MGF) grant program. Conclude the MGF 2023-2024 grant cycle, including processing reimbursement requests, tracking grantee performance, and monitoring compliance by grantees with program requirements. Prepare for the MGF 2025-2026 grant cycle, including revising program materials, and initiating the grant application process,

**Measure:** Provide periodic reports to the Finance Commission Audit Committee concerning MGF activities.

## V. Agency Operations

**V.1 Objective:** Recruit well-qualified personnel, while seeking to broaden the Department 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.

**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.

## DEPARTMENT OF **SAVINGS AND MORTGAGE LENDING**

**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.

**V.4 Objective:** Monitor the Department 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.

**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.

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

**Measure:** Report on activities related to the CAPPS implementation

**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.

**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.



DEPARTMENT OF  
**SAVINGS AND  
MORTGAGE LENDING**  
HECTOR RETTA, COMMISSIONER

## Performance Measures Targets for Fiscal Year 2024

| 01-01 Thrift Safety and Soundness                                                  |                               |                                                                                                                      | FY24 Target | FY23 Target        |
|------------------------------------------------------------------------------------|-------------------------------|----------------------------------------------------------------------------------------------------------------------|-------------|--------------------|
|                                                                                    | Outcome Measures (Annual)     |                                                                                                                      |             |                    |
| Key                                                                                | 01                            | Percentage of State Chartered Savings Institutions Receiving Examination within the Required Timeframes <sup>1</sup> | 100%        | 100%               |
| Key                                                                                | 02                            | Percentage of Savings Institutions Classified Safe and Sound <sup>1</sup>                                            | 80%         | 90%                |
| Non-Key                                                                            | 04                            | Percentage of State Chartered Savings Institution Applications Processed within Statutory Timeframes <sup>1</sup>    | 100%        | 100%               |
|                                                                                    | Output Measures (Quarterly)   |                                                                                                                      |             |                    |
| Key                                                                                | 01                            | Number of State Chartered Savings Institution Examinations Performed <sup>1</sup>                                    | 19          | 19                 |
| Non-Key                                                                            | 04                            | Number of State Chartered Savings Institution Applications Processed. <sup>2</sup>                                   | 15          | 15                 |
|                                                                                    | Efficiency Measures (Annual)  |                                                                                                                      |             |                    |
| Non-Key                                                                            | 01                            | Assets Examined Per Examiner Day (in Millions)                                                                       | \$151.5     | \$240.7            |
| Non-Key                                                                            | 02                            | Average Time (Business Days) to Complete Analysis of Quarterly Financial Data                                        | 7           | 7                  |
|                                                                                    | Explanatory Measure (Annual)  |                                                                                                                      |             |                    |
| Key                                                                                | 01                            | Number of State-Chartered Savings Institutions                                                                       | 21          | 20                 |
| Key                                                                                | 02                            | Dollar Amount of Assets under Regulation (in Billions)                                                               | \$340.0     | \$385.0            |
|                                                                                    |                               |                                                                                                                      |             |                    |
| 02-01 Mortgage Regulation                                                          |                               |                                                                                                                      |             |                    |
|                                                                                    | Outcome Measures (Annual)     |                                                                                                                      |             |                    |
| Key                                                                                | 01                            | Percentage of Satisfactory Levels of Compliance Reported through Examination <sup>3</sup>                            | 90%         | 90%                |
| Key                                                                                | 02                            | Percentage of Examinations Initiated within Established Timeframes                                                   | 75%         | 90%                |
| Key                                                                                | 03                            | Percentage of Applications Processed within Established Timeframes <sup>3</sup>                                      | 80%         | 65%                |
|                                                                                    | Output Measures (Quarterly)   |                                                                                                                      |             |                    |
| Key                                                                                | 01                            | Number of Applications Processed <sup>2</sup>                                                                        | 9,350       | 13,000             |
| Key                                                                                | 02                            | Number of Examination Reports Issued <sup>2</sup>                                                                    | 575         | 550                |
|                                                                                    | Efficiency Measures (Annual)  |                                                                                                                      |             |                    |
| Non-Key                                                                            | 01                            | Average Cost Per Application Processed                                                                               | \$125       | \$75               |
|                                                                                    | Explanatory Measures (Annual) |                                                                                                                      |             |                    |
| Non-Key                                                                            | 01                            | Total Number of Licensees/Registrants in an Approved Status                                                          | 50,000      | 60,000             |
| Non-Key                                                                            | 02                            | Number of Licensees Examined                                                                                         | 5,500       | 10,500             |
|                                                                                    |                               |                                                                                                                      |             |                    |
| 03-01 Consumer Responsiveness                                                      |                               |                                                                                                                      |             |                    |
|                                                                                    | Outcome Measures (Annual)     |                                                                                                                      |             |                    |
| Key                                                                                | 01                            | Percent of Complaints Closed within Ten Business Days of Receipt of Complete Information                             | 99%         | 99%                |
| Key                                                                                | 02                            | Percentage of Written Complaints Closed within 90 Days <sup>2</sup>                                                  | 95%         | 95%                |
|                                                                                    | Output Measures (Quarterly)   |                                                                                                                      |             |                    |
| Non-Key                                                                            | 01                            | Number of Complaints Closed <sup>2</sup>                                                                             | 1,350       | 1,300              |
|                                                                                    | Efficiency Measures (Annual)  |                                                                                                                      |             |                    |
| Non-Key                                                                            | 01                            | Average Direct Cost Per Complaint Closed <sup>3</sup>                                                                | \$250       | \$475 <sup>4</sup> |
| 04-01 Agency Administration                                                        |                               |                                                                                                                      |             |                    |
|                                                                                    | Outcome Measures (Annual)     |                                                                                                                      |             |                    |
| Key                                                                                | 01                            | Percentage of Employees Separated from the Agency <sup>2</sup>                                                       | 10%         | 10%                |
| Key                                                                                | 02                            | Percentage of Actual Expenditures to Budgeted Expenditures <sup>2</sup>                                              | 95%         | 95%                |
|                                                                                    |                               |                                                                                                                      |             |                    |
| 1 These measures are comparable to similar measures with the Department of Banking |                               |                                                                                                                      |             |                    |

<sup>1</sup> These measures are comparable to similar measures with the Department of Banking

DEPARTMENT OF  
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|                                                                                                                                           |  |  |
|-------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| <sup>2</sup> These measures are comparable to similar measures with the Department of Banking and Office of Consumer Credit Commissioner. |  |  |
| <sup>3</sup> These measures are comparable to similar measures with the Office of Consumer Credit Commissioner                            |  |  |
| <sup>4</sup> Figure includes direct and indirect costs.                                                                                   |  |  |



Charles G. Cooper  
Commissioner

## **TEXAS DEPARTMENT OF BANKING**

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### **MEMORANDUM**

To: The Finance Commission of Texas

From: Charles G. Cooper, Commissioner

Date: August 2, 2023

RE: Department of Banking Priorities for Fiscal Year 2024

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

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

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

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

**Measure:** 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.

- I.3 **Objective:** Monitor legislative interim charges that may affect the Department or its regulated entities. Implement legislative changes from the 88th legislative session that affect the agency.

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

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

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

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

- II.2 **Objective:** Be active and involved at the national level in 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.

- 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 commercial real estate risk, 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 dialogue with regulatory counterparts, and attend trainings to maintain an understanding of the environments in which our entities operate. Maintain a leadership role in the effort to combat cybersecurity and information security threats. Maintain an off-site monitoring program of the bank and trust, and money services business 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.

- 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 regulated industries and Finance Commission. Issue publications that address topics of interest. Participate in meetings, seminars, committees, workgroups and other speaking opportunities with regulated industries and other regulatory supervisory groups to provide updates relating to ongoing supervisory issues.

- 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. Refer cases as needed to local, state, or federal law enforcement agencies or the Texas Attorney General.

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

**Measure:** Report complaints/inquiries activity at each Finance Commission meeting. Meet or exceed the strategic planning goals for consumer activity performance measures.

- 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.

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

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

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

- 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.

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

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

### 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 equal employment opportunity 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. Promptly post vacancies utilizing CAPPS Recruit and other recruiting platforms to reach a wide and diverse talent pool.

- IV.2 **Objective:** Work towards 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 as reported in exit interviews, 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.

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

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

- 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 information security risk assessment and initiate corrective actions necessary to maintain data integrity and minimize the risk of unauthorized access or use. Perform annual intrusion testing through 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.

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

**Measure:** Provide core required training courses to financial examiners in the FE I – FE III series so they can progress in the financial examiner series. Adequately prepare assistant examiners to successfully complete the Bank and Trust Supervision commissioning test. Continue agency efforts to provide continuing education to field examiners.

- IV.6 **Objective:** Host accelerated internal training program for newly hired examination staff to support and enhance their ability to perform their duties.

**Measure:** Provide the internal training course at least once in fiscal year 2024 to adequately prepare assistant examiners to successfully participate in an examination.

- IV.7 **Objective:** Ensure agency expenditures are necessary and prudent and within budgetary constraints; revenues collected are adequate to cover expenditures; and

provide a cash reserve or fund balance that complies with Finance Commission policies.

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

- IV.8 **Objective:** Periodically review internal controls and processes to improve the efficiency and effectiveness of the agency. Coordinate, when possible, with the Office of Consumer Credit Commissioner and Department of Savings and Mortgage Lending to minimize duplication of duties and processes.

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

- IV 9 **Objective:** Work with TXDOT, the Facilities Commission, 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.

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

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

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

## Performance Measures for 2024

### Department of Banking

#### Bank and Trust:

##### K Outcome Measures (Annual)

|   |          | Target<br>2024                                                                             | Target<br>2023 |
|---|----------|--------------------------------------------------------------------------------------------|----------------|
| K | 01-01.01 | Percentage of Banks Receiving Examinations Within Required Timeframes <sup>1</sup>         | 95.00%         |
|   | 01-01.02 | Percentage of Foreign Bank Organizations Receiving Examinations Within Required Timeframes | 100.00%        |
|   | 01-01.03 | Percentage of Trust Companies Receiving Examinations Within Required Timeframes            | 95.00%         |
|   | 01-01.04 | Percentage of Problem Institutions with Appropriate Supervisory Actions in Place           | 100.00%        |
|   | 01-01.05 | Certificate of Accreditation by CSBS Maintained in Good Standing                           | YES            |

##### K Output Measures (Quarterly)

|   |          |                                                                                                       |     |
|---|----------|-------------------------------------------------------------------------------------------------------|-----|
| K | 01-01.06 | Number of Bank Examinations Performed <sup>1</sup>                                                    | 103 |
| K | 01-01.07 | # Foreign Bank Organization, Trust Co, Trust Dept, & IT Exams and Other Specialized Reviews Performed | 229 |

##### Efficiency Measures (Annual)

|  |          |                                                |             |
|--|----------|------------------------------------------------|-------------|
|  | 01-01.08 | Average Cost Per Bank Examination              | \$89,640.00 |
|  |          | Average Cost Per Bank Examination              | \$86,080.00 |
|  | 01-01.09 | Assets Examined Per Examiner Day (in millions) | \$10.50     |
|  |          | Assets Examined Per Examiner Day (in millions) | \$11.75     |

##### K Explanatory Measure (Annual)

|   |          |                                                            |          |
|---|----------|------------------------------------------------------------|----------|
| K | 01-01.10 | Percentage of Banks Classified Safe and Sound <sup>1</sup> | 95.00%   |
|   | 01-01.11 | Number of Texas State-Chartered Banks                      | 210      |
|   | 01-01.12 | Total Assets in Texas State-Chartered Banks (in Billions)  | \$457.90 |

#### Non-Depository Supervision (NDS):

##### K Outcome Measures (Annual)

|   |          |                                                                                             |        |
|---|----------|---------------------------------------------------------------------------------------------|--------|
| K | 01-02.01 | Percentage of Money Services Business Licensees Examined By NDS Within Required Timeframes  | 90.00% |
| K | 01-02.02 | Percentage of Prepaid Funeral Contract Licensees Examined By NDS Within Required Timeframes | 95.00% |
| K | 01-02.03 | Percentage of Perpetual Care Cemetery Licensees Examined By NDS Within Required Timeframes  | 95.00% |
|   | 01-02.04 | Percentage of PCC and PFC Applications Processed within Statutory Period                    | 95.00% |

##### K Output Measures (Quarterly)

|   |          |                                               |     |
|---|----------|-----------------------------------------------|-----|
| K | 01-02.05 | Number of NDS Licensees Examined <sup>2</sup> | 500 |
|---|----------|-----------------------------------------------|-----|

##### Efficiency Measures (Annual)

|  |          |                                                                                                    |          |
|--|----------|----------------------------------------------------------------------------------------------------|----------|
|  | 01-02.06 | Average Direct Cost Per Prepaid Funeral Contract and Perpetual Care Cemetery Licensee Examination. | \$3,000  |
|  | 01-02.07 | Average Direct Cost Per Money Services Business Licensee Examination                               | \$16,000 |

##### Explanatory Measures (Annual)

|  |          |                                                                   |        |
|--|----------|-------------------------------------------------------------------|--------|
|  | 01-02.08 | Dollar Amount of Prepaid Funeral Contracts in Force (in Billions) | \$5.0  |
|  | 01-02.09 | Number of NDS Licensees                                           | 775    |
|  | 01-02.10 | Percentage of NDS Licensees Classified Safe and Sound             | 95.00% |

#### Application Processing:

##### K Outcome Measures (Annual)

|   |          |                                                                                                                                                                                    |        |
|---|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| K | 01-03.01 | Percentage of Applications and Notices for Banks, Trust Companies, Money Service Businesses, and Check Verification Companies Processed within Statutory Time Periods <sup>1</sup> | 95.00% |
|---|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|

##### K Output Measures (Quarterly)

|   |          |                                                                                                                                                  |     |
|---|----------|--------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| K | 01-03.02 | Number of Applications and Notices Processed for Banks, Trust Companies, Money Service Businesses, and Check Verification Companies <sup>2</sup> | 315 |
|---|----------|--------------------------------------------------------------------------------------------------------------------------------------------------|-----|

##### K Outcome Measures (Annual)

|   |          |                                                                     |         |
|---|----------|---------------------------------------------------------------------|---------|
| K | 01-04.01 | Percentage of Written Complaints Closed Within 90 Days <sup>2</sup> | 100.00% |
|---|----------|---------------------------------------------------------------------|---------|

##### Output Measures (Quarterly)

|  |          |                                                  |     |
|--|----------|--------------------------------------------------|-----|
|  | 01-04.02 | Number of Written Complaints Closed <sup>2</sup> | 250 |
|--|----------|--------------------------------------------------|-----|

#### Regulatory Oversight: (Finance Commission) (Reported Internally)

##### Output Measures (Quarterly)

|  |          |                             |     |
|--|----------|-----------------------------|-----|
|  | 01-04.03 | Number of Meetings Convened | 6.0 |
|--|----------|-----------------------------|-----|

#### Operational Efficiency:

##### K Outcome Measures (Annual)

|   |          |                                                                                   |        |
|---|----------|-----------------------------------------------------------------------------------|--------|
| K | 01-05.01 | Percentage of Regular Employees Separated from the Agency <sup>2</sup>            | 11.00% |
|   | 01-05.02 | Percentage of Regular Employees Separated from the Agency (Excluding Retirements) | 9.00%  |
| K | 01-05.03 | Percentage of Actual Expenditures to Budgeted Expenditures <sup>2</sup>           | 95.00% |

<sup>1</sup> These measures are comparable to similar measures with the Department of Savings and Mortgage Lending

<sup>2</sup> These measures are comparable to similar measures with the Department of Savings and Mortgage Lending and Office of Consumer Credit Commissioner

**B.**

**Office of Consumer Credit  
Commissioner**

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

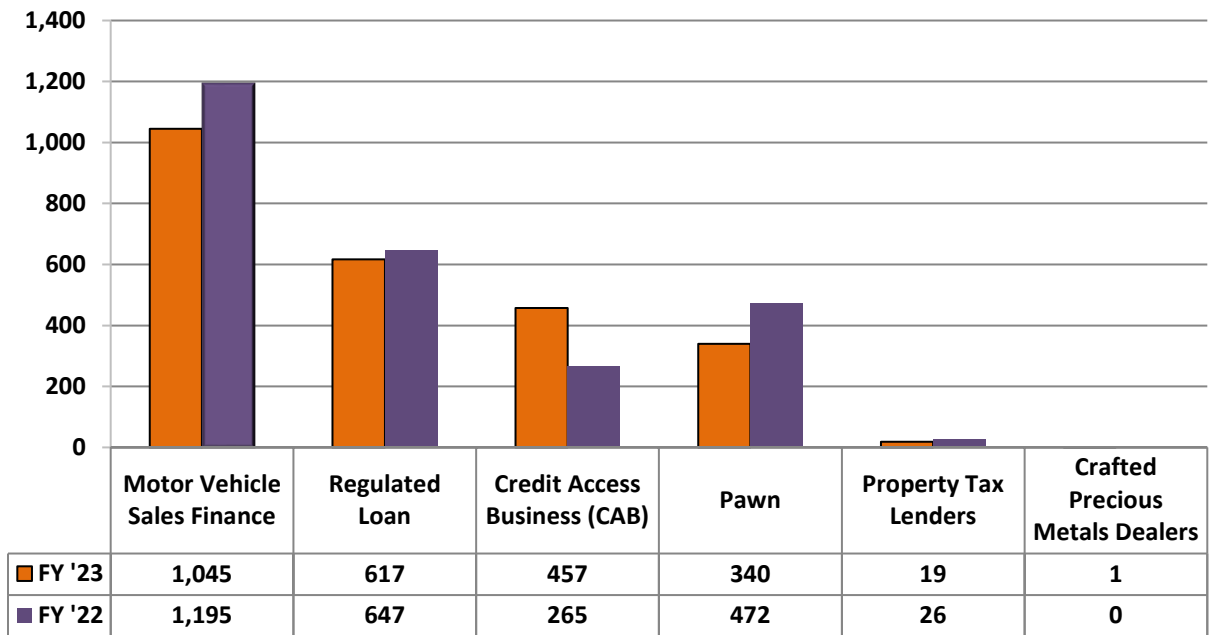
The OCCC's FY 2023 examination program is behind target 5.9% of pro rata production goals as of June 30, 2023. A large enterprise CAB examination was finalized in July and the OCCC is confident the examination targets for Fiscal Year 2023 will be attained. Work is winding down on a multi-state auto finance examination. The Multi-State Auto Committee is anticipated to complete the examination review and issue the report of examination by the end of August 2023.

The agency has completed its work on a multi-state mortgage examination. The report of examination is being reviewed by the Multi-State Mortgage Committee (MMC). The MMC is targeting an October issuance date. The agency has begun work for two MMC exams for fiscal year 2024. We have attended kickoff meetings and provided participating examiners' information to the MMC.

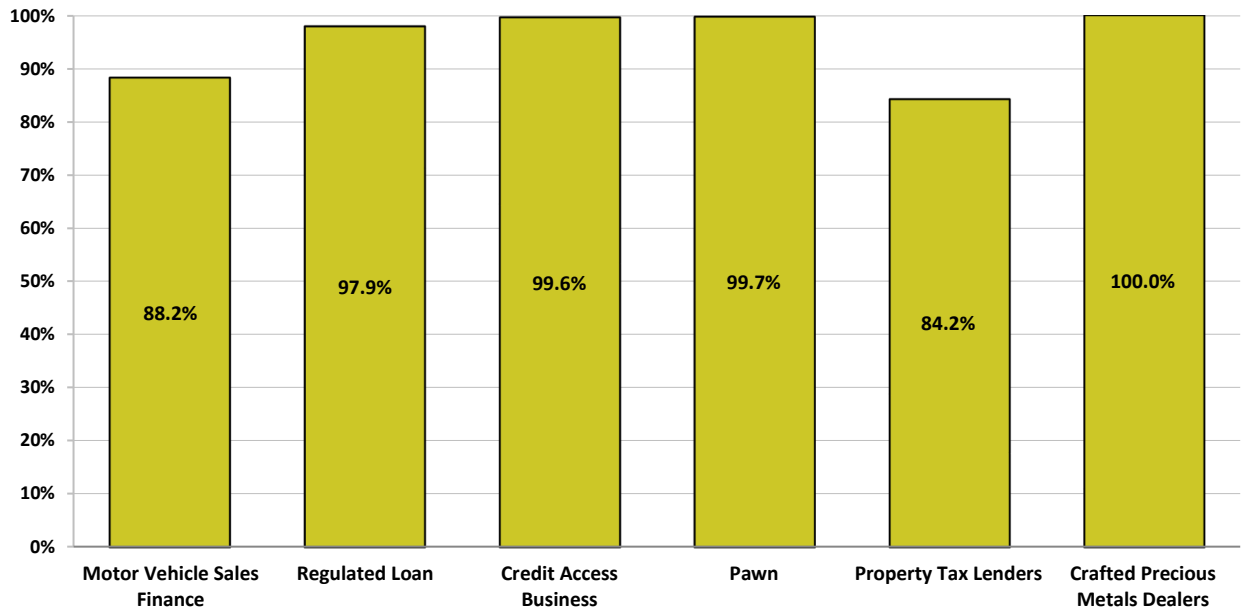
Examiner training and development remains a high priority for the examination department. The examination department has scheduled an enterprise Credit Access Business Examination for October. We will have four of our newer examiners participating in this examination as part of their field training related to CAB examinations. Scheduled classroom training has been scheduled for larger consumer installment loans (342-E) for January 2024. Eight examiners will be participating.

As far as initial on-boarding/training/certifications, the process takes about six months to get an examiner from initial classroom training to become proficient and conducting exams related to Texas Finance Code 371, 342-F, and 348 transactions. The two most recent examiner hires from June 2023 are scheduled for certification in Texas Finance Code 371 and 342-F examinations by the end of August. Five examiners are projected to be hired in Fiscal Year 2024. Recruiting for these examiner positions will begin in the spring of 2024.

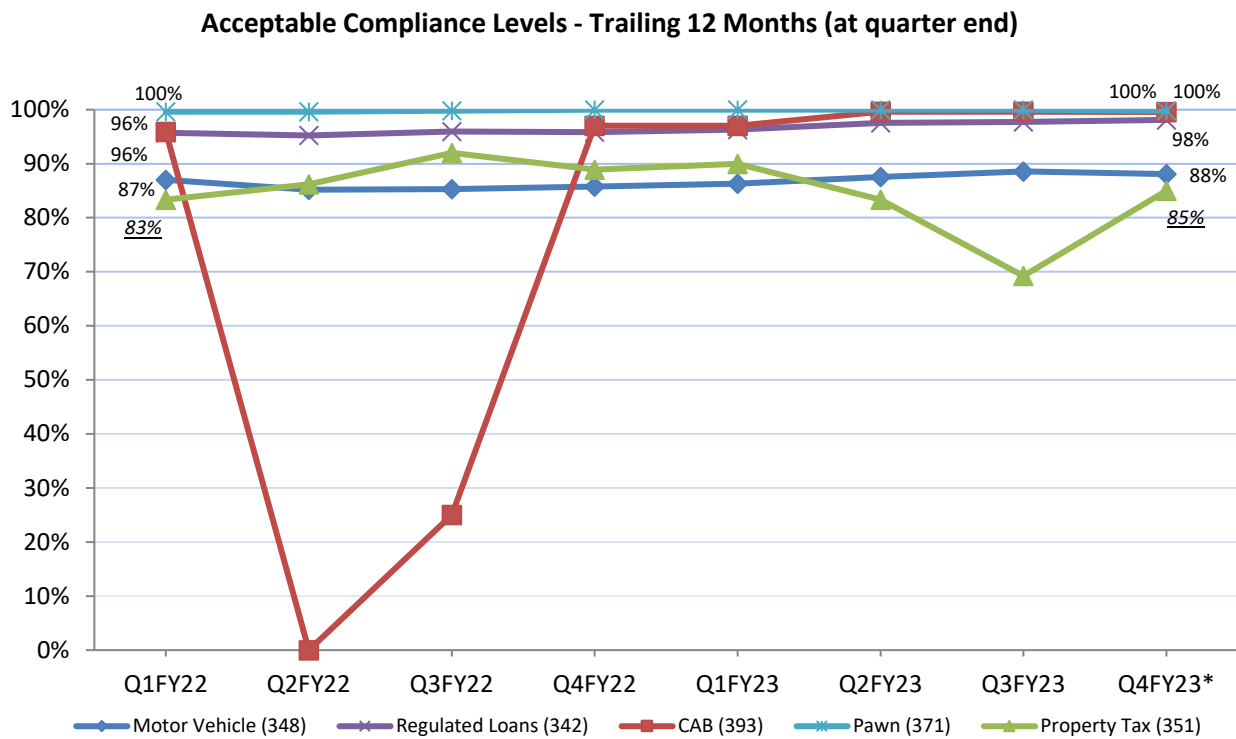
**Examinations Conducted: Sept - Jun  
Fiscal Year Comparison**



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



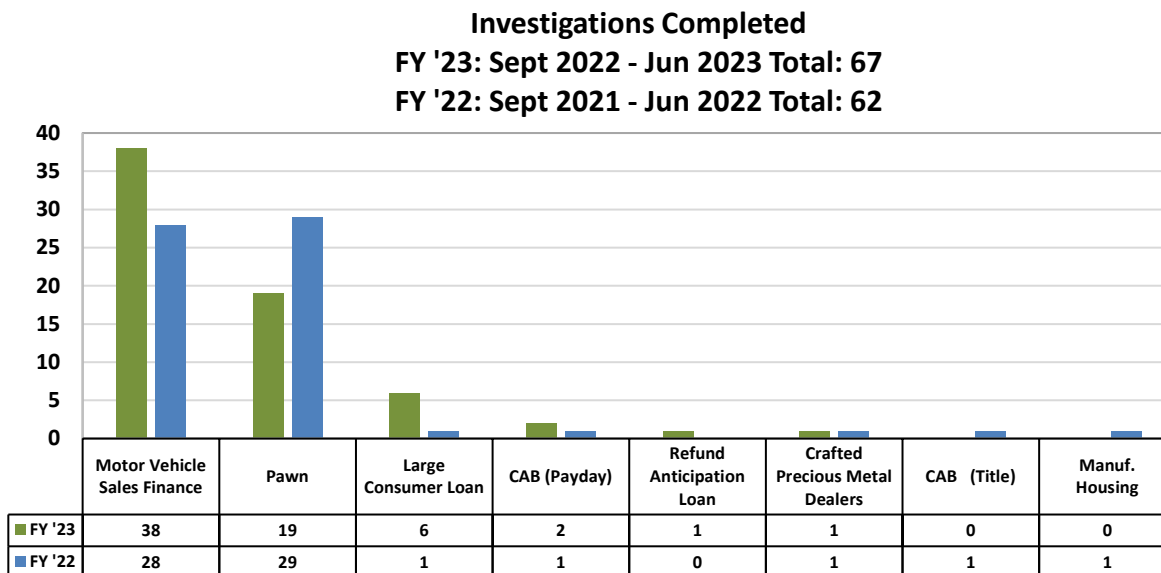
The following chart denotes the acceptable level of compliance on a trailing 12-month basis through the end of June 2023.



\*As of 6/30/2023

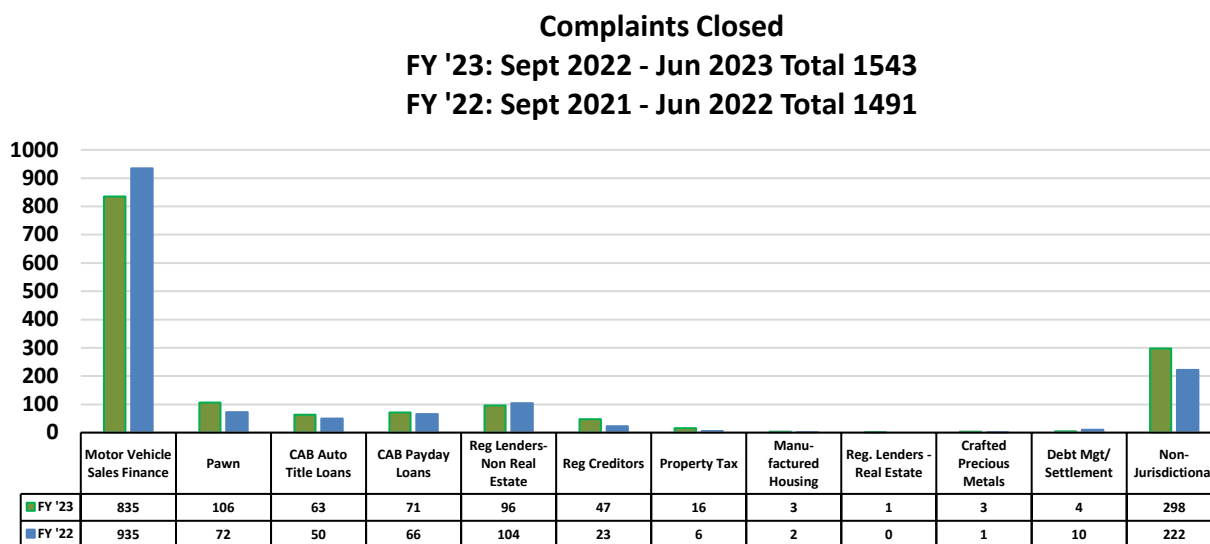
## Investigations

For FY 2023 through June, the OCCC completed 67 investigations out of the annual goal of 75. Motor Vehicle Sales Finance issues comprise 56.7% of the overall number of completed investigations.



## Consumer Assistance

As of June 30, 2023, 1543 complaints were closed, of which 298 were classified as non-jurisdictional. The top area of jurisdictional complaints continues to be Motor Vehicle Sales Finance, followed by Credit Access Businesses, Pawnshops and Regulated Lenders – Non-Real Estate. Motor Vehicle Sales Finance complaints accounted for 54.1% of all complaints. The second largest category was CAB complaints at 8.7% collectively, separately these are 4.5% for payday loans and 4.1% for title loans. The third largest was Pawnshops at 6.9%, and the fourth largest was Regulated Lenders Non-Real Estate at 6.2%.



**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           | NA             |
| Business                | 0             | 0              | 1             | NA             |
| Law Enforcement         | 0             | 1              | 0             | NA             |
| State or Federal Agency | 31            | 41             | 42            | NA             |
| OSCC                    | 2             | 1              | 3             | NA             |
| Whistleblower           | 0             | 0              | 0             | NA             |
| Other                   | 0             | 0              | 2             | NA             |
| <b>Total</b>            | <b>475</b>    | <b>460</b>     | <b>455</b>    | <b>NA</b>      |

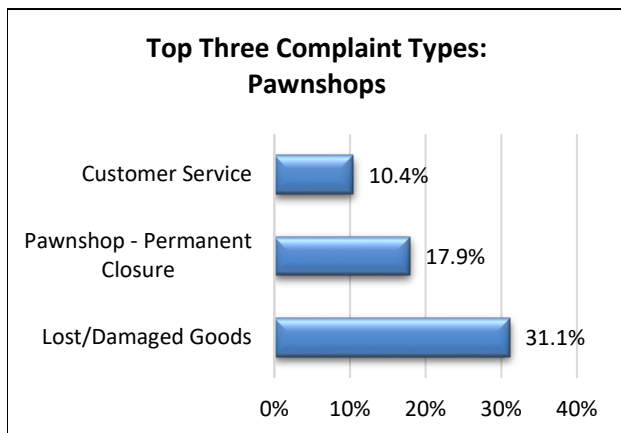
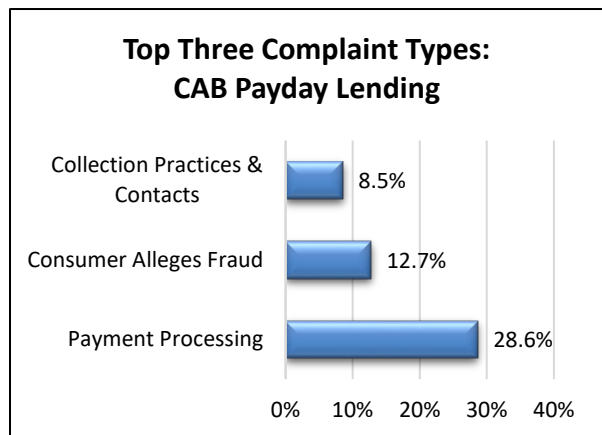
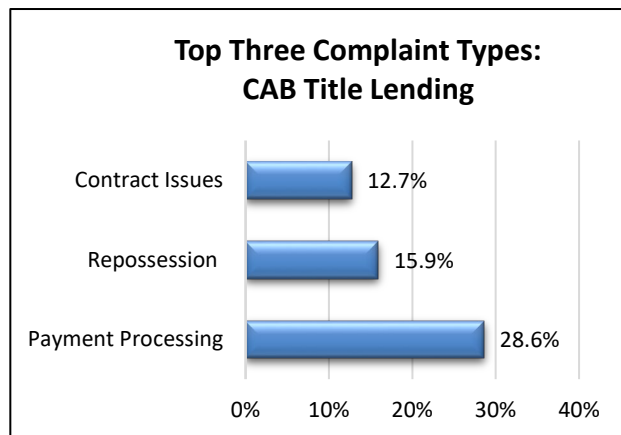
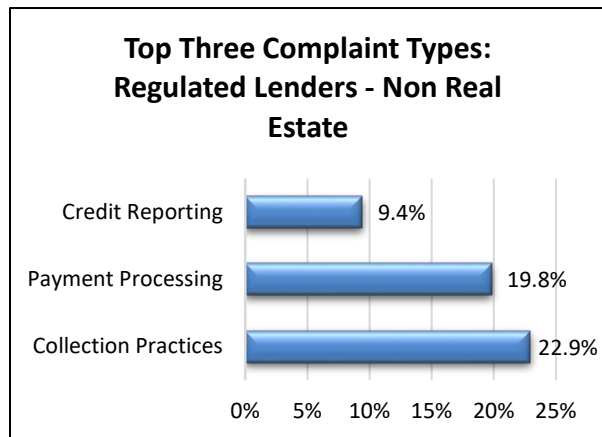
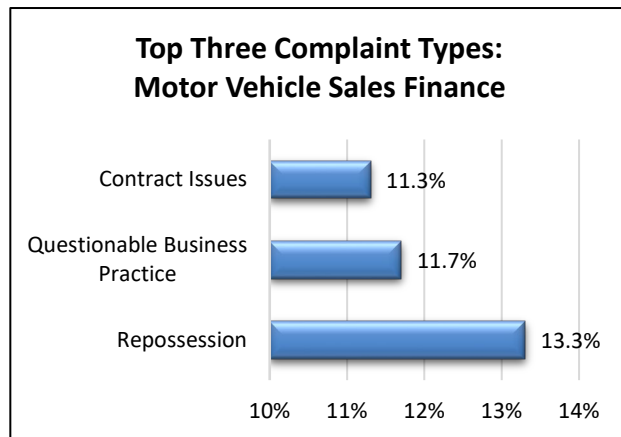
**Table 2**

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

**Table 3**

| Disposition                 | First Quarter | Second Quarter | Third Quarter | Fourth Quarter |
|-----------------------------|---------------|----------------|---------------|----------------|
| Closed to Investigation     | 5             | 12             | 2             | NA             |
| Closed to Legal             | 0             | 0              | 0             | NA             |
| Closed - Action Taken       | 106           | 66             | 66            | NA             |
| Closed - No Violation       | 145           | 176            | 179           | NA             |
| Closed - Administratively   | 133           | 117            | 115           | NA             |
| Closed - Non-Jurisdictional | 86            | 89             | 93            | NA             |
| <b>Total</b>                | <b>475</b>    | <b>460</b>     | <b>455</b>    | <b>NA</b>      |

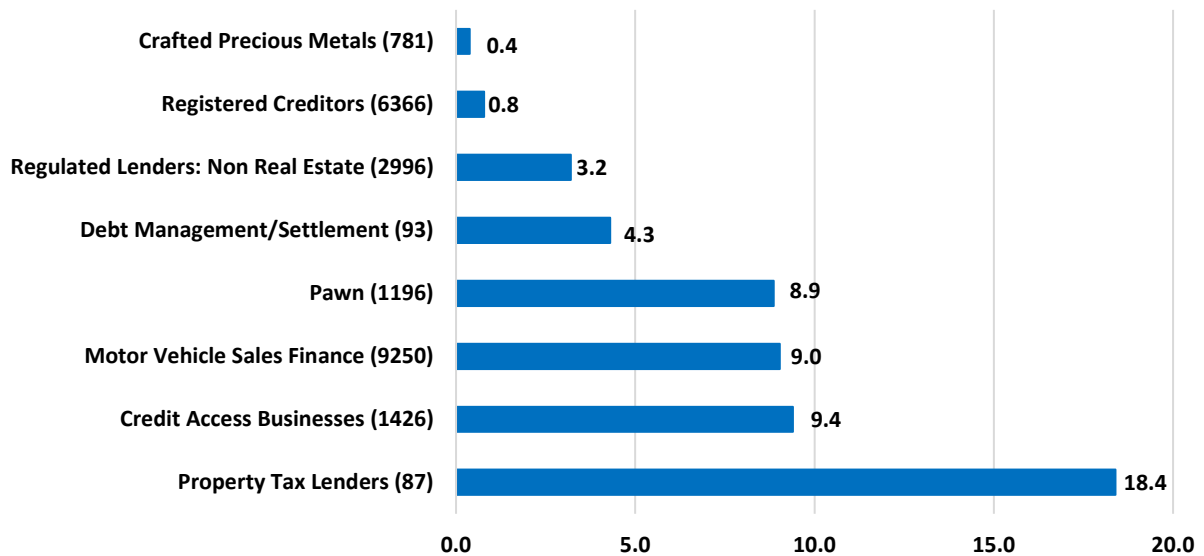
The following charts represent the top three complaint areas per license type. Motor Vehicle complaints in the Questionable Business Practice category include complaints related to allegations that dealers will not accept outside financing. This complaint category continues to decline.



| 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%           | NA             |
| Average Number of Days to Close a Complaint            | 41.5          | 39.2           | 34.6          | NA             |
| Number of Complaints Closed                            | 475           | 460            | 455           | NA             |

Comparison of complaints processed to the number of active license or registrant population is noted on the chart below. For this reporting period, the highest ratio of complaints to active license/registrants is Property Tax Lenders, followed by Credit Access Businesses, Motor Vehicle Sales Finance, and Pawn. Property Tax Lenders continue to have the highest ratio of complaints at approximately 18.4 complaints.

**Ratio of Complaints Closed to Total Active License & Registrant Totals**  
**FY '23: Sept 2022 - Jun 2023**



License/Registrant Totals as of 7/6/23  
 Complaints Per Hundred License/Registrants



## **Licensing Report-August 2023**

Mirand Diamond, Director of Licensing & Finance  
Kanesha Daniels, Licensing Department Team Lead

### Renewals

The department has concluded renewal for both pawnshops and pawn employees. Ninety eight percent of pawnshops have renewed and 55% of pawn employees have renewed, both of which are roughly what was projected.

The department will begin analyzing the discount rate for motor vehicle sales finance in August to prepare for the opening of renewal in September.

### Applications Processing

As of June, the processing of business license applications is 2% ahead of pro rata projections. The volume of business license applications received has increased in recent months, however the department is receiving on average 98 applications monthly, which remains below the projection of 108.

Incoming pawn employee applications averaged 24 monthly for the period of September – June, and the departments is processing approximately the same amount monthly.

### Other Updates

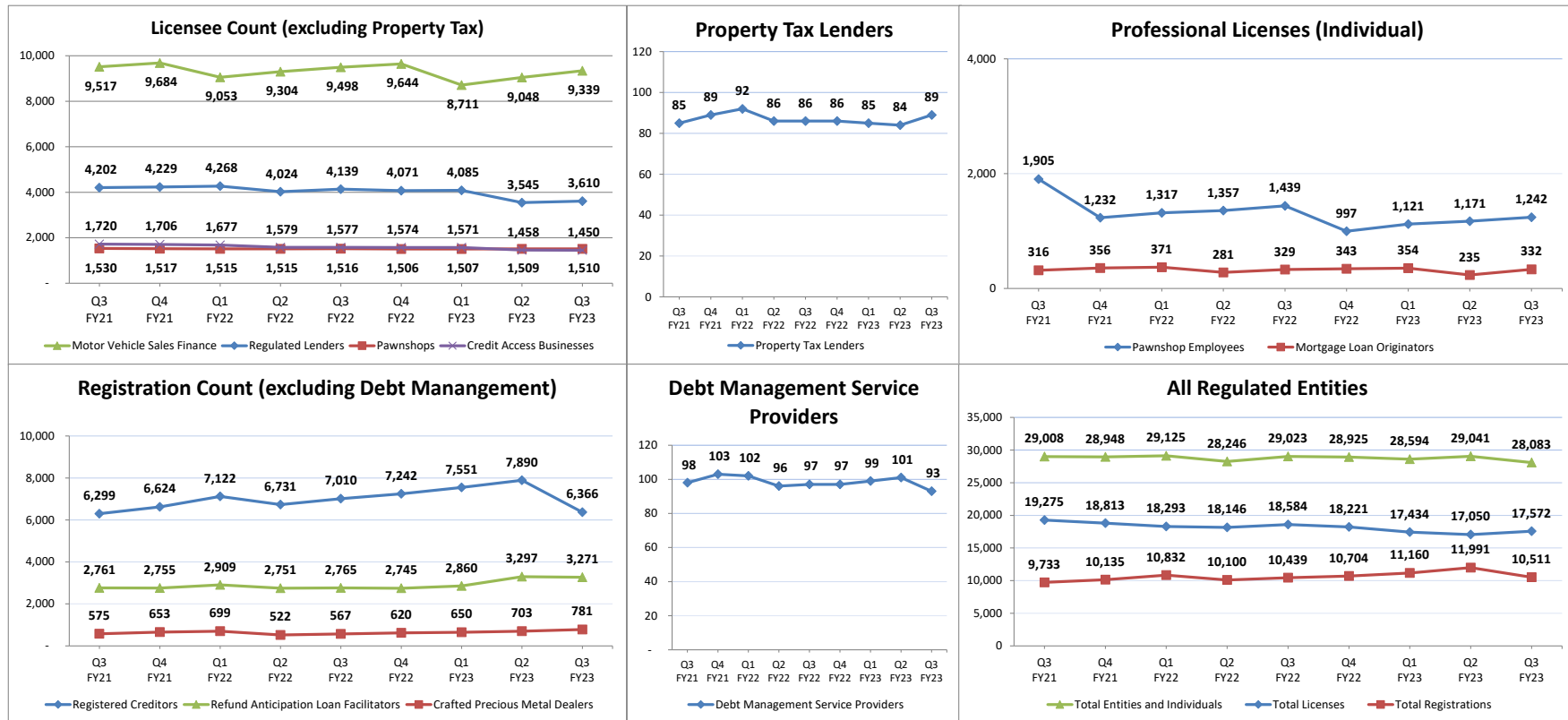
The department along with the IT and legal department is conducting preliminary work to outsource the imaging of certain historical paper files.

Leadership within the department is currently reviewing professional development training for customer essentials to include: guiding and controlling conversations, skillfully handling difficult customer interactions, and transforming negative messages to aid in customer cooperation.

### Regulated Entity Population Trends

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

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





## **Administration**

### **Financial Education and TFEE**

Financial Education staff are scheduled to make a webinar presentation in late August, in conjunction with the Employee Retirement System of Texas, on Financial Habits and Budgeting.

The third semi-annual reporting period ended on June 30, 2023. The fourth semi-annual reporting period runs from July 1<sup>st</sup> to December 31<sup>st</sup>, which will conclude the 2022-2023 grant cycle. TFEE materials were reviewed by the Grant Advisory Committee and updated prior to launching the 2024-2025 application cycle in late June. The application process has been updated to include digital submissions through a secure online portal and a grant information webinar is scheduled for September 6<sup>th</sup>. Applications for the 2024-2025 grant cycle are due on September 22, 2023. The application process is being promoted via social media channels and TFEE's website, as well as through targeted emails. Currently, more than 70 participants are registered for the TFEE 2024-2025 Grant Application Informational Session webinar scheduled for September 6<sup>th</sup>. Recommendations for grant awards will be made during the October Finance Commission meeting. The 2024-2025 grant cycle will begin on January 1, 2024.

### **Communication**

OCCC staff are currently planning the Annual Examiner Conference and Training School, which will be held in College Station during September. The agency has also begun preparation for its OCCC Staff Training Conference, which will be held in Austin during October. Additionally, the OCCC continues to communicate with stakeholders, and staff have provided presentations to regulated entities and other groups as follows:

- On May 4, 2023, Financial Examiner Fancher provided a presentation to automobile dealers at a webinar sponsored by the Texas Department of Motor Vehicles (DMV).
- On May 23, 2023, Commissioner Pettijohn, General Counsel Nance, and Director Diamond attended the NACAA Annual Meeting and Regulations Training Symposium.
- On May 31, 2023, Commissioner Pettijohn, General Counsel Nance, Director Diamond, and Assistant General Counsel Spalding hosted a Registered Creditor Fee Rule Webinar.
- On June 8, 2023, Financial Examiner Fancher provided a presentation to automobile dealers at a webinar sponsored by the Texas Department of Motor Vehicles (DMV).
- On July 6, 2023, Financial Examiner Fancher provided a presentation to automobile dealers at a webinar sponsored by the Texas Department of Motor Vehicles (DMV).
- On July 19, 2023, Commissioner Pettijohn, General Counsel Nance, and Director Lewis presented at the Texas Consumer Finance Association Annual Conference in San Antonio.

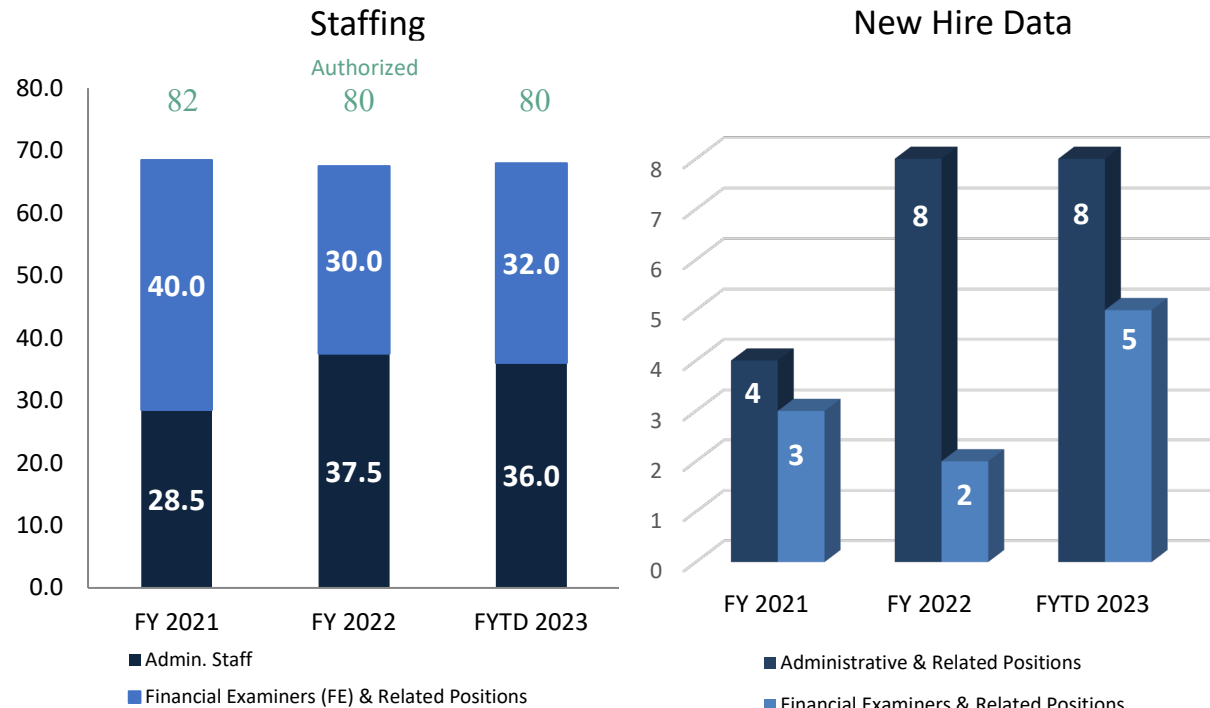
- On July 24, 2023, Director Lewis and Financial Examiner Fancher provided a presentation at the Texas Independent Dealer Association Conference in San Antonio.

## Human Resources

During the reporting period May 31, 2023, through July 31, 2023. The OCCC was staffed with a total of 68 FTEs.

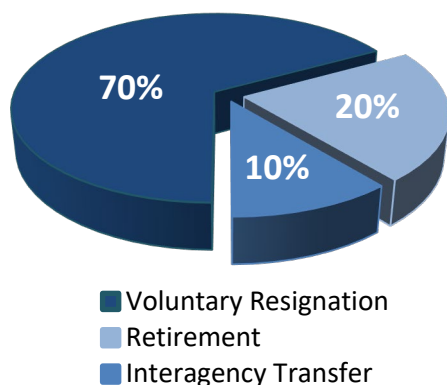
Currently the OCCC has no open positions as of July 31, 2023.

The following charts represent the OCCC staffing data for Fiscal Years 2021 – 2023 as of July 31, 2023.

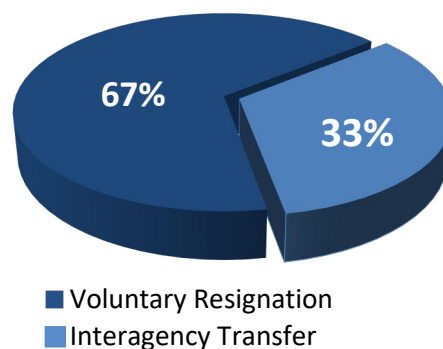


The turnover rate as of July 31, 2023, is 12.50%, and the charts below represents FY23 data.

**OCCC Turnover Categories**  
**FY 23 - All Employees**  
 (09/01/2022 - 07/31/2023)  
 10 total: 7 - Voluntary Resignations, 2 - Retirements,  
 and 1-Interagency Transfer



**OCCC Turnover Categories**  
**FY 23 - FE Series**  
 (09/01/2022 - 08/31/2023)  
 3 total - 2 Voluntary  
 Resignations, 1 Interagency Transfer



## **Information Technology**

### **Technology Modernization and Deployment**

In order to meet TX-RAMP certification requirements, a project to relocate ALECS, the OCCC regulatory application, to a new hosting home, a practice colloquially known as “lift and shift”, is underway. Project implementation is expected by the end of August.

Updating the agency’s laptop fleet to fully Windows 11-compatible has been completed.



### **Accounting Report- August 2023**

*Mirand Diamond, Director of Licensing & Finance*

#### **Financial Reporting**

The third quarter of fiscal year 2023 ended on May 31, 2023. The third quarter financial statements are included elsewhere in the material. The department is beginning preparatory work on annual fiscal year close which occurs at the end of August.

#### **Budget**

Accounting staff have completed the proposed FY24 annual budget which is being presented for approval to the Finance Commission. Upon approval, activity to load budget structures for FY24 will begin.

#### **Other Items**

The internal auditor has completed their report on the OCCC's HR/Payroll functions. The report is included elsewhere in the materials. Quarterly reports due to other agencies are scheduled to be completed over the next 60 days.

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

*As of May 31, 2023*

|                                                           | FY<br>2021 | FY<br>2022 | FISCAL YEAR 2023 |            |            |            |       |
|-----------------------------------------------------------|------------|------------|------------------|------------|------------|------------|-------|
|                                                           |            |            | 1st<br>QTR       | 2nd<br>QTR | 3rd<br>QTR | 4th<br>QTR | FYTD  |
| CONSUMER PROTECTION                                       |            |            |                  |            |            |            |       |
| Monies Returned (000)                                     | 3,386      | 24,756     | 753              | 4,845      | 1,021      |            | 6,619 |
| Regulated Lenders Examinations                            | 656        | 818        | 160              | 210        | 192        |            | 562   |
| Property Tax Lender Examinations                          | 12         | 27         | 4                | 0          | 13         |            | 17    |
| Pawnshop Examinations                                     | 415        | 638        | 99               | 98         | 119        |            | 316   |
| Motor Vehicle Examinations                                | 1,364      | 1,398      | 215              | 300        | 414        |            | 929   |
| Credit Access Businesses Examinations                     | 293        | 268        | 120              | 143        | 194        |            | 457   |
| CONSUMER ASSISTANCE                                       |            |            |                  |            |            |            |       |
| Telephone Complaints Received                             | 489        | 491        | 127              | 107        | 118        |            | 352   |
| Written Complaints Received                               | 1,241      | 1,252      | 318              | 314        | 346        |            | 978   |
| Total Complaints Closed                                   | 1,725      | 1,751      | 475              | 460        | 455        |            | 1,390 |
| % of Written Complaints<br>Closed within 90 Calendar Days | 96.6%      | 92.3%      | 88.6%            | 90.8%      | 95.0%      |            | 91.5% |
| ADMINISTRATIVE ENFORCEMENT ACTIONS                        |            |            |                  |            |            |            |       |
| Originated                                                | 224        | 114        | 34               | 4          | 27         |            | 65    |
| Finalized                                                 | 197        | 138        | 70               | 15         | 19         |            | 104   |
| LICENSING AND REGISTRATION                                |            |            |                  |            |            |            |       |
| Licenses                                                  |            |            |                  |            |            |            |       |
| Regulated Lender Licenses                                 | 4,229      | 4,071      | 4,085            | 3,545      | 3,599      |            | 3,599 |
| Pawnshop Licenses                                         | 1,517      | 1,506      | 1,507            | 1,509      | 1,510      |            | 1,510 |
| Pawnshop Employee Licenses                                | 1,232      | 997        | 1,121            | 1,171      | 1,123      |            | 1,123 |
| Commercial MV Sales Fin. Licenses                         | 57         | 59         | 56               | 61         | 65         |            | 65    |
| Motor Vehicle Sales Finance Licenses                      | 9,627      | 9,585      | 8,711            | 8,987      | 9,227      |            | 9,227 |
| Property Tax Lender Licenses                              | 89         | 86         | 85               | 84         | 91         |            | 91    |
| Mortgage Loan Originators                                 | 356        | 343        | 354              | 235        | 299        |            | 299   |
| Credit Access Business Licenses                           | 1,706      | 1,574      | 1,571            | 1,458      | 1,454      |            | 1,454 |
| Registrations                                             |            |            |                  |            |            |            |       |
| Registered Creditors                                      | 6,624      | 7,242      | 7,551            | 7,890      | 6,288      |            | 6,288 |
| Crafted Precious Metal Dealers                            | 653        | 620        | 650              | 703        | 740        |            | 740   |
| Debt Management Service Providers                         | 103        | 97         | 99               | 101        | 94         |            | 94    |
| Refund Anticipation Loan Facilitators                     | 2,755      | 2,745      | 2,860            | 3,297      | 3,275      |            | 3,275 |
| Applications                                              |            |            |                  |            |            |            |       |
| Business -- New                                           | 1,579      | 1,434      | 160              | 372        | 276        |            | 808   |
| Business -- Change of Ownership                           | 141        | 58         | 9                | 38         | 21         |            | 68    |
| Pawnshop Employees -- New                                 | 408        | 366        | 94               | 67         | 54         |            | 215   |
| HUMAN RESOURCES DATA                                      |            |            |                  |            |            |            |       |
| Field Examiners Staffing                                  | 40         | 30         | 30               | 31         | 32         |            | 32    |
| Total Staffing                                            | 68.5       | 67.5       | 66.5             | 69         | 68.0       |            | 68    |

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

| Type/Strategy/Measure                                                                                                                                                                                                                                                                                                                                                                     | 2023<br>Target | 2023<br>Actual | 2023<br>YTD | Percent of<br>Annual Target |   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-------------|-----------------------------|---|
| <b>Output Measures-Key</b>                                                                                                                                                                                                                                                                                                                                                                |                |                |             |                             |   |
| <b>CONSUMER PROTECTION</b>                                                                                                                                                                                                                                                                                                                                                                |                |                |             |                             |   |
| <b>1-1-1 Complaint Resolution</b>                                                                                                                                                                                                                                                                                                                                                         |                |                |             |                             |   |
| <b>1. # Complaints Closed</b>                                                                                                                                                                                                                                                                                                                                                             |                |                |             |                             |   |
| Quarter 1                                                                                                                                                                                                                                                                                                                                                                                 | 1,750          | 475            | 475         | 27.1%                       |   |
| Quarter 2                                                                                                                                                                                                                                                                                                                                                                                 | 1,750          | 460            | 935         | 53.4%                       |   |
| Quarter 3                                                                                                                                                                                                                                                                                                                                                                                 | 1,750          | 455            | 1390        | 79.4%                       |   |
| <b>2-1-1 Examination and Enforcement</b>                                                                                                                                                                                                                                                                                                                                                  |                |                |             |                             |   |
| <b>1. # Examinations Completed</b>                                                                                                                                                                                                                                                                                                                                                        |                |                |             |                             |   |
| 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%                       |   |
| <b>EFFECTIVE LICENSING &amp; REGISTRATION</b>                                                                                                                                                                                                                                                                                                                                             |                |                |             |                             |   |
| <b>2-2-1 Licensing and Registration</b>                                                                                                                                                                                                                                                                                                                                                   |                |                |             |                             |   |
| <b>1. # Business License Applications Processed</b>                                                                                                                                                                                                                                                                                                                                       |                |                |             |                             |   |
| 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%                       | * |
| <b>FINANCIAL EDUCATION</b>                                                                                                                                                                                                                                                                                                                                                                |                |                |             |                             |   |
| <b>3-3-1 Financial Education</b>                                                                                                                                                                                                                                                                                                                                                          |                |                |             |                             |   |
| <b>1. # People Receiving Direct Educational Services</b>                                                                                                                                                                                                                                                                                                                                  |                |                |             |                             |   |
| 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.                                                                                                                                                                          |                |                |             |                             |   |

\*Varies by 5% or more from target.



## **Legal Department Report**

*Matthew Nance, General Counsel*

August 2023

## **Enforcement Report**

### **Contested Cases**

The OCCC does not currently have any contested cases pending before the State Office of Administrative Hearings (SOAH).

### **Agreed Order to Revoke Pawnshop License**

In July 2023, the OCCC entered an agreed order to revoke the pawnshop license of East Grand Pawn Shop in Dallas. In 2022, the pawnshop closed, and consumers were unable to access their pledged goods. The OCCC revoked the pawnshop's license based on several violations of the Texas Pawnshop Act and its implementing rules, including failure to file a license application on transfer of ownership, failure to secure pledged goods, failure to maintain ordinary business hours, and failure to allow redemption of pledged goods. The OCCC also helped coordinate the transfer of pledged goods to a nearby pawnshop, where consumers were able to access and redeem the goods.

### **Enforcement Orders on Reporting Violations**

In June 2023, the OCCC issued eight enforcement orders against property tax lenders that did not timely and accurately file their 2022 annual reports by the deadline of March 31, 2023. Of these orders, seven were injunctions requiring the licensee to file timely and accurate reports, and one imposed an administrative penalty for violating a previous injunction.

Also in June 2023, the OCCC issued five enforcement orders against credit access businesses that did not timely and accurately file their 2023 first quarter reports by the deadline of April 30, 2023. Of these orders, three were injunctions requiring the licensee to file timely and accurate reports, and two imposed an administrative penalty for violating a previous injunction.

### **Performance Report on Enforcement Actions**

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

| Enforcement Actions Closed as of July 31, 2023 |            |            |            |
|------------------------------------------------|------------|------------|------------|
|                                                | FYTD 2023  | FY 2022    | FY 2021    |
| <b>Injunction Actions</b>                      |            |            |            |
| Crafted Precious Metal Dealer                  | 1          | 0          | 0          |
| Credit Access Business                         | 10         | 23         | 33         |
| Debt Management Provider                       | 5          | 2          | 10         |
| Manufactured Housing                           | 0          | 0          | 0          |
| Motor Vehicle Sales Finance                    | 16         | 7          | 11         |
| Motor Vehicle Sales Finance Commercial         | 0          | 0          | 1          |
| Pawnshop                                       | 16         | 5          | 48         |
| Pawnshop Employee                              | 0          | 0          | 0          |
| Property Tax Lender                            | 9          | 5          | 2          |
| Registered Creditor                            | 0          | 0          | 0          |
| Regulated Lender                               | 25         | 39         | 28         |
| Residential Mortgage Loan Originator           | 0          | 0          | 0          |
| <b>Total Injunction Actions</b>                | <b>82</b>  | <b>81</b>  | <b>133</b> |
| <b>Administrative Penalty Actions</b>          |            |            |            |
| Crafted Precious Metal Dealer                  | 0          | 0          | 0          |
| Credit Access Business                         | 2          | 7          | 12         |
| Debt Management Provider                       | 2          | 3          | 2          |
| Motor Vehicle Sales Finance                    | 3          | 4          | 8          |
| Pawnshop                                       | 10         | 6          | 15         |
| Pawnshop Employee                              | 0          | 0          | 0          |
| Property Tax Lender                            | 0          | 1          | 1          |
| Regulated Lender                               | 19         | 27         | 18         |
| Residential Mortgage Loan Originator           | 0          | 0          | 0          |
| <b>Total Administrative Penalty Actions</b>    | <b>36</b>  | <b>48</b>  | <b>56</b>  |
| <b>Revocation / Suspension Actions</b>         |            |            |            |
| Crafted Precious Metal Dealer                  | 0          | 0          | 0          |
| Credit Access Business                         | 2          | 0          | 1          |
| Motor Vehicle Sales Finance                    | 2          | 2          | 1          |
| Pawnshop                                       | 1          | 1          | 4          |
| Pawnshop Employee                              | 0          | 0          | 0          |
| Property Tax Lender                            | 0          | 0          | 0          |
| Regulated Lender                               | 3          | 5          | 0          |
| Residential Mortgage Loan Originator           | 0          | 0          | 0          |
| <b>Total Revocation / Suspension Actions</b>   | <b>8</b>   | <b>8</b>   | <b>6</b>   |
| <b>Application Denial and Protest Actions</b>  |            |            |            |
| Credit Access Business                         | 0          | 0          | 0          |
| Motor Vehicle Sales Finance                    | 1          | 1          | 2          |
| Pawnshop                                       | 0          | 0          | 0          |
| Pawnshop Employee                              | 0          | 0          | 0          |
| Property Tax Lender                            | 0          | 0          | 0          |
| Regulated Lender                               | 0          | 0          | 0          |
| Residential Mortgage Loan Originator           | 0          | 0          | 0          |
| <b>Total App. Denial and Protest Actions</b>   | <b>1</b>   | <b>1</b>   | <b>2</b>   |
| <b>Total Actions Closed</b>                    | <b>127</b> | <b>138</b> | <b>197</b> |

The following table includes enforcement-related measures that the legal department is tracking.

| September 1, 2022, through July 31, 2023              |     |
|-------------------------------------------------------|-----|
| Cases Opened                                          | 116 |
| Cases Closed                                          | 127 |
| Average Number of Days to Close an Enforcement Action | 146 |
| Contested Cases Docketed at SOAH                      | 2   |
| Enforcement Actions Taken and Closed by Final Order   | 120 |

As of July 31, 2023, the OCCC has no upcoming SOAH hearings scheduled.

### **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). In February 2022, the OCCC filed a second plea to the jurisdiction, arguing that the plaintiff's claims are barred by sovereign immunity and challenging the sufficiency of the plaintiff's evidence. In September 2022, the district court granted the OCCC's plea to the jurisdiction and dismissed the plaintiff's case. The plaintiff appealed the case to the court of appeals, arguing that the district court should not have dismissed his case. The OCCC filed a response brief with the court of appeals, arguing that the district court correctly dismissed the plaintiff's case. The plaintiff filed a reply brief on February 21, 2023. The appeal is currently pending.

### **Rulemaking**

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

- Adoption of amendments to 7 TAC, Chapter 86 (relating to registered creditors) to set annual registration fees, implementing SB 1371 (2023)
- Proposed amendments to Chapter 2 (relating to residential mortgage loan originators) to specify military licensing requirements for RMLOs, implementing SB 422 (2023)
- Proposed amendments to Chapter 85, Subchapter A (relating to pawnshops) to specify military licensing requirements for pawnshop employees, implementing SB 422 (2023)

At the October meeting, the OCCC intends to present the readoption of 7 TAC, Chapter 83, Subchapter B (relating to credit access businesses), as well as any proposed amendments to the subchapter, resulting from rule review.

## **Federal Rulemaking**

### ***FTC Safeguards Rule***

Amendments to the Federal Trade Commission (FTC) Safeguards Rule recently went into effect. The Safeguards Rule (16 CFR pt. 314) implements the federal Gramm–Leach–Bliley Act and requires nondepository financial institutions to keep customer information secure. Since 2003, the rule has required institutions to develop a written information security program, to identify risks in operations, to design and test safeguards, to oversee service providers, and to adjust the program based on monitoring.

The FTC adopted amendments to the Safeguards Rule in October 2021, and the amendments went into effect on June 9, 2023. Under the amendments, institutions are required to designate a qualified individual to oversee the information security program, to periodically assess service providers for risk, and to design and implement safeguards to control risks (including encryption, multifactor authentication, and data retention procedures). In addition, institutions with information on 5,000 or more customers are required to put risk assessments in writing, to conduct either continuous monitoring or annual penetration testing, to establish a written incident response plan, and to have the qualified individual report in writing to the institution’s board of directors or governing body.

### **Advisory Bulletins**

From June 1, 2023, to July 31, 2023, the OCCC did not issue any advisory bulletins.

### **Official Interpretation Requests**

From June 1, 2023, to July 31, 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**

| June 1, 2023, through July 31, 2023                            |     |
|----------------------------------------------------------------|-----|
| Requests Received                                              | 25  |
| Requests Closed                                                | 26  |
| Requests Withdrawn                                             | 2   |
| Requests Referred to Office of Attorney General                | 0   |
| Average Number of Days to Address a Public Information Request | 2.6 |

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

From June 1, 2023, to July 31, 2023, the OCCC received no gifts.

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

2. Discussion of and Possible Vote to Take Action on the Adoption of Amendments in 7 TAC, Part 5, Chapter 86, Concerning Retail Creditors

**PURPOSE:** The purposes of the rule changes to 7 TAC Chapter 86 are to specify annual registration fees for registered creditors and manufactured home creditors, and to implement recent legislative amendments to Texas Finance Code, Chapters 345 and 347.

**RECOMMENDED ACTION:** The OCCC requests that the Finance Commission approve the adoption of the amendments to 7 TAC Chapter 86.

**RECOMMENDED MOTION:** I move that the Finance Commission approve the adoption of the amendments to 7 TAC Chapter 86.

*Title 7, Texas Administrative Code*  
*Part 5. Office of Consumer Credit Commissioner*  
*Chapter 86. Retail Creditors*  
*Subchapter A. Registration of Retail Creditors*

The Finance Commission of Texas (commission) adopts amendments to §86.102 (relating to Fees) and §86.103 (relating to Registration Term, Renewal, and Expiration) in 7 TAC Chapter 86, concerning Retail Creditors.

The commission adopts the amendments to §86.102 and §86.103 without changes to the proposed text as published in the June 30, 2023, issue of the *Texas Register* (48 TexReg 3449).

The commission received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 86 govern registrations with the Office of Consumer Credit Commissioner (OCCC) under Texas Finance Code, Chapters 345 and 347. In general, the purposes of the rule changes to 7 TAC Chapter 86 are to specify annual registration fees for registered creditors and manufactured home creditors, and to implement recent legislative amendments to Chapters 345 and 347.

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

The Texas Legislature passed SB 1371 in the 2023 regular legislative session. SB 1371 modernizes, clarifies, and corrects provisions of the Texas Finance Code administered by the OCCC. In particular, SB 1371 amends

provisions relating to registration fees. Currently, Texas Finance Code, §345.351 provides a \$10 annual fee for a registered creditor registration under Chapter 345, and Texas Finance Code, §347.451 provides a \$15 annual fee for a manufactured home creditor registration under Chapter 347. SB 1371 amends these sections to authorize the Finance Commission to set annual registration fees under Chapters 345 and 347. SB 1371 has been signed by the governor and will be effective September 1, 2023.

Amendments to §86.102 specify that the annual registration fee is \$10 for a Chapter 345 registration and \$15 for a Chapter 347 registration. These are the same amounts currently included in the Finance Code, so the rule amendments would not change the fees that registrants currently pay. The OCCC is responsible for the costs of its operations. Under Texas Finance Code, §16.002 and §16.003, the OCCC is a self-directed, semi-independent agency, and may set fees in amounts necessary for the purpose of carrying out its functions. The OCCC has reviewed its costs and determined that the \$10 and \$15 registration fee amounts are currently appropriate to cover the costs of carrying out the OCCC's responsibilities and functions under Texas Finance Code, Chapters 345 and 347. Other amendments throughout §86.102(b) ensure consistent use of the term "annual fee."

Amendments to §86.103 include updated cross-references to §86.102, to ensure that a reader can easily locate the fee provisions in §86.102.

The rule amendments are adopted under Texas Finance Code, §345.351 and §347.451 (as amended by SB 1371 (2023)), which authorize the commission to set fees for registrations under Texas Finance Code, Chapters 345 and 347. The rule amendments are also adopted under Texas Finance Code, §14.107 and §16.003, which authorize the commission and the OCCC to set fees in amounts necessary to carry out the functions of the OCCC. 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 Finance Code, Chapters 345 and 347.

#### *§86.102. Fees*

(a) Locations requiring registration. An annual registration fee is required for each location operated by a retail seller, creditor, holder or assignee.

(b) Annual fee. An annual fee is required under the provisions of Texas Finance Code, §345.351 or §347.451 and will be payable as follows:

(1) The annual fee is \$10 for a registration under Texas Finance Code, Chapter 345.

(2) The annual fee is \$15 for a registration under Texas Finance Code, Chapter 347.

(3) [(4)] A retail seller, creditor, holder, or assignee must pay an annual [a registration] fee for every chapter under which business is conducted.

(4) [(2)] The registration is not transferable between locations. A retail seller, creditor, holder, or assignee must obtain a registration for each new location.

(5) [(3)] No annual fee is required for a location operated by a retail seller, creditor, holder, or assignee operating under the provisions of Texas Finance Code, Chapter 345 or 347, provided the personnel at the location are not conducting regulated business with the consumer (e.g., storage, web-hosting, or data processing facility).

(c) Late filing fee. As provided by Texas Finance Code, §349.302(b), a person must pay a \$250 late filing fee for each registered location if the person:

(1) obtains a new registration after the person has begun engaging in business under Texas Finance Code, Chapter 345 or 347; or

(2) obtains a renewal more than 30 days after expiration.

(d) Evidence of registration. The Office of Consumer Credit Commissioner (OCCC) will issue a certificate evidencing registration under the provisions of Texas Finance Code, Chapter 345 or 347, and this section. A registrant may print a copy of its registration certificate through the OCCC's online licensing portal.

(e) Registration duplicates sent by mail. If a registrant does not print its registration certificate online, the registrant may request that the OCCC mail a registration duplicate for a fee of \$10 per certificate mailed.

#### *§86.103. Registration Term, Renewal, and Expiration*

(a) Registration term and renewal. An initial registration is effective from the date of its issuance until November 30. A registration must be renewed annually to remain effective. After renewal, a registration is effective for a term of one year, from December 1 of a calendar year to November 30 of the next calendar year.

(b) Due date for annual fee. The annual fee described by §86.102(b) of this title (relating to Fees) is due by November 30 of each year.

(c) Expiration. If a registrant does not pay the annual fee, the registration will expire on November 30.

(d) Late renewal. A person may renew an expired registration by December 30 by paying the annual fee. In order to renew an expired registration after December 30, a person must pay any registration fee for a prior year and the late filing fee described by §86.102 of this title [~~(relating to Fees)~~].

### **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 August 18, 2023.

Matthew J. Nance  
General Counsel  
Office of Consumer Credit Commissioner

**B. OFFICE OF CONSUMER CREDIT COMMISSIONER**

3. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment 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 proposed 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 amendments to 7 TAC Chapter 2 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 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) proposes 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 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 proposed 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 has been signed by the governor and will be effective September 1, 2023.

Proposed amendments to §2.108 would implement SB 422's statutory amendments for RMLOs licensed by the OCCC. Proposed amendments to §2.108(d) would 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 would implement SB 422's amendments to Texas Occupations Code, §55.005(a). Proposed amendments throughout §2.108(e) would 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 would implement SB 422's amendments to Texas Occupations Code, §55.0041.

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 ensure that the OCCC can effectively administer military licensing requirements under Texas Occupations Code, Chapter 55.

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

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

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee

positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would expand current §2.108 in accordance with SB 422. The proposal would not limit or repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to [rule.comments@occc.texas.gov](mailto:rule.comments@occc.texas.gov). To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule amendments are proposed under Texas 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 proposal 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 proposal and found it to be within the agency's legal authority to adopt.

Issued in Austin, Texas on August 18, 2023.

Matthew J. Nance  
General Counsel  
Office of Consumer Credit Commissioner

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

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

**PURPOSE:** The purpose of the proposed 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 amendments to 7 TAC Chapter 85 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 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) proposes amendments to §85.309 (relating to Military Licensing) in 7 TAC Chapter 85, Subchapter A, concerning Rules of Operation for Pawnshops.

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 proposed 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 has been signed by the governor and will be effective September 1, 2023.

Proposed amendments to §85.309 would implement SB 422's statutory amendments for pawnshop employees licensed by the OCCC. Proposed amendments to §85.309(d) would 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 would implement SB 422's amendments to Texas Occupations Code, §55.005(a). Proposed amendments throughout §85.309(e) would 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 would implement SB 422's amendments to Texas Occupations Code, §55.0041.

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 ensure that the OCCC can effectively administer military licensing requirements under Texas Occupations Code, Chapter 55.

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

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

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee

positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would expand current §85.309 in accordance with SB 422. The proposal would not limit or repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to [rule.comments@occc.texas.gov](mailto:rule.comments@occc.texas.gov). To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule amendments are proposed under Texas 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 proposed 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 proposal 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 proposal and found it to be within the agency's legal authority to adopt.

Issued in Austin, Texas on August 18, 2023.

Matthew J. Nance  
General Counsel  
Office of Consumer Credit Commissioner

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**C.**

**Department of Savings and  
Mortgage Lending**

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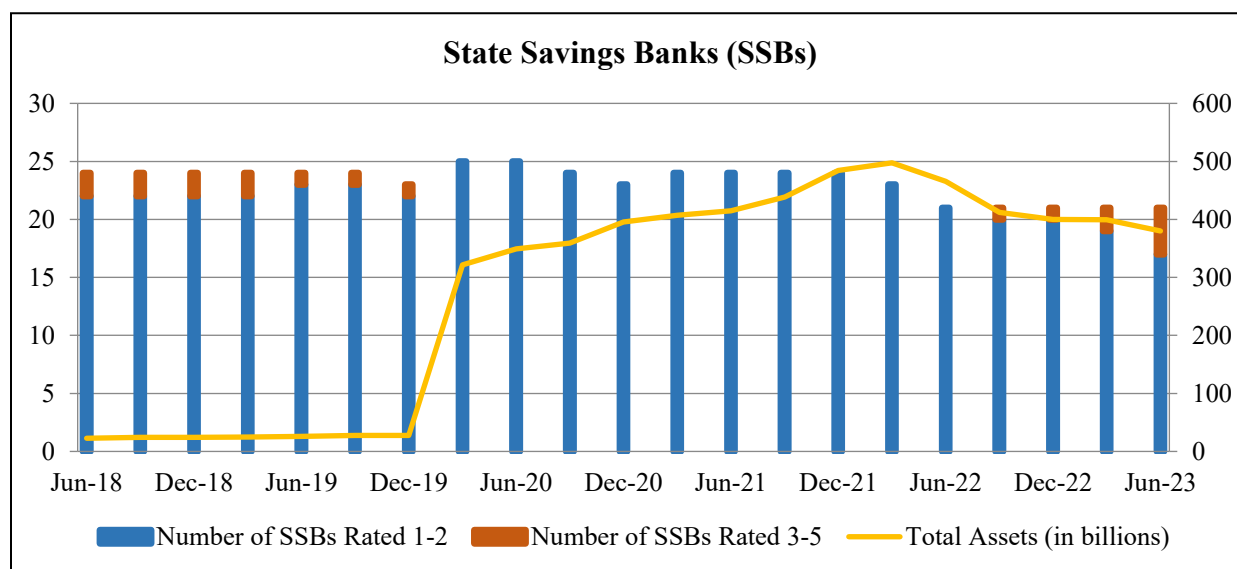
## C. Department of Savings and Mortgage Lending

### 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 consists of 21 state savings banks with assets totaling \$380.2 billion as of June 30, 2023. The industry remains sound with 80% of banks being well rated as of June 30, 2023, with three informal supervisory actions in place.



#### **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.

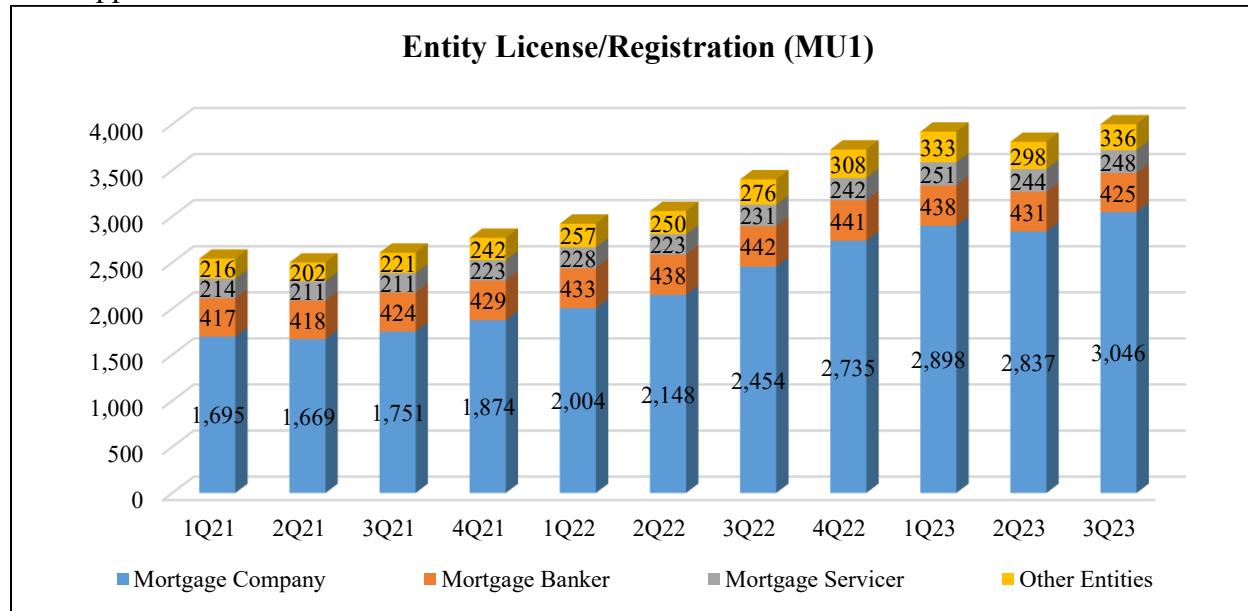
On June 30, 2023, Integrity Bank, SSB, a proposed de novo bank, filed an application for a state savings bank charter to be located in Houston, Texas.

## b) Mortgage Regulation Division Activities

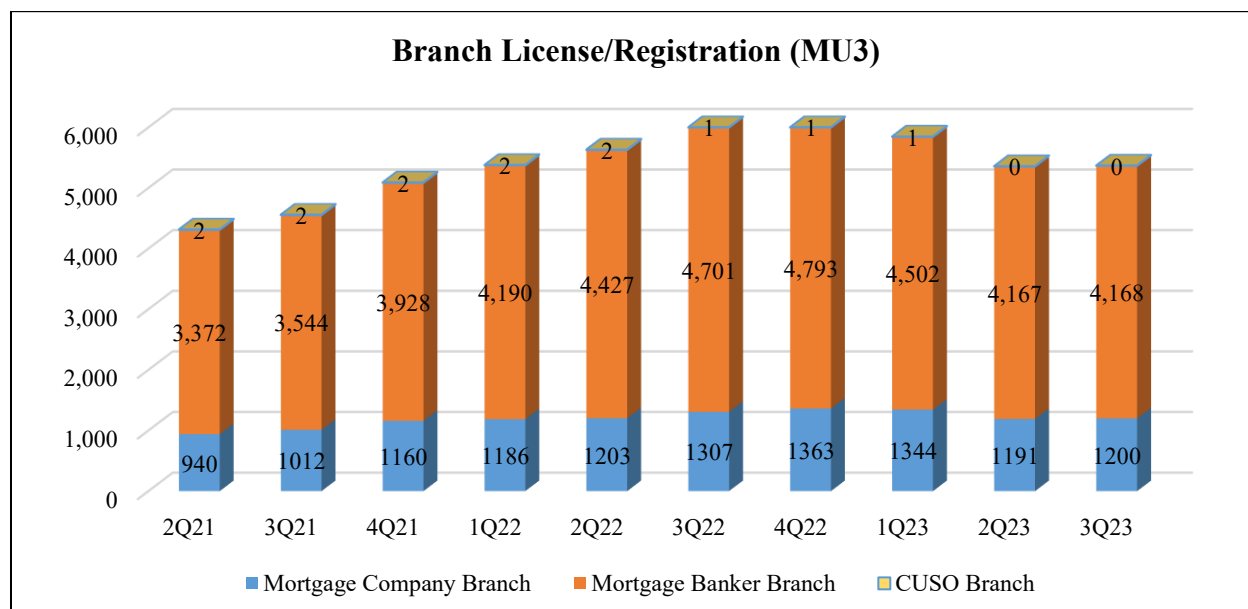
### Industry Status

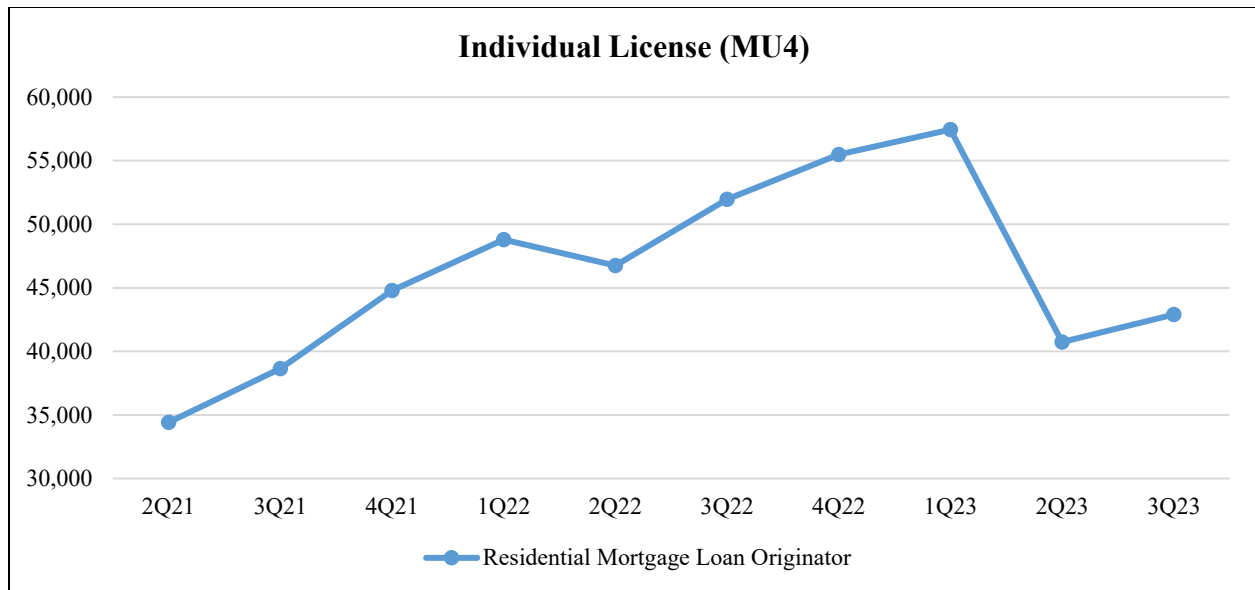
The Department continues to monitor various local, state, and national data sources closely to keep track of interest rate changes, housing supply and demand, and trends in homeownership for any impact on the mortgage industry.

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



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

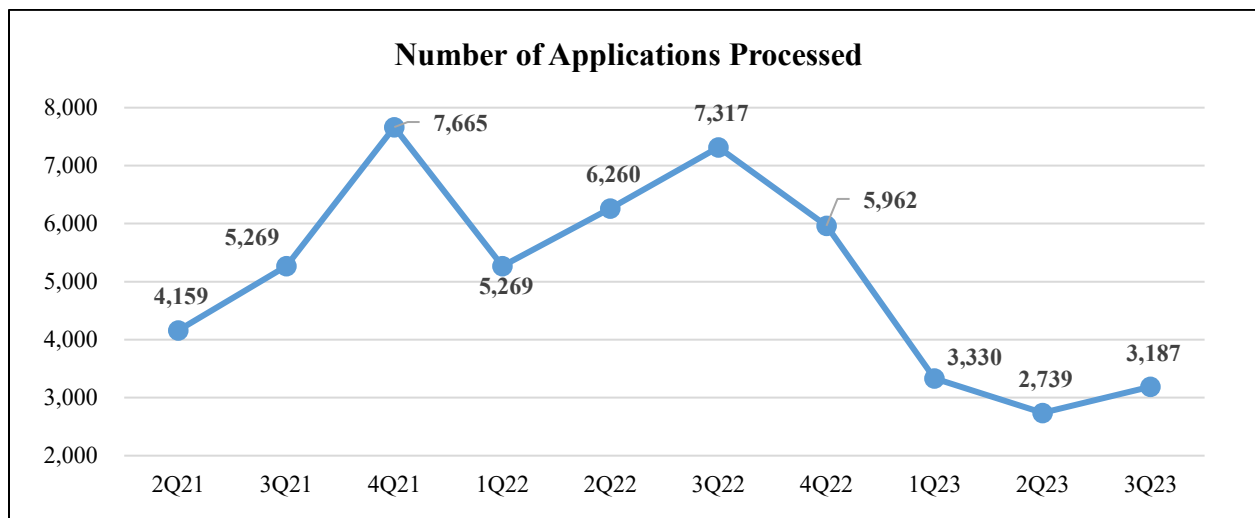




One notable item from the graphs shown above is the continued growth in the number of licensed mortgage companies; in June 2023, the Department approved 72 new mortgage companies. From September 1, 2022, to June 30, 2023, the Department has approved 688 new mortgage companies to originate residential mortgage loans in Texas.

### **Licensing Activity Report**

For the third quarter of FY2023, the Mortgage Licensing section processed 3,187 applications and approved 2,769 applications, including 283 mortgage entities, 514 branch offices, and 1,972 residential mortgage loan originators. The remaining 418 applications were either withdrawn by the applicant or denied by the Department.



According to NMLS Data Analytics for the third quarter of FY2023, the Mortgage Licensing section processed 31,096 license amendments, 1,550 credit report reviews, 7,723 sponsorship removals, and 4,684 sponsorship requests.

### **Mortgage Examination Activity Report**

For the third quarter of FY2023, the Mortgage Examination section issued 127 examinations covering 1,944 individual licensees. Compared to the same reporting period in FY2022, the overall number of examinations issued (127 versus 85) and the number of individual licensees examined (1,944 versus 1,475) were 49.41% and 31.80% higher respectively. Even with the significant increase in the number of examinations issued for the quarter, the Mortgage Examination section is behind on its established goal for the fiscal year. While the onboarding and training of seven new examiners has initially slowed production, three of the new examiners have been released from training which will positively impact the production in the near future.

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

### **Outreach and Training**

During the week of May 22, 2023, the entire Mortgage Examination section received cybersecurity training for non-depository examiners from the American Association of Residential Mortgage Regulators. The virtual training included topics relating to the use of the CSBS Baseline Nonbank Cybersecurity Exam Program, common cybersecurity threats, mitigation efforts available to companies, management of data breaches, commonly identified issues with company cybersecurity programs, and audit standards.

On July 13, 2023, Director of Mortgage Regulation, William Purce, and Manager of Licensing, Chris Osuna, attended the National Reverse Mortgage Lenders Association (NRMLA) Southern Meeting which included such topics as home equity conversion mortgage (HECM) analysis and insight, regulatory compliance issues, and an economic update.

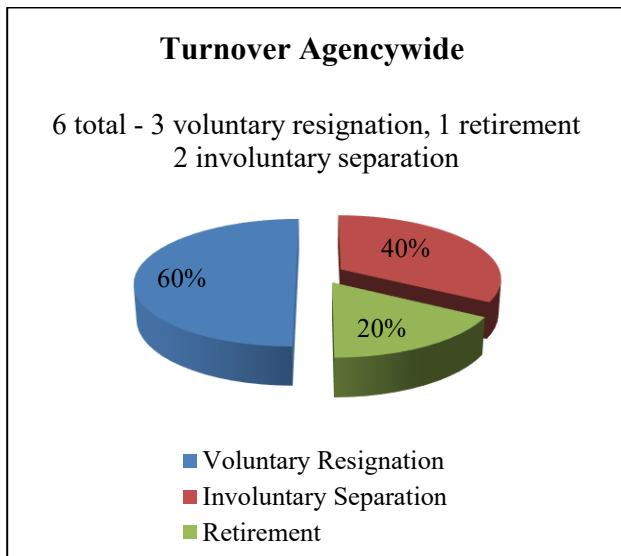
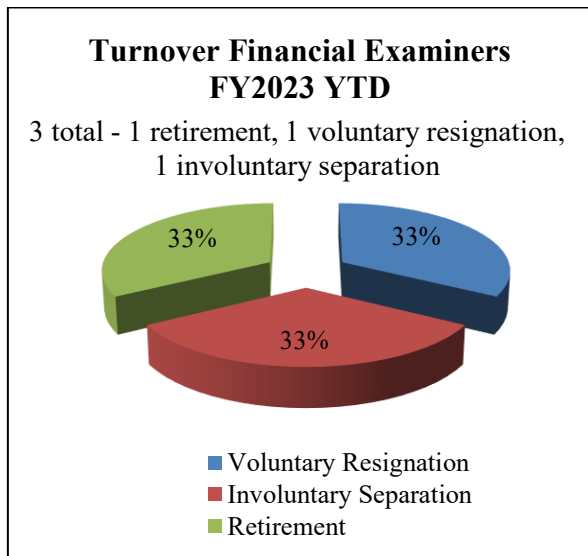
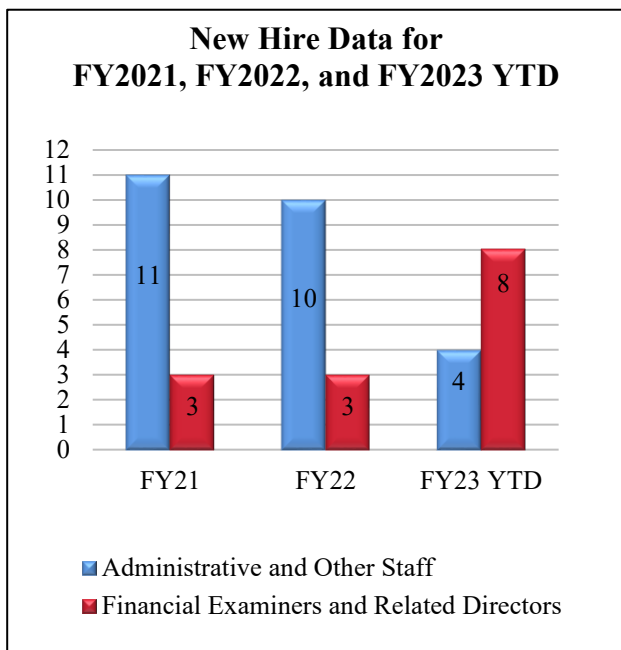
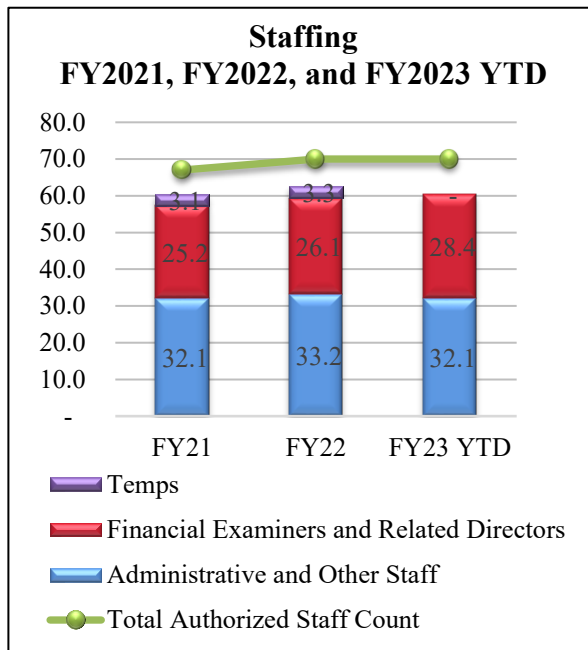
### c) Operations Division Activities

#### Accounting, Budget, and Financial Reporting

Staff closed the third quarter of fiscal year 2023 and developed the budget for fiscal year 2024.

#### Human Resources

##### Staffing Charts as of May 31, 2023



As of July 31, 2023, the Department was staffed at 63 regular full-time employees. In June and July, a Staff Services Specialist separated, and a Financial Examiner-Thrift joined the Department.

Beginning June 21, the services of one temporary worker – an Administrative Assistant, are being utilized.

Below is the status of the Department’s vacancies:

| Vacancy Status                                                        |                                                                |
|-----------------------------------------------------------------------|----------------------------------------------------------------|
| Financial Examiner I – Mortgage Examinations - 2                      | Position Filled                                                |
| Financial Examiner VI/VII – Thrift Examinations - 3                   | Collecting and reviewing applications, interviewing candidates |
| Financial Examiner V – Thrift Examinations                            |                                                                |
| Financial Examiner I-II -Thrift Examinations (Information Technology) |                                                                |
| Financial Examiner I – Thrift Examinations - 2                        | Collecting and reviewing applications                          |
| Investigator II-V - 2                                                 |                                                                |
| Administrative Assistant II/III                                       |                                                                |

### **Outreach and Training**

Director of Operations, Antonia Antov, attended the Government Fiscal Officers Association annual conference in Portland, Oregon, from May 21-24, and the Texas State Agencies Business Administrators Association Summer Conference in Sugar Land, Texas, from July 12-14.

As mandated by Section 2054.5191 of the Texas Government Code, at least once each year, state government employees must complete a cybersecurity training program certified by the Department of Information Resources (DIR). Additionally, pursuant to Labor Code, Section 21.010, biannual employment discrimination and sexual harassment training is mandatory for all employees. All Department employees are in compliance with these requirements.

The next quarterly agencywide training is scheduled for August 31, 2023.

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

| Type/Strategy/Measure | 2023<br>Target | 2023<br>Actual | 2023<br>YTD | Percent of<br>Annual Target |
|-----------------------|----------------|----------------|-------------|-----------------------------|
|-----------------------|----------------|----------------|-------------|-----------------------------|

**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% | * |

\* 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 | 3,330 | 3,330 | 25.62% |
| Quarter 2 | 13,000 | 2,739 | 6,069 | 46.68% |
| Quarter 3 | 13,000 | 3,187 | 9,256 | 71.20% |

**2. Number of Examination Reports Issued**

|           |     |     |     |        |   |
|-----------|-----|-----|-----|--------|---|
| Quarter 1 | 550 | 88  | 88  | 16.00% | * |
| Quarter 2 | 550 | 112 | 200 | 36.36% | * |
| Quarter 3 | 550 | 127 | 327 | 59.45% | * |

\*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.

**3-1-1 Consumer Responsiveness**

**1. Number of Complaints Closed**

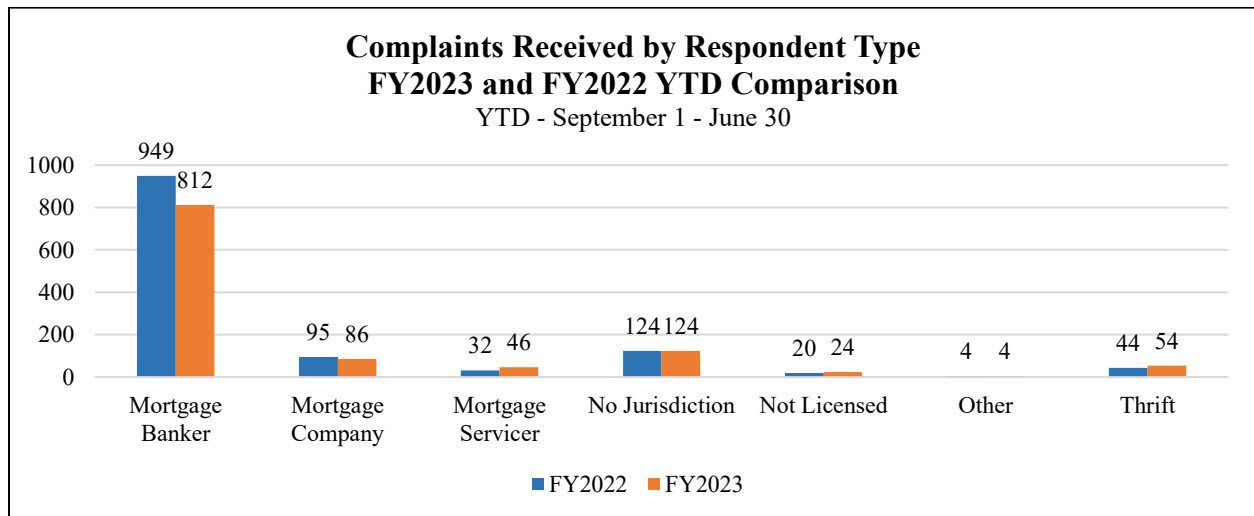
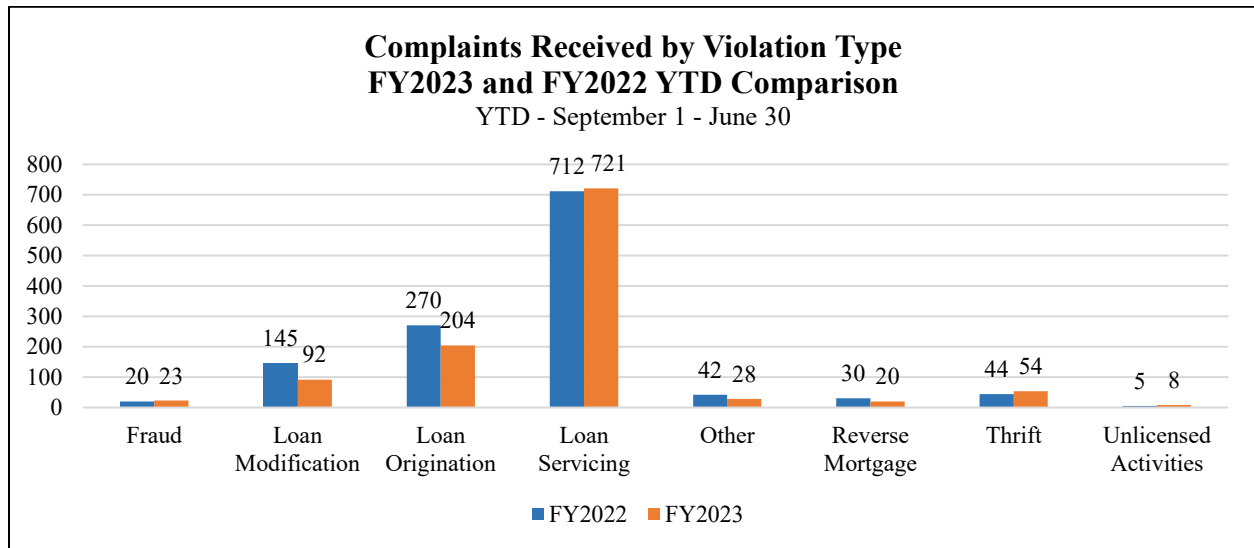
|           |       |     |       |        |
|-----------|-------|-----|-------|--------|
| Quarter 1 | 1,300 | 297 | 297   | 22.85% |
| Quarter 2 | 1,300 | 335 | 632   | 48.62% |
| Quarter 3 | 1,300 | 394 | 1,026 | 78.92% |

\*Varies by 5% or more from target.

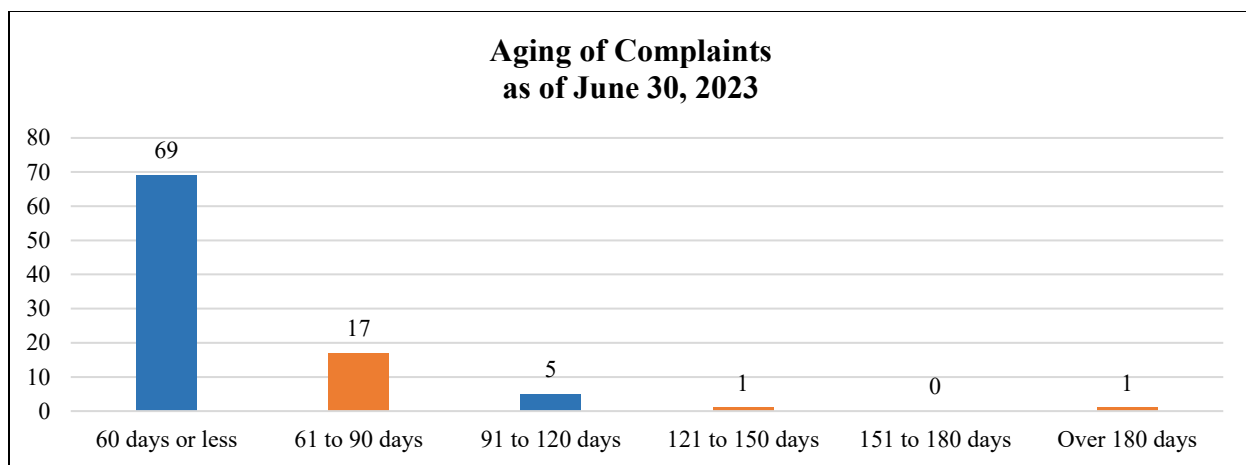
#### d) Legal Division Activities, including Consumer Complaints and Gift Reporting

##### **Consumer Complaints Activity Report**

**Complaints Received** – For the fiscal year to date (September 1, 2022 – June 30, 2023), the Department received 1,150 complaints, compared to 1,268 received during the same period in FY2022, representing a 9.3% decrease.



**Aging of Open Complaints** – As of June 30, 2023, there were 93 open complaint files. Complaint aging is acceptable with 98% of complaints aged 120 days or less.



| Closed Complaints                              | FY2023              |                     |                     |                     |
|------------------------------------------------|---------------------|---------------------|---------------------|---------------------|
|                                                | 1 <sup>st</sup> Qtr | 2 <sup>nd</sup> Qtr | 3 <sup>rd</sup> Qtr | 4 <sup>th</sup> Qtr |
| <b>Servicing Complaints</b>                    |                     |                     |                     |                     |
| Number of Servicing Complaints Closed          | 177                 | 212                 | 262                 |                     |
| Average Number of Days to Close a Complaint    | 26                  | 23.56               | 20.40               |                     |
| Percentage of Complaints Closed Within 90 Days | 99.4%               | 97.64%              | 98.47%              |                     |
| <b>Non-Servicing Complaints</b>                |                     |                     |                     |                     |
| Number of Non-Servicing Complaints Closed      | 120                 | 123                 | 132                 |                     |
| Average Number of Days to Close a Complaint    | 20                  | 26.24               | 20.48               |                     |
| Percentage of Complaints Closed Within 90 Days | 100%                | 93.5%               | 94.70%              |                     |
| <b>Total</b>                                   | <b>297</b>          | <b>335</b>          | <b>394</b>          |                     |

## **Legal and Enforcement Activity Report**

### **Mortgage Enforcement Actions**

| Enforcement Action                      | FY2023              |                     |                     |                     |
|-----------------------------------------|---------------------|---------------------|---------------------|---------------------|
|                                         | 1 <sup>st</sup> Qtr | 2 <sup>nd</sup> Qtr | 3 <sup>rd</sup> Qtr | 4 <sup>th</sup> Qtr |
| Advisory Letter                         | 14                  | 7                   | 17                  |                     |
| Agreed Order to Take Affirmative Action | 1                   | 1                   | 0                   |                     |
| Agreed Order to Cease and Desist        | 0                   | 0                   | 0                   |                     |
| Agreed Order – Other                    | 0                   | 0                   | 1                   |                     |
| Notice of Suspension/Revocation         | 3                   | 0                   | 1                   |                     |
| Order to Cease and Desist               | 10                  | 3                   | 2                   |                     |
| Order to Take Affirmative Action        | 19                  | 8                   | 9                   |                     |
| <b>Total</b>                            | <b>47</b>           | <b>19</b>           | <b>30</b>           |                     |

### **Recovery Claims**

| Recovery Claim Applications Received | FY2023              |                     |                     |                     |
|--------------------------------------|---------------------|---------------------|---------------------|---------------------|
|                                      | 1 <sup>st</sup> Qtr | 2 <sup>nd</sup> Qtr | 3 <sup>rd</sup> Qtr | 4 <sup>th</sup> Qtr |
|                                      | 2                   | 3                   | 2                   |                     |

| Status of Pending Recovery Claim Applications<br>as of May 31, 2023    |          |
|------------------------------------------------------------------------|----------|
| Pending Investigation                                                  | 3        |
| Pending Preliminary Determination Letter                               | 3        |
| Preliminary Determination Letter Issued, Pending Opportunity to Appeal | 1        |
| On Appeal                                                              | 0        |
| Open to Facilitate Resolution by the Parties                           | 0        |
| <b>Total</b>                                                           | <b>7</b> |

| Closed Recovery Claim Files | FY2023              |                     |                     |                     |
|-----------------------------|---------------------|---------------------|---------------------|---------------------|
|                             | 1 <sup>st</sup> Qtr | 2 <sup>nd</sup> Qtr | 3 <sup>rd</sup> Qtr | 4 <sup>th</sup> Qtr |
| Granted                     | 1                   | 0                   | 0                   |                     |
| Denied                      | 4                   | 0                   | 0                   |                     |
| Resolved by the Parties     | 0                   | 0                   | 0                   |                     |
| Claim Withdrawn             | 0                   | 0                   | 1                   |                     |
| <b>Total</b>                | <b>5</b>            | <b>0</b>            | <b>1</b>            |                     |

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

*Kimberli Ann Tomman (SOAH Docket No. 450-23-19991.CHI; confidential proceeding)* On April 14, 2023, the Commissioner gave notice of his intent to seek suspension of Ms. Tomman's residential mortgage loan originator license. On May 23, 2023, the matter was docketed at SOAH. On July 26, 2023, the Department accepted Ms. Tomman's request to surrender her license, rendering the proceeding moot. On July 28, 2023, the Department filed its motion to dismiss the case. On August 2, 2023, the administrative law judge granted the motion, and the case was dismissed.

### Litigation

*Tim Schoenbauer v. Texas Department of Savings and Mortgage Lending (Cause No. JPC-23-02334-32)* 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.

### Public Information Requests

| Public Information Requests | FY2023              |                     |                     |                     |
|-----------------------------|---------------------|---------------------|---------------------|---------------------|
|                             | 1 <sup>st</sup> Qtr | 2 <sup>nd</sup> Qtr | 3 <sup>rd</sup> Qtr | 4 <sup>th</sup> Qtr |
| Requests Received           | 50                  | 37                  | 46                  |                     |

## Rulemaking

| SML Future Rule Activity                                                                       |                        |                                 |
|------------------------------------------------------------------------------------------------|------------------------|---------------------------------|
| Rule                                                                                           | Rulemaking Action      | Projected Date for Presentation |
| 7 TAC § 81.103, Licensing of Military Service Members, Military Veterans, and Military Spouses | Adoption of Amendments | October 2023                    |
| 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 April 30 – May 2, 2023, Director of Mortgage Regulation, William Purce, and Supervisory Compliance Examiner, Justin Accola, attended the Texas Mortgage Bankers Association 107<sup>th</sup> Annual Conference. Registration fees totaling \$1,790.00 were waived.

On July 13, 2023, William Purce and Manager of Licensing, Christopher Osuna, attended the National Reverse Mortgage Lenders Association Southern Regional Meeting. Registration fees totaling \$500.00 were waived.

### e) Legislative Activities

On May 29, 2023, the governor called the first special session of the 88<sup>th</sup> Legislature. The session ended on June 27, 2023. No legislation was enacted. On June 27, 2023, the governor called the second special session of the 88<sup>th</sup> Legislature. The session ended on July 13, 2023. SB2, SB3, and HJR2 were passed by the Legislature. SB2 and SB3 were signed by the governor on July 22, 2023. The legislation, in general, affects ad valorem property taxes and, among other things: (i) uses appropriated funds to pay school district maintenance and operation expenses, offsetting those amounts and lowering property tax rates; (ii) increases the homestead exemption from \$40,000 to \$100,000; (iii) limits appraisal increases on non-homestead property to 20% per year; and (iv) provides that three members of a county appraisal board must be elected, in counties with a population size of 75,000 or more. HJR2 (the enabling legislation for SB2) must be approved by Texas voters to be effective and is slated to be on the ballot in November 2023.

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

**PURPOSE:** The primary purpose of the amendments in 7 TAC Chapter 81 is to implement Senate Bill 422, enacted during the 88<sup>th</sup> Legislature, Regular Session. An explanation of and justification for the rules is contained in the proposed preamble for the rule proposal.

**RECOMMENDED ACTION:** The Department recommends that the Finance Commission approve publication of the amendments in 7 TAC Chapter 81 for comment in the *Texas Register*.

**RECOMMENDED MOTION:** I move that the Finance Commission approve publication of the amendments in 7 TAC Chapter 81 for comment in the *Texas Register*.

**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**

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), proposes to amend 7 TAC Chapter 81, §81.103, concerning Licensing of Military Service Members, Military Veterans, and Military Spouses. This proposal and the rule as amended by this proposal are referred to collectively as the "proposed rule."

**Explanation of and Justification for the Rule**

Existing §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 88<sup>th</sup> Legislature, Regular Session (2023) and becomes effective September 1, 2023. SB422 amended Occupations Code Chapter 55. The rule changes are designed to implement the requirements of SB422, and if adopted, would: (i) amend existing §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) amend

existing §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 rule changes, if adopted, would amend existing §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 rule changes, if adopted, would modernize and update the rule, including: adding and replacing language for clarity and improve readability; removing unnecessary or duplicative provisions; and updating terminology.

**Fiscal Impact on State and Local Government**

Antonia Antov, Director of Operations for the department, has determined that for the first five-year period the proposed rule is in effect there are no foreseeable increases or reductions in costs to local governments as a result of enforcing or administering the proposed rule. Antonia Antov has further determined that for the first five-year period the proposed rule is in effect there are no foreseeable losses or increases in revenue to local governments as a result of enforcing or administering the proposed rule. Antonia Antov has further determined that for the first five-year period the proposed rule is in effect there are no foreseeable increases or reductions in costs, or losses or increases in revenue to the state overall

and that would impact the state's general revenue fund as a result of enforcing or administering the proposed rule. Implementation of the proposed rule will not require an increase or decrease in future legislative appropriations to the department because the department is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposed rule will not result in losses or increases in revenue to the state because the department does not contribute to the state's general revenue fund.

#### **Public Benefits**

William Purce, Director of Mortgage Regulation for the department, has determined that for each of the first five years the proposed rule is in effect the public benefit anticipated as a result of enforcing or administering the proposed rule will be for the public, particularly military-related members of the public, to have notice of the licensing requirements for a military service member, military veteran, or military spouse applying for an RMLO license.

#### **Probable Economic Costs to Persons Required to Comply with the Proposed Rule**

William Purce has determined that for the first five years the proposed rule is in effect there are no probable economic costs to persons required to comply with the proposed rule that are directly attributable to the proposed rule for purposes of the cost note required by Government Code §2001.024(a)(5) (direct costs).

#### **One-for-One Rule Analysis**

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

#### **Government Growth Impact Statement**

For each of the first five years the proposed rule is in effect, the department has determined the following: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation of new employee positions; (3) implementation of the proposed rule does not require an increase or decrease in legislative appropriations to the agency; (4) the proposed rule does not require an increase or decrease in fees paid to the agency; (5) the proposed rule creates a new regulation (rule requirement), as discussed in the Changes Concerning Request for Expedited Review section above (incorporated by reference herein); (6) the proposed rule expands an existing rule requirement, as discussed in the Changes Concerning Implementation of SB422 section above (incorporated by reference herein), and does not limit or repeal an existing rule requirement; (7) the proposed rule increases the number of individuals subject to the rules' applicability, as discussed in the Changes Concerning Implementation of SB422 section above (incorporated by reference herein), and does not decrease the number of individuals subject to the rules' applicability; and (8) the proposed rule does not positively or adversely affect this state's economy.

#### **Local Employment Impact Statement**

No local economies are substantially affected by the proposed rule. As a result, preparation of a local employment impact statement pursuant to Government Code §2001.022 is not required.

#### **Fiscal Impact on Small and Micro-Businesses and Rural Communities**

The proposed rule will not have an adverse effect on small or micro-businesses, or rural communities because there are no probable

## PROPOSED AMENDMENTS

7 TAC §81.103

PAGE 3 OF 5

economic costs to persons required to comply with the proposed rule. As a result, preparation of an economic impact statement and a regulatory flexibility analysis as provided by Government Code §2006.002 are not required.

### Takings Impact Assessment

There are no private real property interests affected by the proposed rule. As a result, preparation of a takings impact assessment as provided by Government Code §2007.043 is not required.

### Public Comments

Written comments regarding the proposed rule may be submitted by mail to Iain A. Berry, General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to [rules.comments@sml.texas.gov](mailto:rules.comments@sml.texas.gov). All comments must be received on or before 30 days after the date this proposal is published.

### 7 TAC §81.103

#### Statutory Authority

This proposal is made 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 2008 (12 U.S.C. §§5101-5117). 7 TAC §81.103 is also proposed under the authority of, and to implement, Occupations Code Chapter 53, Subchapter D.

This proposal 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) Definitions. In this section, the terms "military service member," "military spouse," and "military veteran" have the meanings assigned by Tex. Occ. Code §55.001.

(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,

## PROPOSED AMENDMENTS

7 TAC §81.103

PAGE 4 OF 5

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 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 proposal and found it to be within the state agency's legal authority to adopt.

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.*

**D.**

**Texas Department of Banking**

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Charles G. Cooper  
Commissioner

## TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705

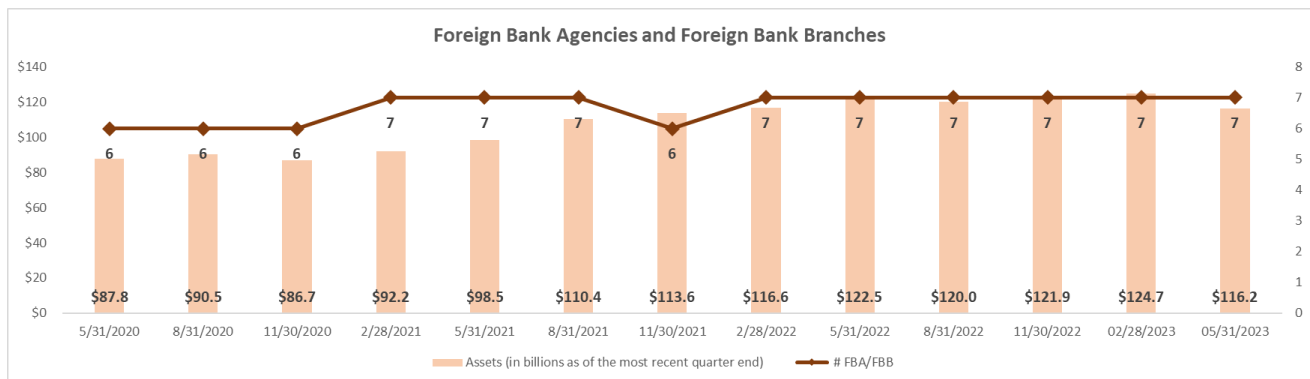
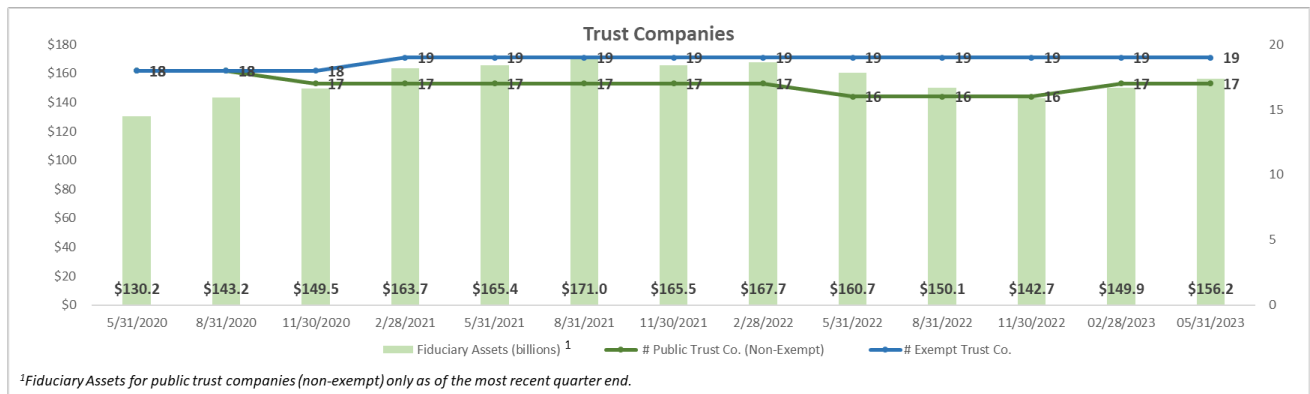
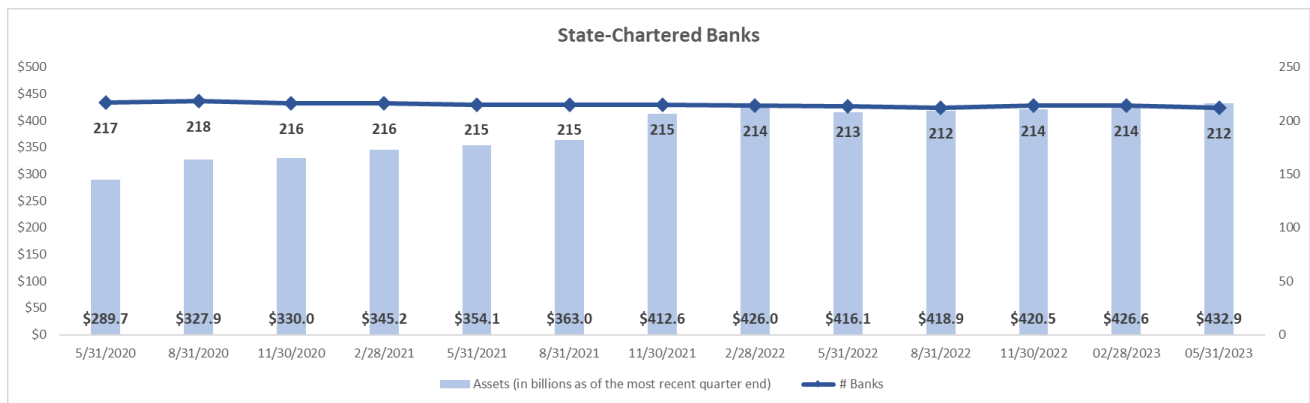
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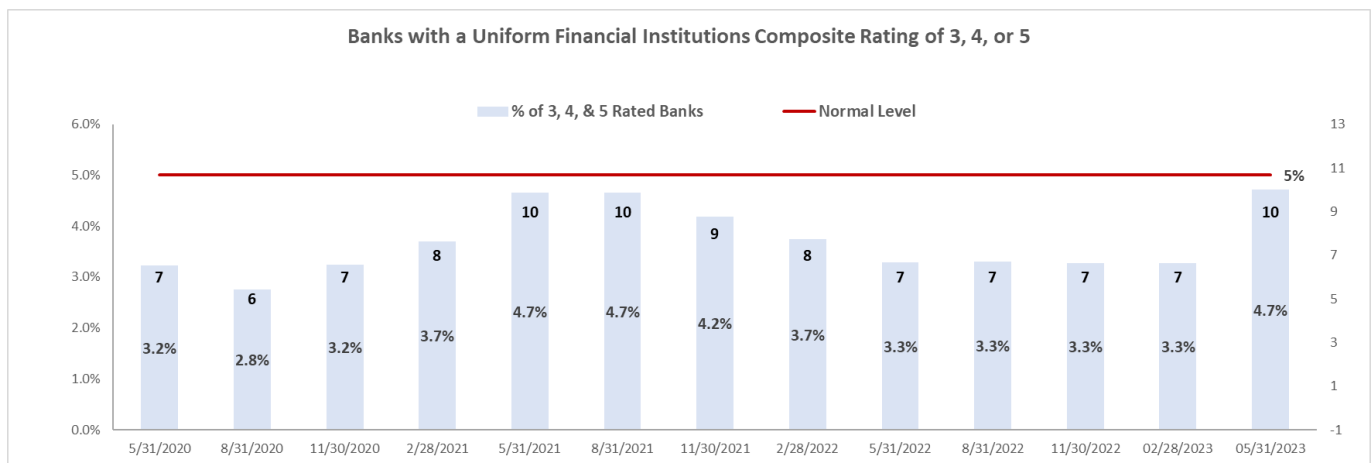
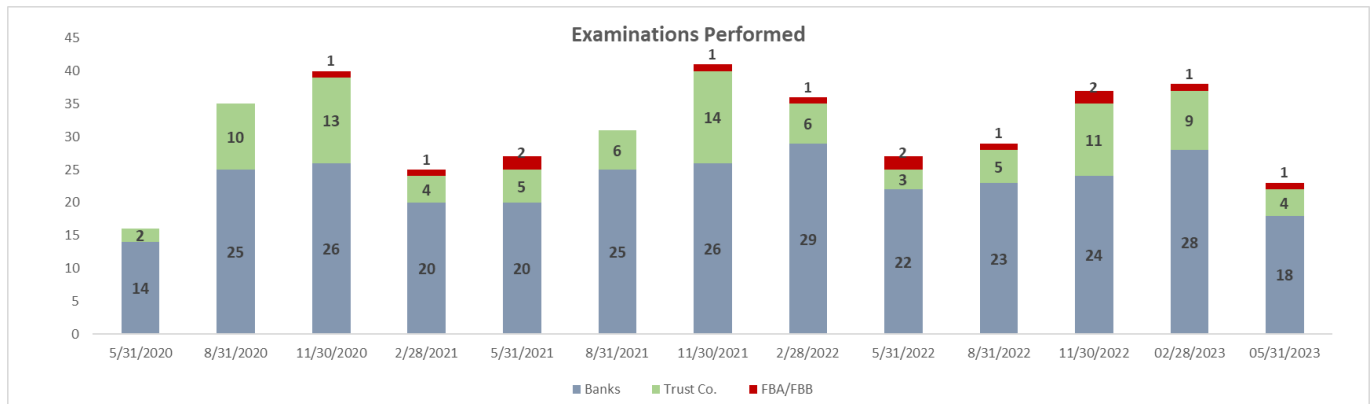
[www.dob.texas.gov](http://www.dob.texas.gov)

To: Finance Commission Members  
From: Jared Whitson, Review Examiner  
Date: August 2, 2023  
Subject: Summary of the Bank & Trust Supervision Division Activities

### Bank and Trust Supervision – Industry Profiles

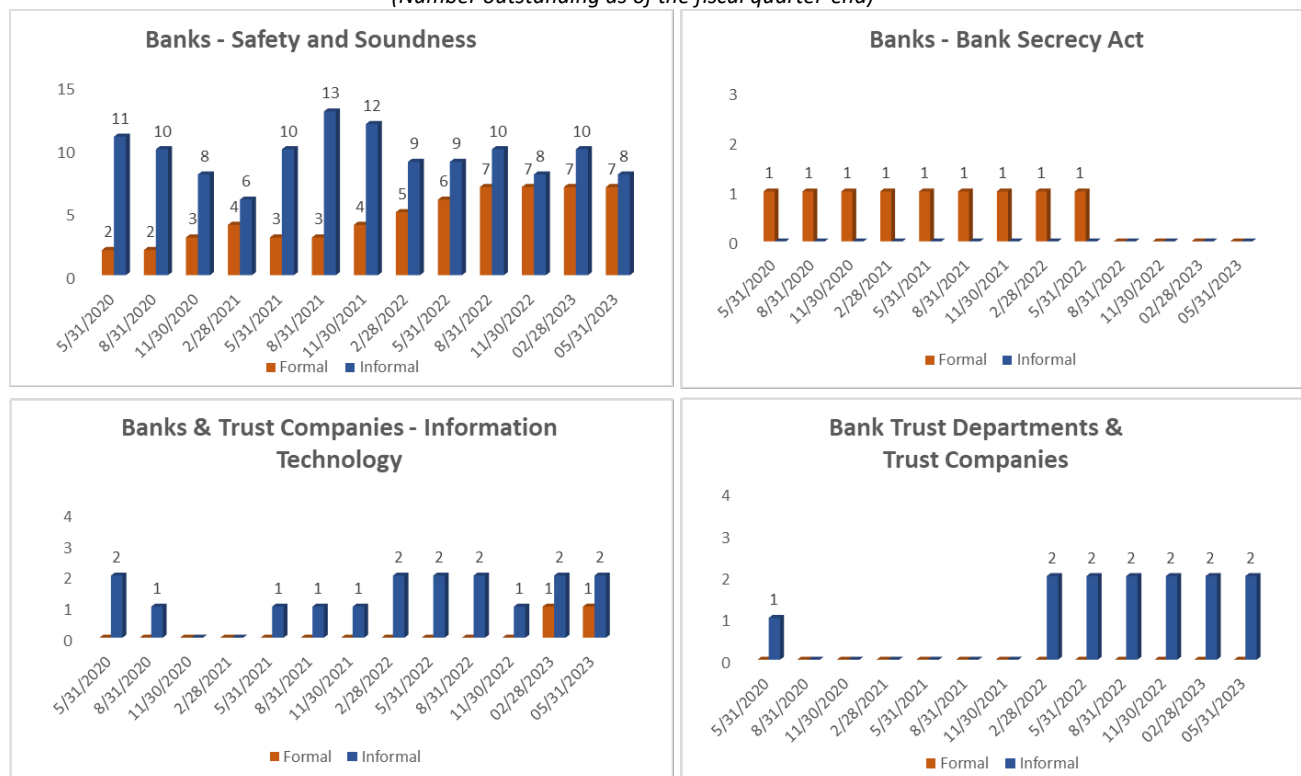
*As of fiscal quarter-end (assets as of the preceding calendar quarter)*





The Department considers any bank with a Uniform Financial Institutions Composite Rating of 3, 4, or 5, to be a problem bank. The number of problem banks remain in the normal range between 3% and 5% of the total number of institutions.

### 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.

### Compliance with Examination Priorities

Percent of examinations conducted within Department guidelines.

| Entity Type           | FY 2022 | FY 2023<br>(YTD – June 2023) |
|-----------------------|---------|------------------------------|
| Commercial Banks      | 96%     | 91%                          |
| IT                    | 95%     | 91%                          |
| Trust Departments     | 100%    | 85%                          |
| Foreign Banks (FRB)   | 92%     | 100%                         |
| Trust Companies (DOB) | 96%     | 78%                          |
| IT                    | 88%     | 80%                          |

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

- Bank Examinations – Ten exams past due by an average of 13 days.
- IT Examinations of Banks – Eleven exams past due by an average of 20 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.

## 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.
- **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 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.
- **Special Operations and Conferences:**
  - On June 1, 2023, Commissioner Charles G. Cooper and Deputy Commissioner Wendy Rodriguez represented the Department at the Southwest Graduate School of Banking Keynote Banquet at Southern Methodist University in Dallas, Texas. Commissioner Cooper was presented with the Distinguished Alumni Award.
  - Regional Director Kenneth Kuntschik represented the Department as a panelist at the Texas Bankers Association (TBA) Chief Financial Officer Conference in San Antonio, Texas, on June 16, 2023.
  - Commissioner Cooper represented the Department as Chairman of the Federal Financial Institutions Examination Council's State Liaison Committee (FFIEC-SLC) at their meeting in Washington, D.C., on June 26, 2023.
  - On July 10, 2023, Senior Examiner Jeff Gerlach and Director of Examination Support Activities Chris Robinson represented the Department as speakers at the Conference of State Bank Supervisors' State/Federal Supervisory Forum to discuss the Department's large bank regulation process in Philadelphia, Pennsylvania.
  - Bank Secrecy Act (BSA) Specialist Martha Flores represented the Department as a panelist at the TBA BSA Compliance School in San Antonio, Texas, on July 19, 2023.
  - On August 1, 2023, Director of Information Technology Security Examinations Phillip Hinkle represented the Department as a speaker at the Joint Financial Banking Information Infrastructure Committee/Financial Services Sector Coordinating Council Conference to discuss cybersecurity with the financial industry in Washington, D.C.



Charles G. Cooper  
Commissioner

## TEXAS DEPARTMENT OF BANKING

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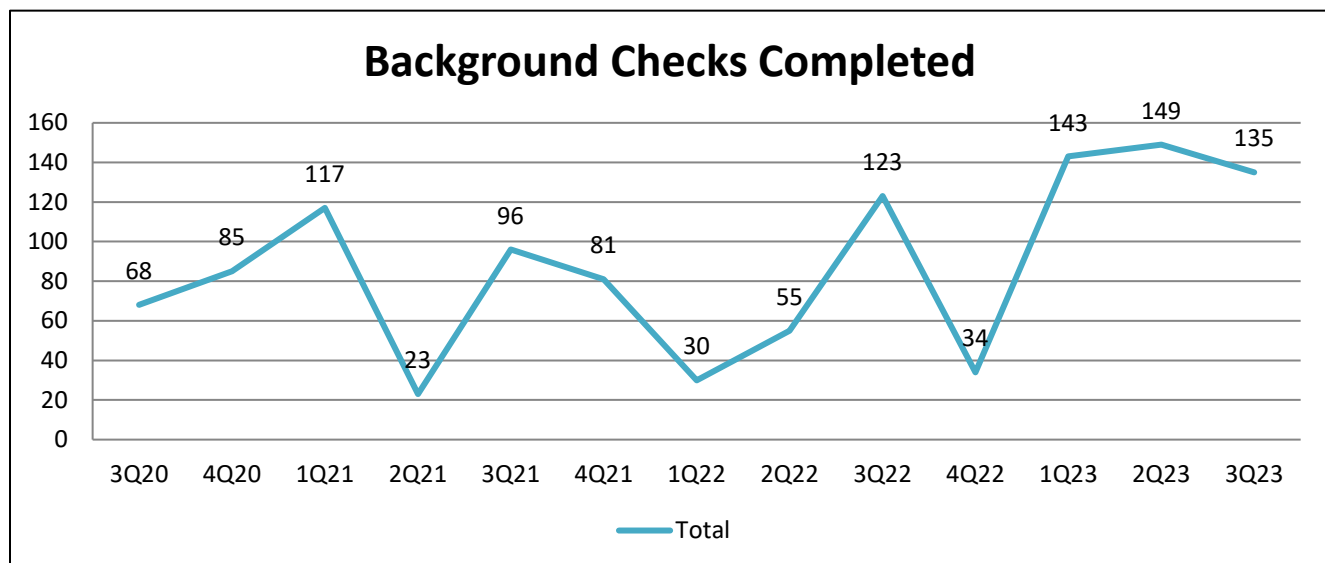
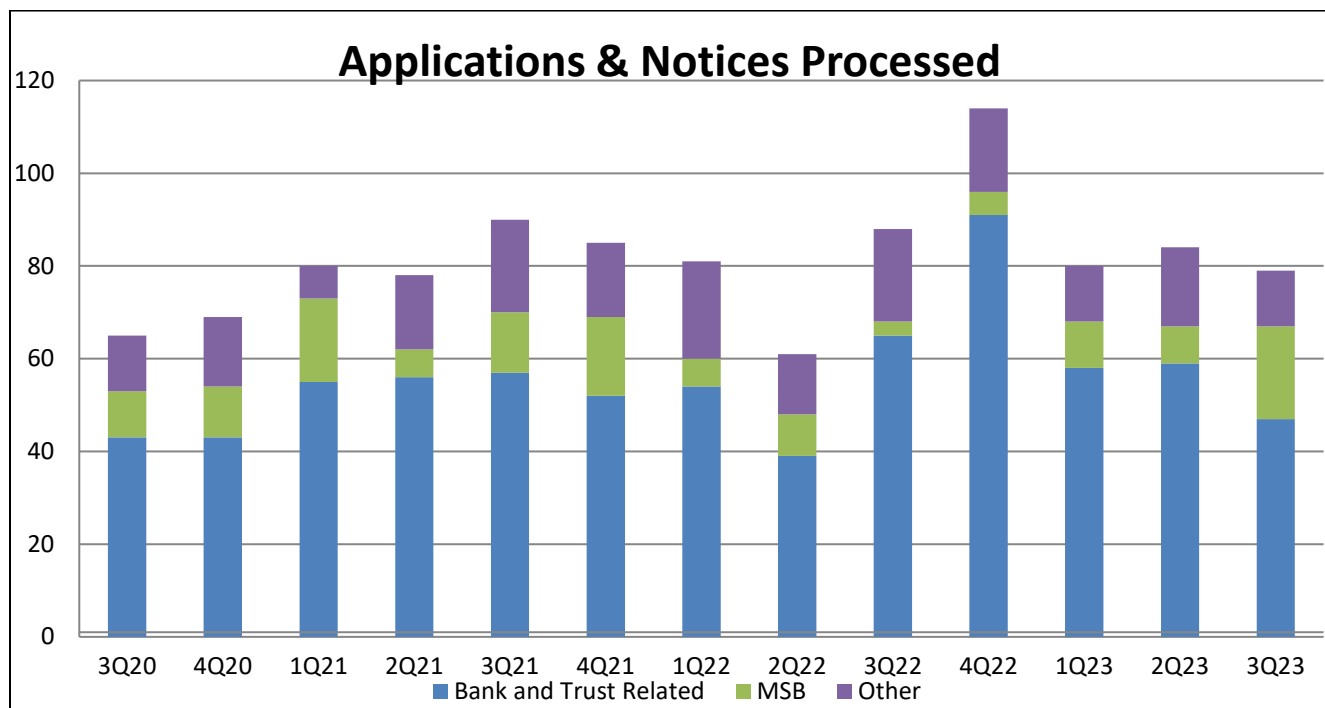
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To: Finance Commission Members

From: Mark Largent, Director of Corporate Activities

Date: August 2, 2023

Subject: Summary of the Corporate Division's Activities



| Entities                      | Applications and Notices Under Review<br>(as of July 31, 2023) |
|-------------------------------|----------------------------------------------------------------|
| Bank Related                  | 12                                                             |
| Trust Companies               | 3                                                              |
| Money Services Business (MSB) | 34                                                             |
| Others                        | 3                                                              |
| <b>Totals</b>                 | <b>52</b>                                                      |

#### Division Highlights

- Open filings declined by about 22% compared to the level reported at the last Finance Commission meeting with improvement coming from resolution of all filing types except “other”. Compared to our last report, the Corporate Division’s filings under review at month-end by category type changed by:
  - Bank related decreased 7 (37%)
  - Trust company decreased 3 (50%)
  - MSB related decreased 5 (13%)
  - Other – No change 0 (0%)
- The improvement noted in the reduced number of open filings is reflective of assistance received from both the Non-Depository Supervision Division and the Bank & Trust Supervision Division. Additionally, there is heightened focus on ensuring the Corporate Division is appropriately staffed and any vacancies are promptly filled by qualified personnel.
- Charter, Conversion, and Merger Activity: Since the last report, the following transactions have consummated:
  - *Banks*
    - None.
  - *Trust Companies*
    - None.



Charles G. Cooper  
Commissioner

## TEXAS DEPARTMENT OF BANKING

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To: Finance Commission Members  
From: Jesus "Jesse" Saucillo, Director of Non-Depository Supervision  
Date: August 2, 2023  
Subject: Summary of Non-Depository Supervision (NDS) Activities

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

### NOTES:

Limited scope examinations do not receive a rating.

\*PCC \$ amounts reflected in the millions.

### Industry Profile and Ratings

A comparison of the total number of regulated entities and total assets in second quarter to the third quarter in the Industry Profile section of the previous page reflects that while the number of MSB license holders has decreased slightly, the total assets reported has increased. The decline in MSB licensees was due to surrender of licenses relating to changes in business strategies or due to an inability to comply with applicable regulations. The increase in asset size is partly due to the reporting of calendar year financial information along with the annual reports that was due in July. A review of the financial information provided revealed that the 10 largest MSBs, as determined by asset size, account for the majority of the total asset size increase. The other industry statistics remain comparable with no material variations.

### Examination Activities

As forecasted in the previous Finance Commission memorandum, NDS did not meet one of its performance measures - Quarterly Output Measure – Number of Licensees Examined – in the third quarter of FY 2023. Correspondingly, the total number of past due examinations increased primarily due to financial examiner vacancies in the PFC/PCC area. As of the end of the third quarter of FY 2023, NDS had two PFC/PCC financial examiner vacancies and one financial examiner in training. In August 2023, the Department filled one of the vacancies and only one vacancy remains. Despite the vacancies and the time necessary to train newly hired financial examiners, NDS was within approximately 2%, or 12 examinations of meeting the acceptable quarterly output measure variance.

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

- Of the 11 past due MSB examinations, two were conducted in June 2023 and the remaining nine examinations were delayed in order to be conducted in coordination with other MSB state regulators as part of a nationwide network multi-state examination process.
- Of the 20 past due PFC examinations, 12 were conducted in June and July 2023 and remaining eight are scheduled to be completed before the end of August 2023.
- Of the 28 past due PCC examinations, 18 were conducted in June and July 2023 and eight examinations are scheduled to be completed before the end of August 2023. Two of the past due PCC examinations are scheduled to be completed before November 2023.

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. NDS also performs off-site monitoring of licensed entities, including the quarterly reviews of financial metrics of licensed MSBs.

### Division Activities

NDS staff continues to work closely and participates in various meetings with organizations, such as Conference of State Bank Supervisors (CSBS), Multi-State MSB Examination Taskforce (MMET) and Money Transmitters Regulators Association (MTRA), to coordinate regulatory activities of regulated entities. For example, Departmental staff participates in bi-weekly virtual meetings with various state regulators to discuss significant matters impacting both licensed and unlicensed MSBs.

NDS staff has been revising policies and procedures to ensure consistency with S.B. 895, the Money Transmission Modernization Act, and H.B. 1666 relating to commingling of funds by digital asset service providers. Both bills were passed in the 88th Legislative Session and will become effective September 1, 2023.



## TEXAS DEPARTMENT OF BANKING

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### Memorandum

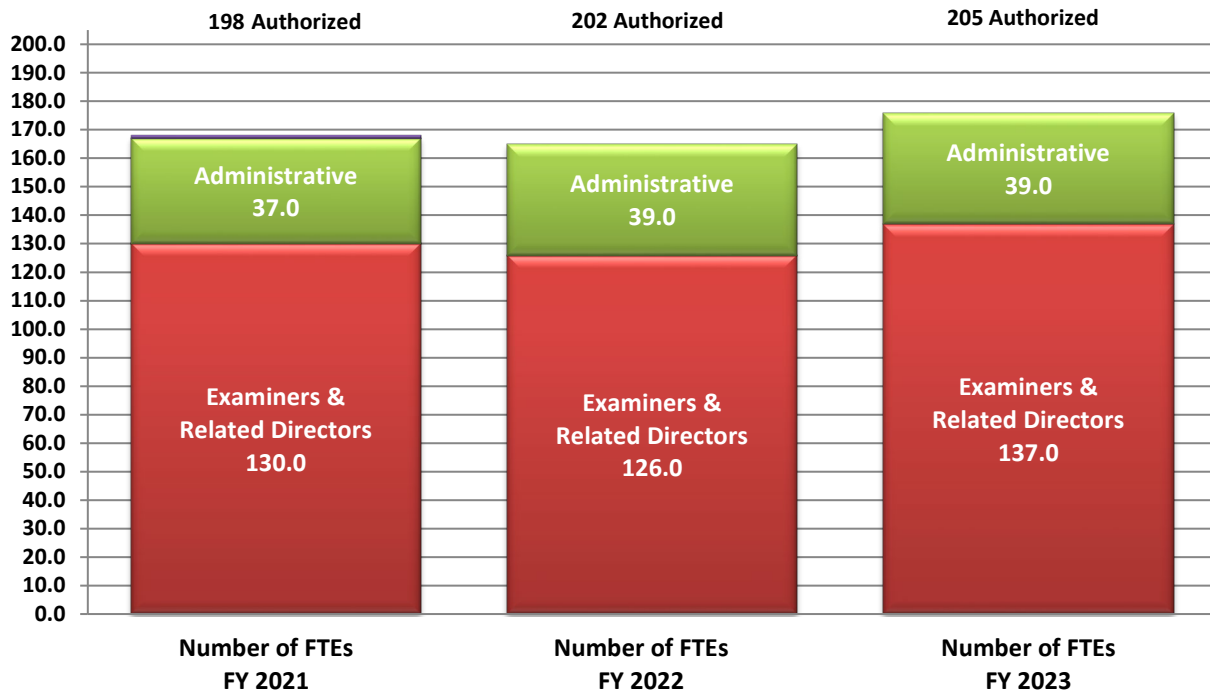
**To:** Finance Commission Members  
**From:** Lori Wright, Director of Human Resources  
**Date:** August 1, 2023  
**Subject:** Summary of the Human Resources Division Activities

| Active Postings     |                                                                      |                         |                        |              |
|---------------------|----------------------------------------------------------------------|-------------------------|------------------------|--------------|
| Number of Positions | Position                                                             | Division                | Status                 | Activities   |
| 2                   | Compliance Analyst I- II<br>Consumer Assistance Specialist           | DSS                     | Open Until Filled      | Recruiting   |
| 1                   | Financial Examiner IV-VI<br>Financial Analyst – Training Coordinator | DSS                     | Open Until Filled      | Recruiting   |
| 1                   | General Counsel IV-V                                                 | Executive               | Closes August 10, 2023 | Recruiting   |
| 1                   | Financial Examiner V-VI Corporate<br>Analyst                         | Corporate<br>Activities | Closes August 9, 2023  | Recruiting   |
| 1                   | Director VI: Regional Director-Houston                               | Bank and Trust          | Closed                 | Interviewing |
| NA                  | Financial Examiner IV-V Commercial<br>Bank Examiner                  | Bank and Trust          | Perpetual Posting      | Recruiting   |
| NA                  | Financial Examiner VI-VII Commercial<br>Bank Examiner                | Bank and Trust          | Perpetual Posting      | Recruiting   |
| NA                  | Financial Examiner V Credit Review<br>Specialist                     | Bank and Trust          | Open Until Filled      | Recruiting   |

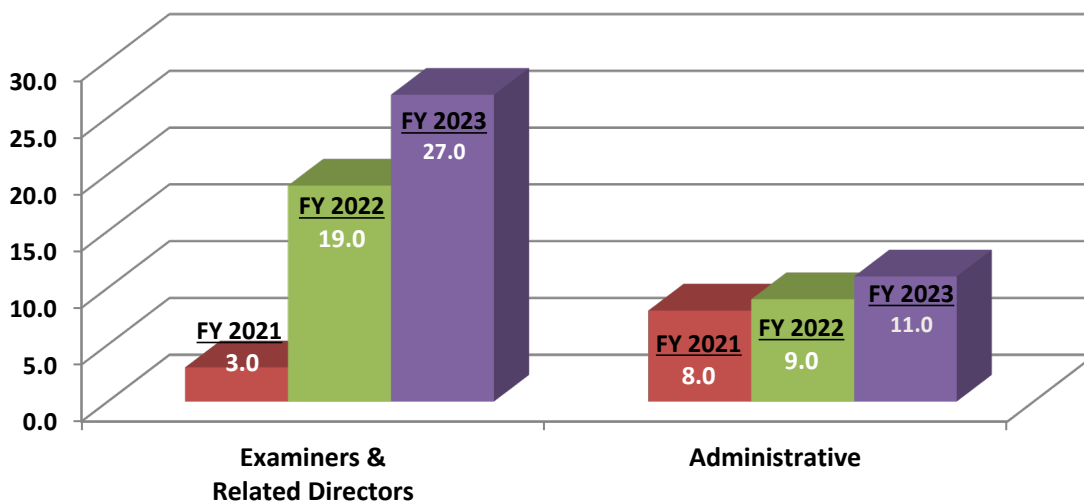
#### Division Activities:

- 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.

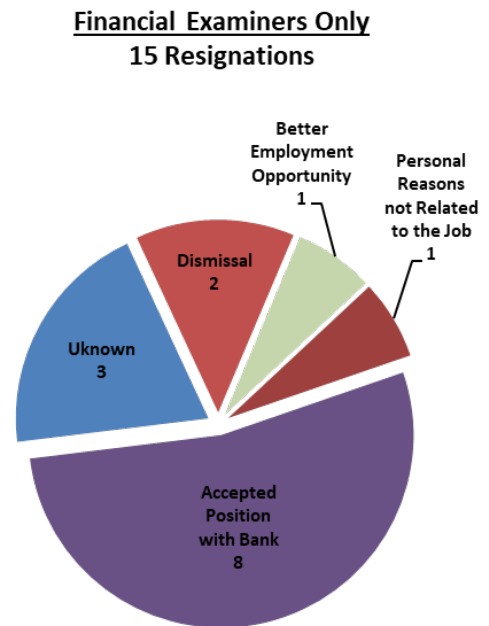
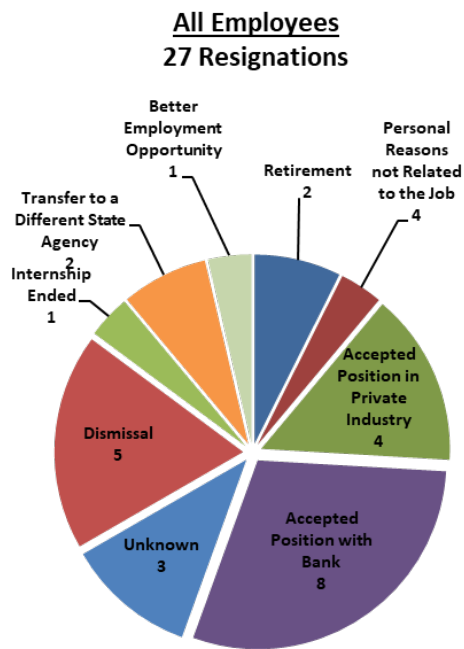
## Texas Department of Banking Employee Data for Fiscal Years 2021, 2022 and 2023 as of 07/31/2023



## New Hire Data for Fiscal Years 2021, 2022 and 2023



## FY 2023 Employee Turnover Reasons



As of 07/31/2023

**Department of Banking**  
**Actual Performance for Output Measures**  
**Fiscal Year 2023**

| Type/Strategy/Measure                                                                                                              | 2023<br>Target | 2023<br>Actual | 2023<br>YTD | Percent of<br>Annual Target |   |
|------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-------------|-----------------------------|---|
| <b>Output Measures-Key</b>                                                                                                         |                |                |             |                             |   |
| <b>1-1-1 Bank Examination</b>                                                                                                      |                |                |             |                             |   |
| <b>1. # Bank Examinations Performed</b>                                                                                            |                |                |             |                             |   |
| <b>Quarter 1</b>                                                                                                                   | 93             | 25             | 25          | 26.88%                      |   |
| <b>Quarter 2</b>                                                                                                                   | 93             | 28             | 53          | 56.99%                      | * |
| <b>Quarter 3</b>                                                                                                                   | 93             | 18             | 71          | 76.34%                      |   |
| FY 2023, Quarter 2 - The number of bank examinations is above the target due to performing more joint examinations than projected. |                |                |             |                             |   |
| <b>2. # Foreign/Trust/IT Examinations Performed</b>                                                                                |                |                |             |                             |   |
| <b>Quarter 1</b>                                                                                                                   | 227            | 54             | 54          | 23.79%                      |   |
| <b>Quarter 2</b>                                                                                                                   | 227            | 65             | 119         | 52.42%                      |   |
| <b>Quarter 3</b>                                                                                                                   | 227            | 55             | 174         | 76.65%                      |   |
| <b>1-2-1 Non-Bank Examination</b>                                                                                                  |                |                |             |                             |   |
| <b>1. # NDS Licensees Examined</b>                                                                                                 |                |                |             |                             |   |
| <b>Quarter 1</b>                                                                                                                   | 500            | 115            | 115         | 23.00%                      |   |
| <b>Quarter 2</b>                                                                                                                   | 500            | 120            | 235         | 47.00%                      |   |
| <b>Quarter 3</b>                                                                                                                   | 500            | 103            | 338         | 67.60%                      | * |
| FY 2023, Quarter 3 - The number of bank examinations is below the target due to staffing vacancies and training factors.           |                |                |             |                             |   |
| <b>1-3-1 Application Processing</b>                                                                                                |                |                |             |                             |   |
| <b>1. # License Applications Completed</b>                                                                                         |                |                |             |                             |   |
| <b>Quarter 1</b>                                                                                                                   | 358            | 87             | 87          | 24.30%                      |   |
| <b>Quarter 2</b>                                                                                                                   | 358            | 95             | 182         | 50.84%                      |   |
| <b>Quarter 3</b>                                                                                                                   | 358            | 90             | 272         | 75.98%                      |   |

\*Varies by 5% or more from target.



Charles G. Cooper  
Commissioner

## TEXAS DEPARTMENT OF BANKING

2601 North Lamar Blvd., Austin, Texas 78705

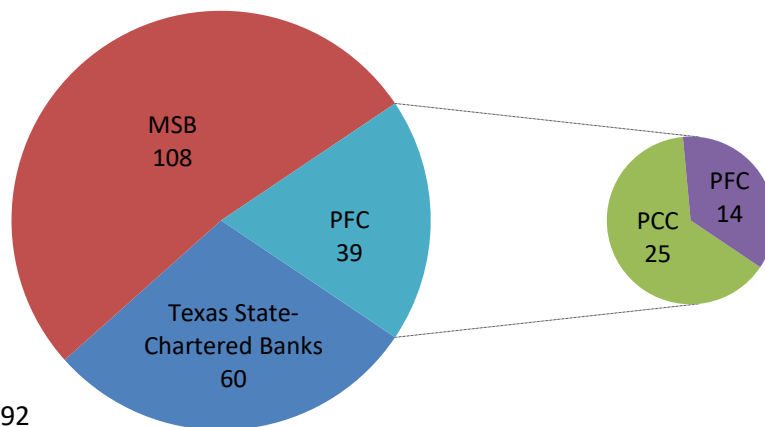
512-475-1300 / 877-276-5554

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

**To:** Finance Commission Members  
**From:** Phil Lena, Financial Analyst  
**Date:** August 2, 2023  
**Subject:** Summary of the Strategic Support Division Activities

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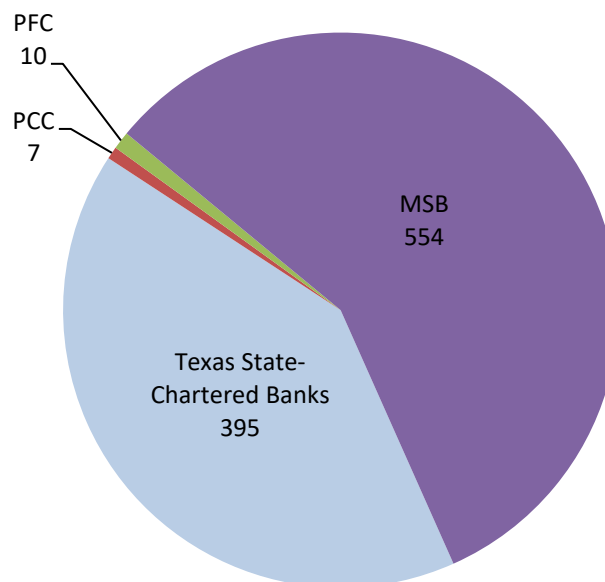
### Jurisdictional Written Complaints September 2022-June 2023



**Recoveries =** \$116,184.92

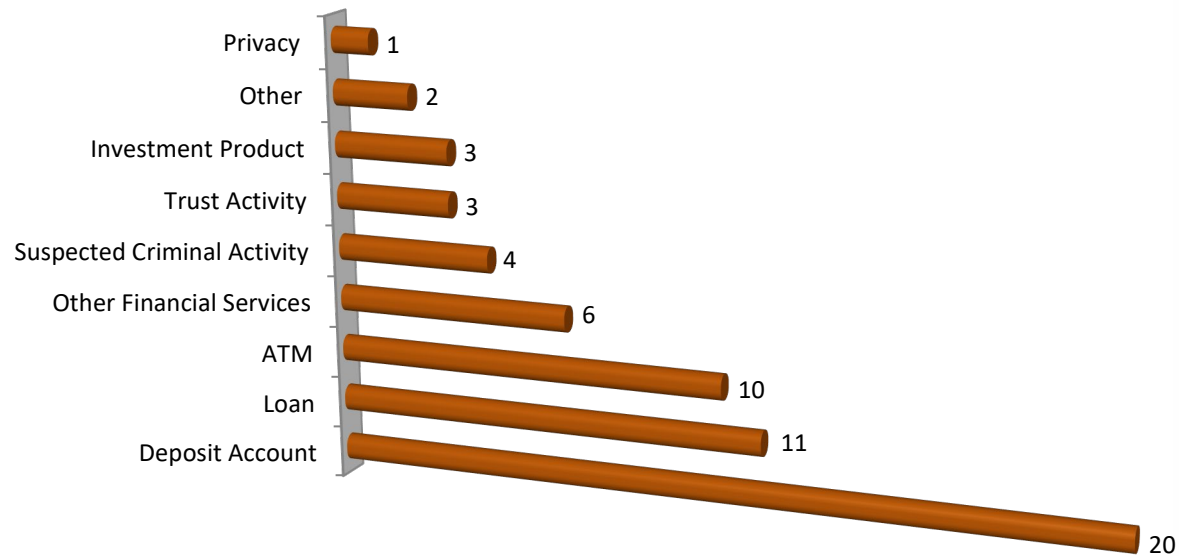
**Total =** 207

### Inquiries on Jurisdictional Entities September 2022-June 2023



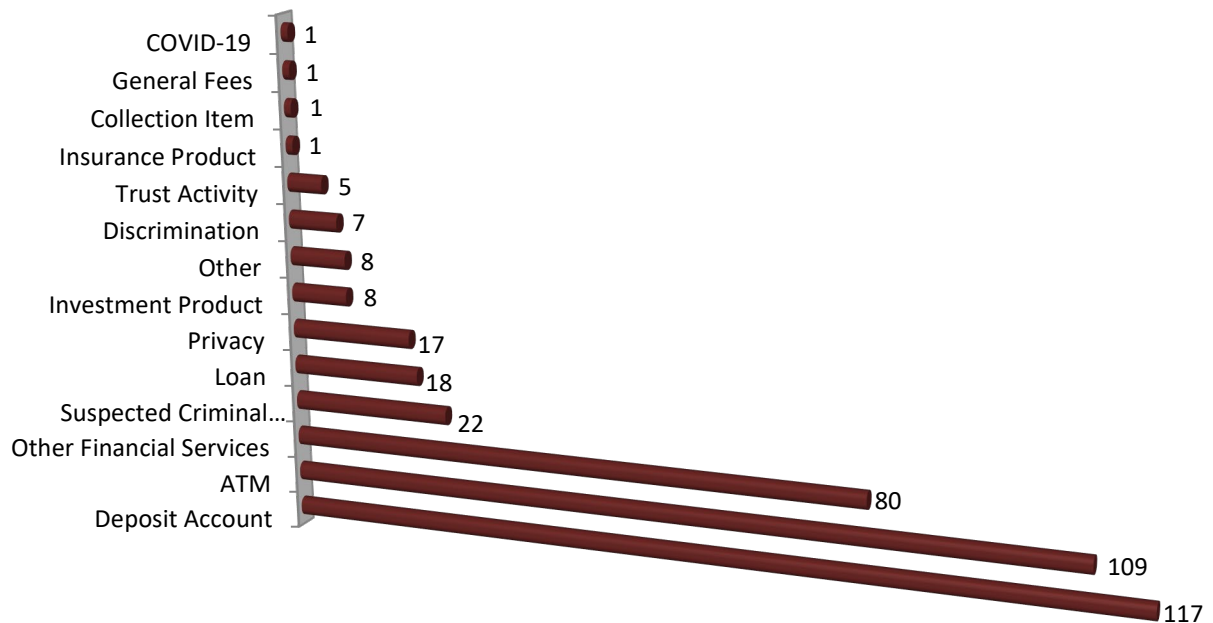
**Total =** 966

### State-Chartered Banks and Trust Companies Written Complaints by Type September 2022-June 2023



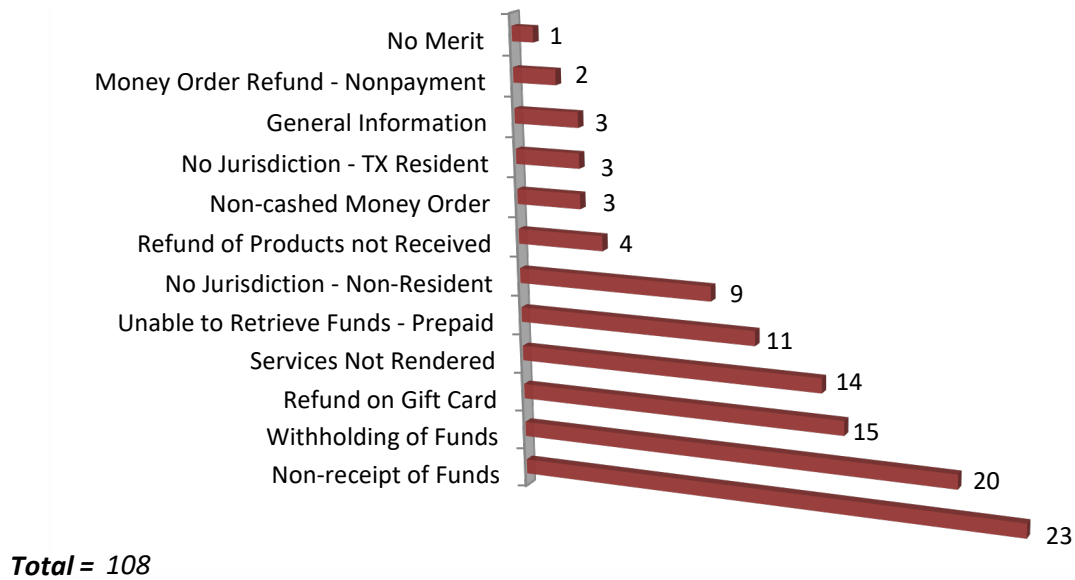
**Total = 60**

### State-Chartered Banks and Trust Companies Inquiries by Type September 2022-June 2023

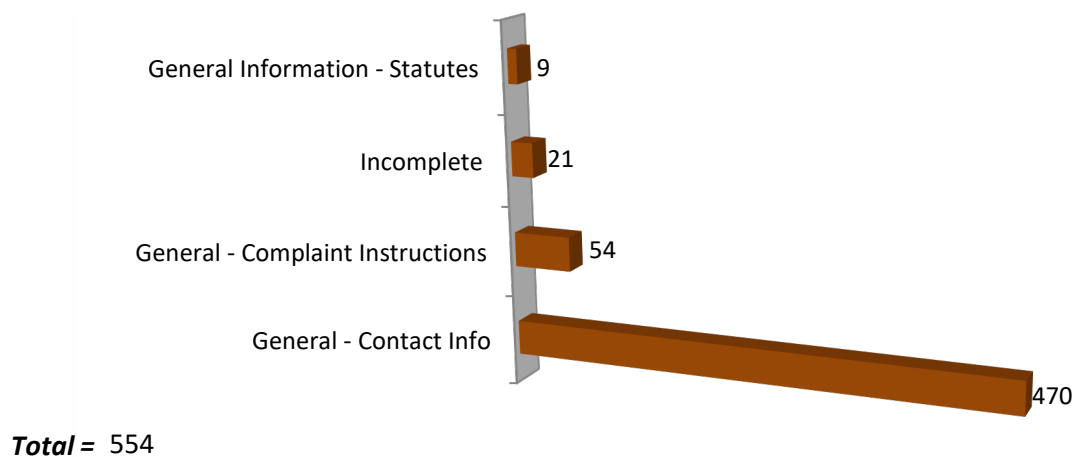


**Total = 395**

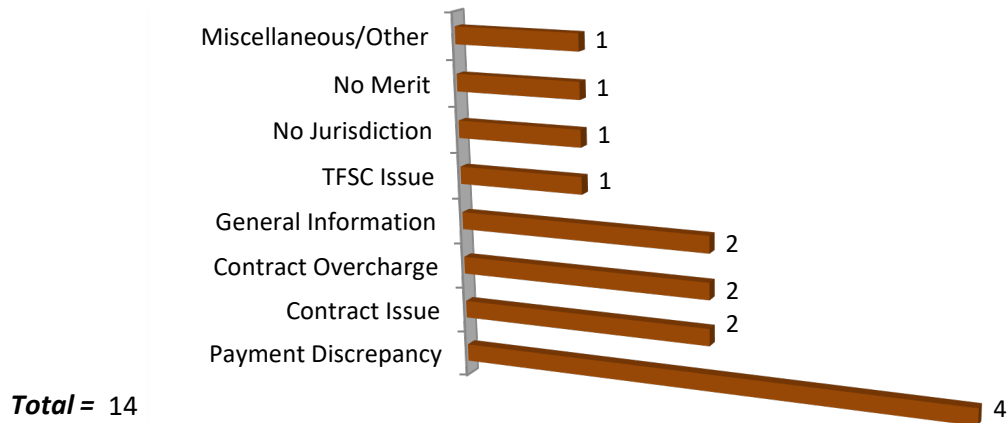
### Money Services Businesses Written Complaints by Type September 2022-June 2023



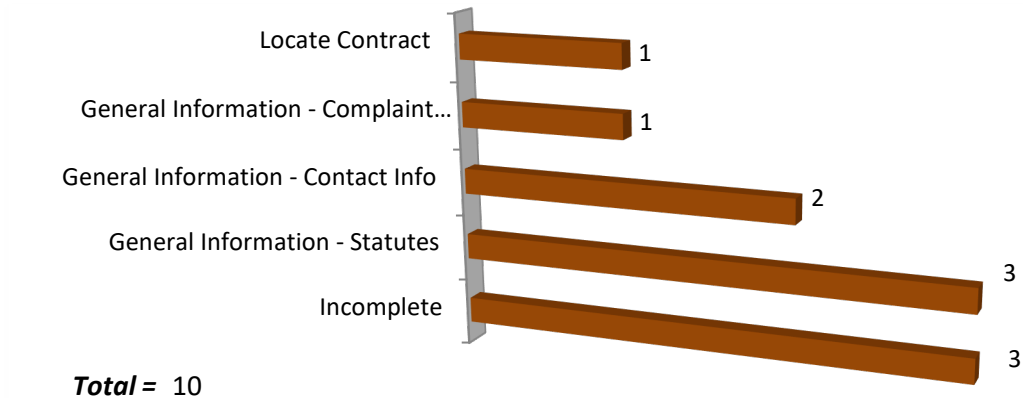
### Money Services Businesses Inquiries by Type September 2022-June 2023



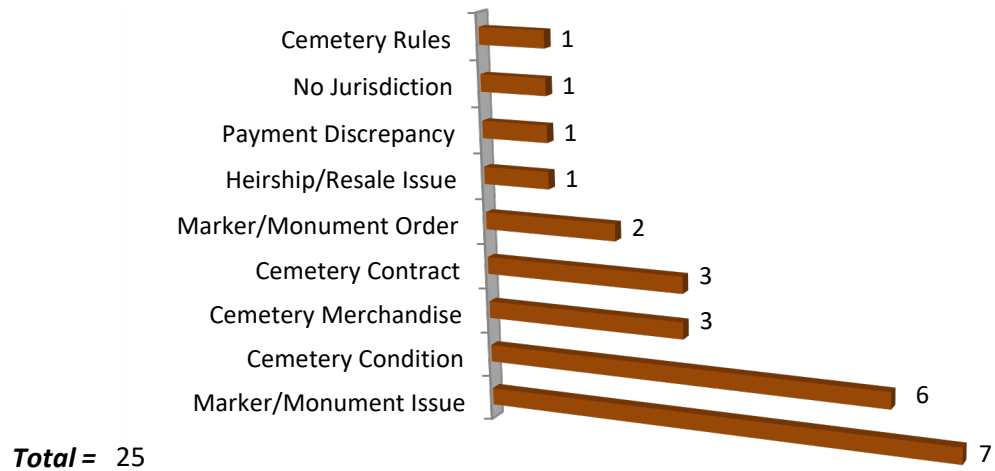
**Prepaid Funeral Contract Sellers  
Written Complaints by Type  
September 2022-June 2023**



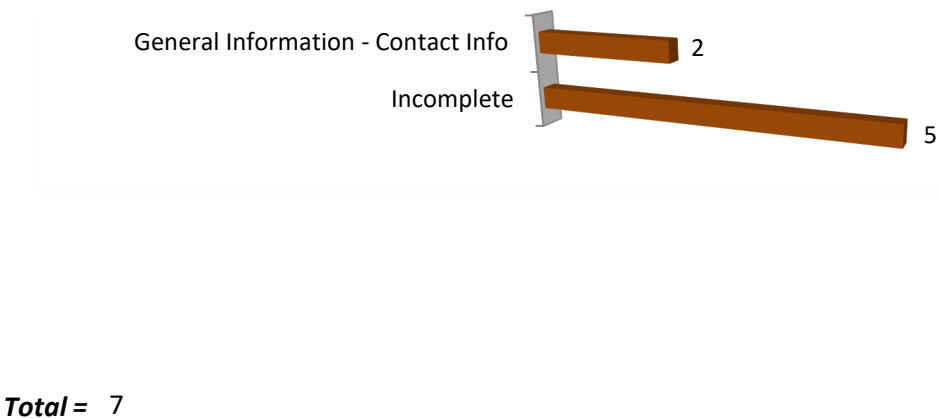
**Prepaid Funeral Contract Sellers  
Inquiries by Type  
September 2022-June 2023**



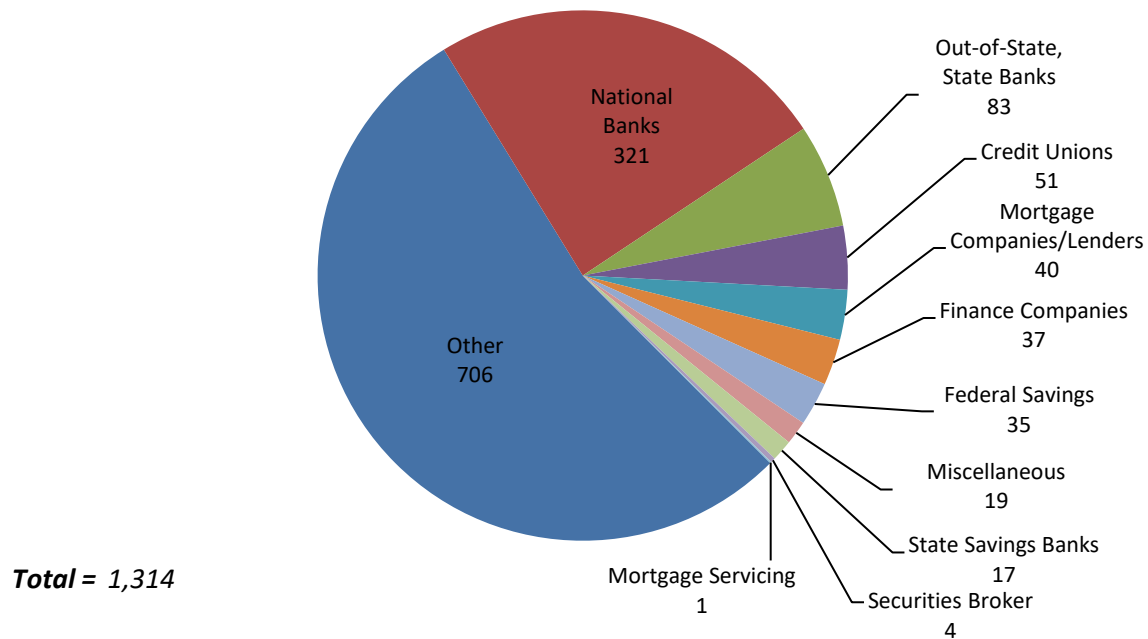
**Perpetual Care Cemeteries  
Written Complaints by Type  
September 2022-June 2023**



**Perpetual Care Cemeteries  
Inquiries by Type  
September 2022-June 2023**



### Complaints and Inquiries Against Non-Jurisdictional Entities September 2022-June 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. |
|----------------------------------------------------------|----------|----------|----------|----------|
| <b>State-Chartered Banks</b>                             |          |          |          |          |
| Avg. Number of Days to Close a Written Complaint         | 12       | 12       | 11       | -        |
| Percentage of Written Complaints Resolved Within 90 days | 100%     | 100%     | 100%     | -        |
| Number of Written Complaints Resolved                    | 14       | 17       | 21       | -        |
| <b>Trust</b>                                             |          |          |          |          |
| Avg. Number of Days to Close a Written Complaint         | N/A      | N/A      | N/A      | -        |
| Percentage of Written Complaints Resolved Within 90 days | N/A      | N/A      | N/A      | -        |
| Number of Written Complaints Resolved                    | N/A      | N/A      | N/A      | -        |
| <b>PFC/PCC</b>                                           |          |          |          |          |
| Avg. Number of Days to Close a Written Complaint         | 21       | 19       | 24       | -        |
| Percentage of Written Complaints Resolved Within 90 days | 100%     | 100%     | 100%     | -        |
| Number of Written Complaints Resolved                    | 7        | 12       | 13       | -        |
| <b>MSB</b>                                               |          |          |          |          |
| Avg. Number of Days to Close a Written Complaint         | 26       | 21       | 21       | -        |
| Percentage of Written Complaints Resolved Within 90 days | 100%     | 100%     | 100%     | -        |
| Number of Written Complaints Resolved                    | 39       | 33       | 36       | -        |

### Closed Account Notification System (CANS) Activity

January 1, 2020 – July 31, 2023

| Entity                              | Enrolled   | Compromised Accounts Reported |
|-------------------------------------|------------|-------------------------------|
| Texas State-Chartered Banks         | 182        | 353                           |
| Texas State-Chartered Savings Banks | 23         | 54                            |
| Federal Savings Banks               | 10         | 0                             |
| State Credit Unions                 | 135        | 635                           |
| Federal Credit Unions               | 229        | 534                           |
| National Banks                      | 171        | 99                            |
| Out-of-State State-Chartered Banks  | 12         | 62                            |
| Out-of-State National Banks         | 6          | 0                             |
| <b>Total</b>                        | <b>768</b> | <b>1,737</b>                  |

### Bank Examination Testing System (BETS) Activity

Number of Candidates Passing Each Phase

|                      | FY 2020   | FY 2021   | FY 2022   | FY 2023<br>As of<br>07/31/2023 |
|----------------------|-----------|-----------|-----------|--------------------------------|
| 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                              |
| <b>Total FE3</b>     | <b>15</b> | <b>17</b> | <b>13</b> | <b>14</b>                      |

#### Promotions

|                               |   |   |   |   |
|-------------------------------|---|---|---|---|
| <b>Commissioned Examiners</b> | 7 | 5 | 3 | 5 |
|-------------------------------|---|---|---|---|

\*Includes a FE V Credit Specialist

### Other Divisional Items:

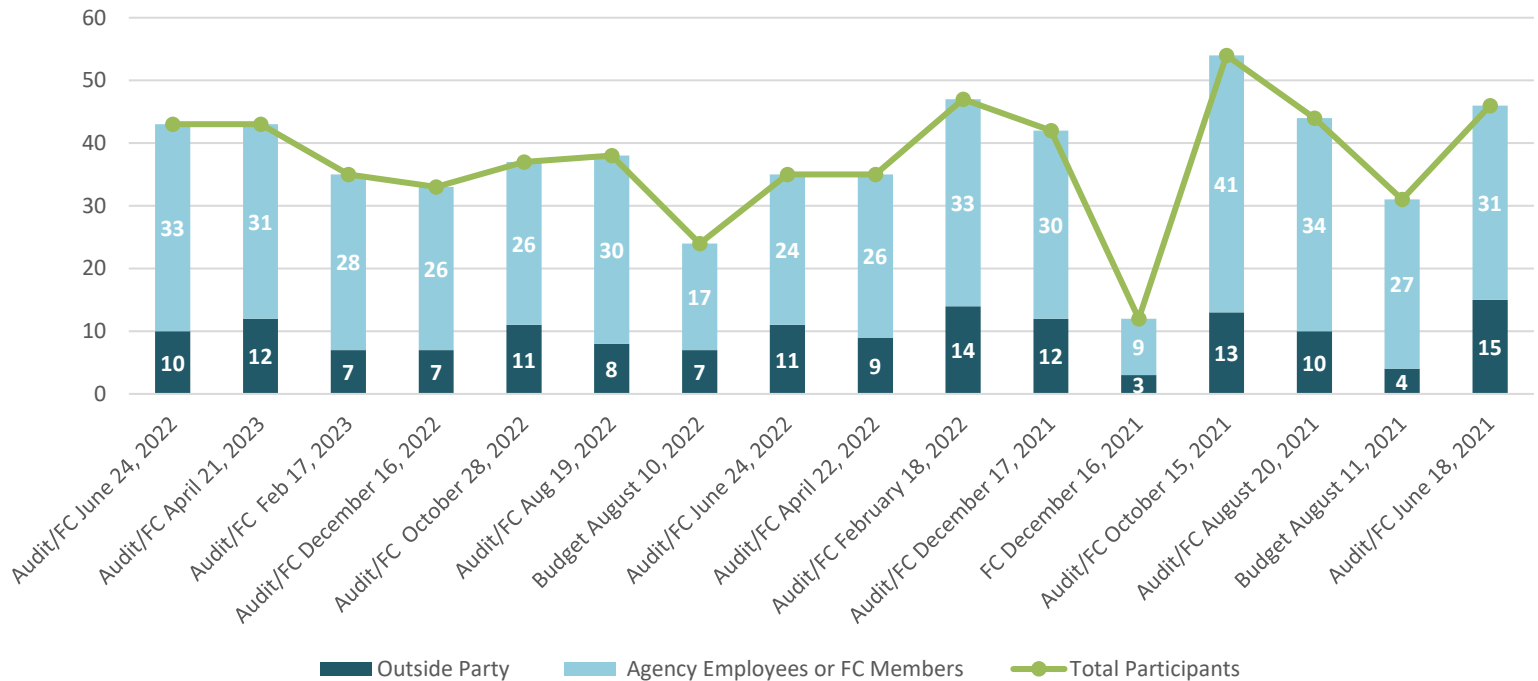
#### Examination Procedure Revisions/Updates:

- *Commercial*
  - Funds Management/Sensitivity to Market Risk (July 2023)
  - Loans and Leases (July 2023)
  - Loan Review (July 2023)
- *Information Technology*
  - Nonbank Cybersecurity (August 2023)
  - Support and Delivery (Type A) (July 2023)

### Training

- Nineteen financial examiners are attending the in-house six-month training program and are progressing through the prescribed agenda. In month two, participants are working in a group setting to enhance their knowledge of various examination related topics and fundamentals.
- The Department has secured a hotel for an agencywide conference in Denton, Texas, for the week of March 4-7, 2024. An agenda is being developed to cover a variety of topics that include economic trends and analysis.

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

### **Memorandum**

**To:** Finance Commission Members  
**From:** Marcus Adams, Deputy General Counsel  
**Date:** August 1, 2023  
**RE:** Legal Division Update

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#### **Litigation**

***Cornelius Campbell Burgess v. Charles G. Cooper, in his official capacity as the Texas Banking Commissioner***, Cause No. D-1-GN-22-000504, in the 345th Judicial District Court of Travis County, Texas. This case, filed January 31, 2022, included a petition for mandamus seeking to compel the Commissioner to refer the administrative case against Mr. Burgess to the State Office of Administrative Hearings (SOAH), instead of having it heard by the Department's contracted independent administrative law judge. In April, both parties filed Motions for Summary Judgment; a remote hearing on the motions was conducted on May 16, 2022. On June 15, 2022, the district court granted Burgess' motion for summary judgment, and ordered that the case be heard by SOAH. On November 9, 2022, the Office of Attorney General (OAG) filed an appeal of this case in the Texas Third Court of Appeals. Burgess, the appellee, filed its reply brief on May 24, 2023. On June 8, 2023, the OAG filed a Motion to Abate the proceeding in light of the passage of SB 1645 which explicitly allows the Department to hire an independent contracted administrative law judge to hear contested enforcement matters. On June 23, 2023, the Third Court of Appeals granted the Department's Motion and abated the matter until July 24, 2023. The administrative case against Mr. Burgess has been dismissed without prejudice and the related state court actions are expected to be dismissed.

#### **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. The court's decision on the matter is pending.

#### **Orders Issued June 1, 2023 – July 31, 2023**

The Commissioner issued two enforcement orders during this period:

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

- Consent Order Prohibiting Further Participation and Imposing a Penalty dated June 5, 2023; Cynthia Michelle Renfro, Brownsboro, Texas

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

- Consent Order dated July 19, 2023; GPD Holdings LLC DBA Coinflip, Chicago, Illinois

### **Public Information Requests**

From June 1, 2023, through July 31, 2023, staff received and responded to 14 requests for public information addressed to the Department of Banking and received four inquiries from the “Ask a Question” feature. During the same period, we received and responded to three public information requests 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 June 26, 2023. The FDIC paid for his airfare (\$659.79), lodging and per diem (\$577.86). The Commissioner is the current appointed SLC Chair.

### **FY 2023 Quarterly Order Activity**

| <b>BANK</b>           |            |            |            |            |
|-----------------------|------------|------------|------------|------------|
| <b>Type of Action</b> | <b>1st</b> | <b>2nd</b> | <b>3rd</b> | <b>4th</b> |
| Consent Order         | 0          | 1          | 0          | 0          |
| Cease & Desist        | 0          | 0          | 1          | 0          |
| Supervision           | 0          | 0          | 0          | 0          |
| Prohibition           | 2          | 1          | 2          | 1          |
| Total                 | 2          | 2          | 3          | 1          |

| <b>TRUST COMPANY</b> |   |   |   |   |
|----------------------|---|---|---|---|
| Consent Order        | 0 | 0 | 0 | 0 |
| Cease & Desist       | 0 | 0 | 0 | 0 |
| Supervision          | 0 | 0 | 0 | 0 |
| Prohibition          | 0 | 0 | 0 | 0 |
| Total                | 0 | 0 | 0 | 0 |

| <b>MONEY SERVICES BUSINESS</b> |   |   |   |   |
|--------------------------------|---|---|---|---|
| Consent Order                  | 4 | 6 | 2 | 1 |
| Cease & Desist                 | 1 | 0 | 0 | 0 |
| Final Order after hearing      | 0 | 0 | 0 | 0 |
| Total                          | 5 | 6 | 2 | 1 |

| <b>PERPETUAL CARE CEMETERY</b> |   |   |   |   |
|--------------------------------|---|---|---|---|
| Consent Order                  | 0 | 0 | 0 | 0 |
| Cease & Desist                 | 0 | 0 | 0 | 0 |
| Refusal to Renew<br>Cert/Auth  | 0 | 0 | 0 | 0 |
| Final Order after hearing      | 0 | 0 | 0 | 0 |
| Total                          | 0 | 0 | 0 | 0 |

| <b>PREPAID FUNERAL CONTRACT</b> |   |   |   |   |
|---------------------------------|---|---|---|---|
| Consent Order                   | 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 Readoption of 7 TAC, Part 1, Chapter 6, Concerning Banking Development Districts, Resulting from Rule Review.

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

Notice of the proposed review of 7 TAC, Chapter 6 was published in the *Texas Register* as required on July 14, 2023 (48 TexReg 3927). The Department received no comments regarding the review.

The Department believes the reasons for initially adopting the rules in Chapter 6 continue to exist and those rules should be readopted.

**RECOMMENDED ACTION:** The Department requests that the Commission find that the reasons for initially adopting the rules in 7 TAC, Chapter 6 continue to exist and that the Commission readopt these rules.

**RECOMMENDED MOTION:** I move that we find that the reasons for initially adopting the rules in 7 TAC, Chapter 6 continue to exist, and that those rules be readopted.

### **Adopted Rule Review**

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 1, Chapter 6 (Banking Development Districts), §§6.1 - 6.6, in its entirety.

Notice of the review of Chapter 6 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3927). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 6 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

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

3. Discussion of and Possible Vote to Take Action on the Readoption of 7 TAC, Part 2, Chapter 15, Concerning Corporate Activities, Resulting from Rule Review.

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

Notice of the proposed review of 7 TAC, Chapter 15 was published in the *Texas Register* as required on July 14, 2023 (48 TexReg 3927). The Department received no comments regarding the review.

The Department believes the reasons for initially adopting the rules in Chapter 15 continue to exist and those rules should be readopted.

**RECOMMENDED ACTION:** The Department requests that the Commission find that the reasons for initially adopting the rules in 7 TAC, Chapter 15 continue to exist and that the Commission readopt these rules.

**RECOMMENDED MOTION:** I move that we find that the reasons for initially adopting the rules in 7 TAC, Chapter 15 continue to exist, and that those rules be readopted.

### **Adopted Rule Review**

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 2, Chapter 15 (Corporate Activities), comprised of Subchapter A (§§15.1 - 15.7 and §§15.9 - 15.12); Subchapter B (§15.23 and §15.24); Subchapter C (§§15.41 -15.44); Subchapter E (§15.81); Subchapter F (§§15.101 - 15.111 and §§15.113 - 15.117); and Subchapter G (§15.121 and §15.122).

Notice of the review of Chapter 15 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3927). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 15 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

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

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.

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

Notice of the proposed review of 7 TAC, Chapter 17 was published in the *Texas Register* as required on July 14, 2023 (48 TexReg 3927). The Department received no comments regarding the review.

The Department believes the reasons for initially adopting the rules in Chapter 17 continue to exist and those rules should be readopted.

**RECOMMENDED ACTION:** The Department requests that the Commission find that the reasons for initially adopting the rules in 7 TAC, Chapter 17 continue to exist and that the Commission readopt these rules.

**RECOMMENDED MOTION:** I move that we find that the reasons for initially adopting the rules in 7 TAC, Chapter 17 continue to exist, and that those rules be readopted.

### **Adopted Rule Review**

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 2, Chapter 17 (Trust Company Regulation), comprised of Subchapter A (§§17.2 - 17.5) and Subchapter B (§§17.21 - 17.23).

Notice of the review of Chapter 17 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3927). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 17 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

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

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.

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

Notice of the proposed review of 7 TAC, Chapter 19 was published in the *Texas Register* as required on July 14, 2023 (48 TexReg 3928). The Department received no comments regarding the review.

The Department believes the reasons for initially adopting the rules in Chapter 19 continue to exist and those rules should be readopted.

**RECOMMENDED ACTION:** The Department requests that the Commission find that the reasons for initially adopting the rules in 7 TAC, Chapter 19 continue to exist and that the Commission readopt these rules.

**RECOMMENDED MOTION:** I move that we find that the reasons for initially adopting the rules in 7 TAC, Chapter 19 continue to exist, and that those rules be readopted.

### **Adopted Rule Review**

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 2, Chapter 19 (Trust Company Loans and Investments), comprised of Subchapter B (§19.22); and Subchapter C (§19.51).

Notice of the review of Chapter 19 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3928). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 19 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

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

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.

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

Notice of the proposed review of 7 TAC, Chapter 21 was published in the *Texas Register* as required on July 14, 2023 (48 TexReg 3928). The Department received no comments regarding the review.

The Department believes the reasons for initially adopting the rules in Chapter 21 continue to exist and those rules should be readopted.

**RECOMMENDED ACTION:** The Department requests that the Commission find that the reasons for initially adopting the rules in 7 TAC, Chapter 21 continue to exist and that the Commission readopt these rules.

**RECOMMENDED MOTION:** I move that we find that the reasons for initially adopting the rules in 7 TAC, Chapter 21 continue to exist, and that those rules be readopted.

### **Adopted Rule Review**

On behalf of the Finance Commission of Texas (commission), the Texas Department of Banking (department) has completed the review of Texas Administrative Code, Title 7, Part 2, Chapter 21 (Trust Company Corporate Activities), comprised of Subchapter A (§§21.1 - 21.7 and §§21.9 - 21.12); Subchapter B (§21.23 and §21.24); Subchapter C (§21.31 and §21.32); Subchapter D (§§21.41 - §21.44); Subchapter E (§21.51); Subchapter F (§§21.61 - 21.64; §§21.67 - 21.70 and §§21.72 - 21.76); and Subchapter G (§21.91 and §21.92).

Notice of the review of Chapter 21 was published in the July 14, 2023, issue of the *Texas Register* (48 TexReg 3928). No comments were received in response to the notice.

The commission believes the reasons for initially adopting Chapter 21 continue to exist. However, certain revisions may be appropriate. Proposed amendments, if any, will be published in the *Texas Register* at a later date.

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

7. Discussion of and Possible Vote to Take Action on the Proposal and Publication for Comment of Amendments to and Repeals of Certain Sections of 7 TAC, Part 2, Chapter 33, Concerning Money Services Businesses.

**PURPOSE:** Amendments to and Repeals of these sections of Chapter 33 to implement Senate Bill 895 which was passed during the 88<sup>th</sup> Legislative Session.

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

**RECOMMENDED MOTION:** I move that we publish the proposed rulemaking actions to 7 TAC, Part 2, Chapter 33 in the *Texas Register* for comment.

**PROPOSED AMENDMENTS TO AND REPEALS OF 7 TAC,  
§§33.3, 33.4, 33.7, 33.13, 33.15, 33.23, 33.27, 33.30,  
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***Title 7. Banking and Securities  
Part 2. Finance Commission of Texas  
Chapter 33. Money Services Businesses  
7 TAC, §§33.3, 33.4, 33.7, 33.13, 33.15,  
33.23, 33.27, 33.30, 33.31, 33.33, 33.35,  
33.37, 33.51, 33.52, 33.53, 33.54***

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to repeal §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 department proposes to amend §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. The proposed repeals and amendments arise from the passage of Senate Bill 895, sponsored by Senator Nathan Johnson, during the 88th legislative session and are proposed to provide clarity and update statutory citations. Effective September 1, 2023, Senate Bill 895 repeals Chapter 151 of the Texas Finance Code (Finance Code) and adds Chapter 152 relating to the regulation of money services businesses.

Section 33.3 is proposed to be repealed because it is as an outdated guideline for claiming an exclusion from licensing that is defined in statute. The department does not require a person to seek a determination that the exclusion applies. Under Finance Code, Chapter 152, the banking commissioner has the express authority to require any person claiming a statutory exemption to demonstrate that they qualify for such exemption, however this would be done on a case-by-case basis.

Sections 33.4, 33.13, 33.23, 33.37, and 33.54 are proposed to be repealed as the provisions of the rules were incorporated in the statutory language of Finance Code, Chapter 152 and are therefore redundant.

The proposed 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.

Jesus Saucillo, Director of Non-Depository Supervision, Texas Department of Banking, has determined that for the first

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five-year period the proposed rules are in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the proposed rules.

Director Saucillo also has determined that, for each year of the first five years the rules as proposed are in effect, the public benefit anticipated as a result of enforcing the rules is greater clarity of the rules to which money services businesses are subject.

For each year of the first five years that the rules will be 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.

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

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; and
- positively or adversely affect this state's economy.

There will be no adverse economic effect on small businesses, micro-businesses, or

rural communities. There will be no difference in the cost of compliance for these entities.

To be considered, comments on the proposals must be submitted no later than 5:00 p.m. on October 2, 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](mailto:legal@dob.texas.gov).

The amendments are proposed under Finance Code, §151.102, which authorizes the commission to adopt rules to administer and enforce Finance Code, Chapter 151. As noted above, pursuant to Senate Bill 895, Chapter 151 will be repealed and replaced by Chapter 152 as of September 1, 2023. Therefore, the authority to adopt the proposed amendments will be replaced with §152.052 which similarly 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 proposed amended sections.

§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

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

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(a) Does this section apply to me?

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

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

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

(C) qualify for an exemption under Finance Code, §~~152.102(e)~~~~151.502(d)~~.

(2) This section does not apply, and you do not conduct currency exchange within the meaning of Finance Code, Chapter ~~152~~~~151~~, 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)~~~~151.502(d)(1) – (5)~~, apply to you. For purposes of the subsection (e)(4)~~(d)(4)~~ disqualification, you are considered to be engaged in the "business of cashing checks, drafts or other ~~monetary~~ 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.)

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

§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~~~~151~~, and you believe that the department failed to comply with the application processing times specified in Finance Code, § 152.106.~~§33.13(e) or (h) of this title (relating to Application for New License).~~

(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)(b)~~ 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~~§33.13(e) or (h) of this title (relating to Application for New License)~~, 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

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complaint on or before the 30th day after the date the commissioner approves or denies your license application.

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

(1) – (3) (No change.)

~~(e)~~(d) 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.

~~(f)~~(e) 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)~~(f) 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.

§33.23 What Additional Provisions Apply to Permissible Investments?

§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~~~~454~~, 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~~~~454.104~~.

(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~~~~454~~, including the annual license fee required by Finance Code, §~~152.107(d)(1)~~~~454.207(b)(1)~~.

(2) "Examination" means— the process, either by on-site or off-site review, of evaluating the books and records of a license holder under the authority of Finance Code, §~~152.057~~~~454.604~~, 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~~~~454.104~~, ~~454.305~~, or ~~454.505~~.

(c) What provisions of Finance Code, Chapter ~~152~~~~454~~, 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~~~~454~~:

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~~§§152.052(b)(1), 152.056(e), 152.107(d)(1), 152.104(d), and 152.151(b)(2)151.102(a)(5), 151.104, 151.207(b)(1), 151.304(b)(1), 151.306(a)(5), 151.504(b)(1), 151.605(c)(3) and 151.605(i).~~

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

(1) You must pay a ~~non-refundable~~ \$10,000 application fee to obtain a new money transmission license or a ~~non-refundable~~ \$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:

(A) – (C) (No change.)

~~(2) To apply for a temporary money transmission license authorized under Finance Code, §151.306, you must pay a non-refundable \$2,500 temporary license application fee in addition to the fees required under paragraph (1) of this subsection.~~

~~(2)(3)~~ The commissioner may reduce the fees required under 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~~151, 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)151.207(b)(2).~~

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

Figure: 7 TAC §33.27(e)(1). If the calculation result is greater than \$21,250, your annual assessment is \$21,250.

(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). If the calculation result is greater than \$21,250, your annual assessment is \$21,250.

(3) If you are a new license holder and have not yet filed your first annual report under Finance Code, ~~§152.107(d)(2)151.207(b)(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~~151, as authorized under ~~§152.056~~151.404, you or the investigated person must pay the department an investigation fee calculated at a rate of \$75.00 per employee hour for the

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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~~151~~, 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~~151.207~~, you must pay a late fee of \$100 per day for each business day after the due date that the department does not 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~~151~~, 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~~151~~, 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~~151~~. 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

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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 152451.

(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 152451 (~~Money Services Act~~), or are the authorized delegate of a license holder, as applicable, and you conduct currency exchange transactions.

(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 BSA and 31 CFR Chapter X;

(B) in addition to the records required under Finance Code, Chapter 152451, 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 152451 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 152451.

(e) (No change.)

§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 152451 (~~Money Services Act~~), 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?

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§§33.3, 33.4, 33.7, 33.13, 33.15, 33.23, 33.27, 33.30,  
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(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 ~~152454~~ (~~Money Services Act~~), 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 ~~152454~~, the records required in 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 ~~152454~~ and Chapter 33 of this title (relating to Money Services Businesses).

(2) – (4) (No change.)

(b) – (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 ~~152454~~.

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

§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 ~~152454~~.

(b) Definitions. Words used in this section that are defined in Finance Code, Chapter ~~152454~~, 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

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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~~Finance Code, §151.403(a)(6)~~.

(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~~151~~, Subchapter II~~H~~, if you:

(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, ~~§151.402~~ 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~~§151.301~~, except as necessary to provide debt management services to contractual customers.

(c) – (d) (No change.)

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

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Figure: 7 TAC §33.27(e)(1)

**Annual Assessment Fee Schedule for CEX License Holders:**

| <b>If the total dollar amount of your annual transactions is:</b> |                        | <b>Then your annual assessment is:</b>                                                                                                 |
|-------------------------------------------------------------------|------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Over --</b>                                                    | <b>But not over --</b> |                                                                                                                                        |
| -----                                                             | \$249,999.99           | \$2,750.00                                                                                                                             |
| \$250,000.00                                                      | \$499,999.99           | \$2,750.00 plus the amount of your transactions over \$250,000 multiplied by a factor of .00235                                        |
| \$500,000.00                                                      | \$999,999.99           | \$3,350.00 plus the amount of your transactions over \$500,000 multiplied by a factor of .00175                                        |
| \$1,000,000.00                                                    | \$9,999,999.99         | \$4,250.00 plus the amount of your transactions over \$1 million multiplied by a factor of .000115                                     |
| \$10,000,000.00                                                   | \$24,999,999.99        | \$5,250.00 plus the amount of your transactions over \$10 million multiplied by a factor of .0000835                                   |
| \$25,000,000.00                                                   | \$49,999,999.99        | \$6,250.00 plus the amount of your transactions over \$25 million multiplied by a factor of .0000735                                   |
| \$50,000,000.00                                                   | \$199,999,999.99       | \$7,950.00 plus the amount of your transactions over \$50 million multiplied by a factor of .00001155                                  |
| \$200,000,000.00                                                  | -----                  | \$9,150.00 plus the amount of your transactions over \$200 million multiplied by a factor of .00001125, but not more than \$21,250.00. |

**If the calculation result is greater than \$21,250, your annual assessment is \$21,250.**

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Figure 7 TAC §33.27(e)(2)

**Annual Assessment Fee Schedule for MT License Holders:**

| <b>If the total dollar amount of your annual transactions is:</b> |                        | <b>Then your annual assessment is:</b>                                                                                                  |
|-------------------------------------------------------------------|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Over --</b>                                                    | <b>But not over --</b> |                                                                                                                                         |
| -----                                                             | \$249,999.99           | \$3,950.00                                                                                                                              |
| \$250,000.00                                                      | \$499,999.99           | \$3,950.00 plus the amount of your transactions over \$250,000 multiplied by a factor of .00235                                         |
| \$500,000.00                                                      | \$999,999.99           | \$4,550.00 plus the amount of your transactions over \$500,000 multiplied by a factor of .00175                                         |
| \$1,000,000.00                                                    | \$9,999,999.99         | \$5,450.00 plus the amount of your transactions over \$1 million multiplied by a factor of .000115                                      |
| \$10,000,000.00                                                   | \$24,999,999.99        | \$6,450.00 plus the amount of your transactions over \$10 million multiplied by a factor of .0000835                                    |
| \$25,000,000.00                                                   | \$49,999,999.99        | \$7,700.00 plus the amount of your transactions over \$25 million multiplied by a factor of .0000735                                    |
| \$50,000,000.00                                                   | \$199,999,999.99       | \$9,450.00 plus the amount of your transactions over \$50 million multiplied by a factor of .00001155                                   |
| \$200,000,000.00                                                  | -----                  | \$11,100.00 plus the amount of your transactions over \$200 million multiplied by a factor of .00001125, but not more than \$21,250.00. |

**If the calculation result is greater than \$21,250, your annual assessment is \$21,250.**

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