



Caroline C. Jones
Commissioner

TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

October 17, 2014

Mr. Ken Levine, Director
Sunset Advisory Commission
1501 N Congress
6th Floor, Robert E. Johnson Bldg.
Austin, TX 78701

Dear Mr. Levine,

Thank you for providing the Department of Savings and Mortgage Lending (the Department) the opportunity to provide comment on the Sunset Advisory Commission Staff Study of the "*Self-Directed Semi-Independent Status of State Agencies*" report.

The Department acknowledges that transparency, accountability, and accurate reporting are essential to being SDSI, but is concerned with the suggestion of a "one size fits all" approach.

The Department is making comments on a few of the items proposed or mentioned in the report, such as remittance of penalties, reporting, and oversight.

Funding

Prior to and since receiving the SDSI status the Department, consistent with the other financial regulatory agencies (Department of Banking, Office of Consumer Credit Commissioner, and Credit Union Department), has been a Self-Leveling/Self-Funding agency. This is a significant difference between the Department and the SDSI agencies under Government Code, Chapter 472. Under the Self-Leveling/Self-Funding methodology, an agency does not or very minimally contributes to general revenue, has no impact on the state budget, and sets fees and assessments to cover all its direct and indirect operating costs.

The Department uses administrative penalties as a deterrent for non-compliance with and violations of statutory requirements. Administrative penalties collected are credited against the revenue budget of the applicable industry and ultimately result in a discount of fees charged to the industry. Using this strategy allows companies that maintain compliance to potentially pay less and companies with poor compliance pay more. Remitting these penalties to general revenue would restrict the Department's ability to incentivize entities to be compliant with statutory requirements and could potentially increase the fees assessed to the industries as a whole. Additionally, remitting administrative penalties to general revenue would be contrary to the existing Self-Leveling/Self-Funding statutory requirement.

Reporting

Transparency is a priority of the Department. The Department provides transparency through regular reporting to the Finance Commission (the Department's oversight board), Legislative Budget Board, Legislature, Legislative Committees, Governor's Office, and other oversight agencies.

Prior to each legislative session, the Department provides to the Senate, House of Representatives, Governor's Office, and the Legislative Budget Board a report which contains the following items, as applicable:

- Any audits conducted by the State Auditor's Office;
- Prior fiscal year financial report, including financial condition and results of operation;
- Changes to any fees imposed on the regulated industries;
- Changes in the regulated industries, including the number of registrants/licensees; and
- List of new rules adopted or rules repealed.

Additionally, by November 1st of each year the Department provides to the Governor's Office, Senate Finance, House Appropriations, and the Legislative Budget Board a report which contains the following items, as applicable:

- Salary and travel expense for all personnel;
- Travel expense paid to the Finance Commission;
- The Department's operating plan and annual budget; and
- The prior fiscal year's revenues and expenditures incurred.

On a quarterly basis, or as requested, the Department has provided reports to Senate Business and Commerce and House Investments and Financial Services committees regarding Department activities.

Besides the reports already mentioned, the Department complies with other reporting requirements, such as Revenue Survey, Annual Financial Report, Annual Report of Other Required Information, FTE Report, Procurement Plan, Strategic Plan and other reports when required or requested.

At Finance Commission meetings, which occur six times a year, the Department provides reports that include information on the Department's financial status, FTEs, performance measures, consumer complaint activities, examination activities, enforcement actions, industry data, and any audit reports including findings and recommendations. Also, prior to presenting the Department's proposed annual budget to the Finance Commission, we hold a public hearing to solicit comment and input from interested parties on our proposed budget.

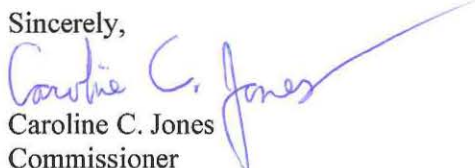
Oversight

As an SDSI agency, we remain in compliance with State purchasing, travel, and reporting requirements. We continue to utilize USAS as our payment system and keep our funds within the Texas Treasury Safekeeping Trust Company. Oversight agencies, such as Comptroller of Public Accounts, State Office of Risk Management, State Auditor's Office, Workforce Commission, and the Department of Information Resources, still have authority over the agency and audit their specific areas as needed. Additionally, as in the past, the Finance Commission has contracted with an independent accounting firm to perform risk assessments and internal audits of areas within the Department. The leadership of the Department continues to serve as a resource, as needed, to legislators on pending legislation and other issues.

As an SDSI agency we strive to be transparent, accountable, and good financial stewards. The current SDSI statute, as set out in the Finance Code, allows the Department to successfully and efficiently fulfill our mission and regulatory responsibilities. The SDSI status allows the Department to be run in a business-like manner, which further allows us to respond quickly to changes in the financial regulatory environments under our authority. As needed we can respond to these changes by either expanding or contracting our resources.

Again, thank you for this opportunity to provide comments and if you have any questions, need clarification or additional information, please feel free to contact me (512) 475-1038 or Steven O'Shields (512) 475-3679.

Sincerely,


Caroline C. Jones
Commissioner