

Bank:
Charter #:

Date of Exam:
Prepared By:

#27– OTHER SUPERVISORY ISSUES

ASSIGNMENT OVERVIEW

Determine compliance with various state regulations within the Texas Finance Code (TFC), Texas Administrative Code (TAC), and Texas Property Code (TPC) including those relating to consumer complaints, dormant accounts and unclaimed property, and various lending notices and agreements.

INSTRUCTIONS:

Examiners must follow the requirements in the Examiner Bulletin addressing Guidelines for Procedures and Work Paper Documentation for Commercial Examinations.

All examiners performing these procedures must be listed above in the “Prepared By” section. While not all sections in the CORE ANALYSIS PHASE may be applicable to the bank, the section on [Dormant Accounts and Unclaimed Property](#) is **mandatory** and must be completed at each full scope examination. If only the mandatory section will be completed, place an **X** in the box at the beginning of the procedure to indicate *Only the Dormant Accounts and Unclaimed Property section will be completed*. Comments and findings for each step should be made in the comment box below each question. Reference to work paper documentation should also be included here. Documentation is to be sufficient to allow an audit trail of the examiner’s thought process and all significant findings.

Based on any significant/critical findings in the CORE ANALYSIS PHASE or as directed by the EIC, the applicable SUPPLEMENTAL ASSESSMENT PHASE (SAP) should also be performed. Responses should be entered in the SAP. Summarize conclusions in the corresponding CORE ANALYSIS comment section.

Information on the Summary of Findings page must tie back to the findings noted within the procedure. The SEIC/EIC will determine which information in the Summary of Findings will be included in the Report of Examination.

The EIC/AEIC should review this procedure when complete. Acknowledgement that this procedure has been reviewed by the EIC/AEIC will be indicated on the SCOPE FORM.

EXAMINERS ARE RESPONSIBLE FOR EXERCISING SOUND JUDGMENT AND UTILIZING REASONABLE INVESTIGATIVE AND ANALYTICAL SKILLS TO ARRIVE AT AN ACCURATE ASSESSMENT OF THE RISK PROFILE OF THIS SEGMENT OF THE INSTITUTION’S OPERATIONS. PERFORMING ALTERNATE PROCEDURES NOT LISTED WITH THESE GUIDELINES MAY BE NECESSARY TO COMPLETE THIS RISK ANALYSIS.

CORE ANALYSIS PHASE

#27 Other Supervisory Issues

If only Dormant Accounts and Unclaimed Property will be completed, enter an X in the box and proceed to questions in [Section 7](#).

1. Privacy and Consumer Complaint Notices

1a. Determine whether deficiencies were noted in the last state examination and have been addressed and/or corrected by management. Detail how deficiencies were corrected.

Comment:

1b. Review practices for providing proper notice on how to file a complaint about a supervised entity with the Department as stated in 7 TAC §11.37. *Comment on deficiencies and if response is "NO" to any of the below, cite an apparent violation and inform the EIC.*

1. Are the notices in the language in which transactions are conducted? (Look for documents in a foreign language.)
2. Has the consumer complaint notice been provided with the "privacy notice" if applicable to the supervised entity as required by state or federal law? (See 7 TAC §11.37 for definition of "privacy notice" and Regulatory Guidance 3005).
3. Has the institution conspicuously posted a consumer complaint notice in each area or location where face-to-face business is conducted? *Note: One posting in each branch location complies with the rule.*
4. If the institution offers goods and services over the Internet, does the institution's website contain access to the required notice?

Comment:

1c. Is the institution an authorized delegate for money services business (MSB) licensees as defined in 7 TAC §33.51? If yes, has the institution, acting as an authorized delegate of a MSB entity licensed under Chapter 151 of the TFC, posted the required consumer complaint notice as required in 7 TAC §33.51? *If the notice has not been posted, cite an apparent violation and inform the EIC. Comment on compliance.*

"Authorized delegate" means a person a license holder appoints under TFC Section 151.402 to conduct money transmission on behalf of the license holder. For example, a bank can be an authorized delegate for American Express if they sell American Express traveler's checks.

Note: The institution can post two notices or a combined notice as detailed in Regulatory G.

Comment:

2. Debt Cancellation Contracts or Debt Suspension Agreements

#27 Other Supervisory Issues

2a. If the bank offers Debt Cancellation Contracts (DCCs) or Debt Suspension Agreements (DSAs), determine whether deficiencies were noted in the last state examination and have been addressed and/or corrected by management. Detail how deficiencies were corrected.

If the bank does not offer DCCs or DSAs, indicate in comment section and skip to [Section 4](#).

Comment:

2b. Determine the adequacy of policies, internal audit procedures and controls, and audit coverage (internal/external) for DCCs and DSAs. Refer to [Appendix](#) for guidance on DCCs and DSAs. *(Include copy of DCC and DSA policies in work papers).* Consider the following:

- Do the DCC and DSA policies limit the aggregate volume of contracts?
- Is compliance satisfactory?
- Did the bank's external audit note any weaknesses in this area? *(If weaknesses noted, include copy of audit exception in work papers.)*

Comment:

2c. Review a sample of contracts and determine the following:

- Is the contract optional to the borrower and not tied to the execution of any other transaction, in accordance with 7 TAC 12.33(c)?
- For residential mortgage loans only, does the bank prohibit lump sum, single payments for the contract, in accordance with 7 TAC 12.33(c)(3)(B)?
- Are adequate disclosures given to the borrower in accordance with 7 TAC 12.33(f) and Reg Z?

Comment:

2d. Determine if the bank underwrites the risk of the contracts or utilizes a third party, like an insurance company, to underwrite the risk of the contracts. Complete the applicable section: [Underwritten by Bank](#) OR [Underwritten by Third Party](#).

Underwritten by Bank

Does the aggregate balance of DCCs and DSAs exceed 10% of Tier 1 Capital?

Does management have plans to expand the program beyond 10% of Tier 1 Capital?

Determine the following if either question above is answered "Yes":

1. Did the bank perform an adequate assessment of the risk?
 - For continuing operations, is a risk assessment performed at least annually?

#27 Other Supervisory Issues

(**Note:** Management probably doesn't have the expertise to perform this internally. Generally, the bank should consult an actuary for an assessment of risk. Documentation should include an assessment of mortality rates for death benefits, etc.)

2. Has the bank implemented proper accounting for these products?
 - Based upon the risk assessment, has the bank established adequate reserves for losses or loss of income?
 - Does the bank properly accrue income from these products as it is earned?
 - Has the bank determined the tax consequences to customers?

(**Note:** The accounting for DCCs and DSAs can be complicated. Generally, management should obtain the services of a CPA to help establish procedures.)

3. Based upon this risk assessment, has the bank adequately priced this product to compensate for the risk?

Comment:

Underwritten by Third Party

Does the aggregate balance of DCCs and DSAs exceed 15% of Tier 1 Capital?

Does management have plans to expand the program beyond 15% of Tier 1 Capital?

Determine the following if either question above is answered "Yes":

1. Does the contract with the third-party vendor adequately protect the bank against loss?
2. Did management perform a review of the financial condition of the vendor before entering the contract and every year thereafter?
3. Does the financial condition of the vendor appear to support their ability to honor the contract?
4. Does it appear that the bank has adequately priced the product compared to the cost to the third-party vendor?
5. Has the bank implemented proper accounting for these products?

Comment:

3. Notice To Borrowers

3. Determine whether deficiencies were noted in the last state examination and have been addressed and/or corrected by management. Detail how deficiencies were corrected.

#27 Other Supervisory Issues

Determine compliance with TAC §3.34 regarding Posting Notice in All Financial Institutions Regarding Requirements for Certain Loan Agreements to be in Writing. A sample of loans over \$50,000 should be reviewed. Consult with EIC to determine sample size. *Comment on deficiencies and indicate sample size reviewed.* A copy of the sample notice is found in the [Appendix](#).

Comment:

4. Mortgage Loan – Notice of Penalties for Making False or Misleading Written Statement

4. Determine whether deficiencies were noted in the last state examination and have been addressed and/or corrected by management. Detail how deficiencies were corrected.

Determine compliance with TFC §343.105 Notice of Penalties for Making False or Misleading Statement. All applicants of a 1-4 family, owner occupied residential mortgage loan secured by a manufactured home or dwelling to be used as the borrower's principal residence must sign the Notice at closing.

Consult with EIC to determine sample size from loans originated since the last examination. *Comment on deficiencies and indicate sample size reviewed. Enter sampling information into CENTS.* Refer to [Appendix](#) and Regulatory Guidance 3008 for guidance.

Comment:

5. Credit Life Insurance

5. Determine whether deficiencies were noted in the last state examination and have been addressed and/or corrected by management. Detail how deficiencies were corrected

If the bank has loans (direct and indirect) with credit life insurance, determine if there are adequate policies and procedures in place to ensure that when a loan with credit life insurance is adjusted or terminated that (1) the credit life insurance company is notified within 60 days of the termination or change, and (2) the borrower is refunded any unused premium amount. Refer to TFC §342.409 and Insurance Code §1153.202 in the [Appendix](#).

Comment:

6. Closed Account Notification System and Reporting to Check Verification Entities

6a. Confirm with the EIC whether the bank has enrolled in the Departments' secure Closed Account Notification System (CANS). See the EDISON VERIFICATION FORM. If enrolled, verify the list of contacts for the bank. Questions regarding enrollment should be directed to the Director of DSS. Refer to the [Appendix](#) for more information on CANS.

Comment:

6b. If the bank has submitted closed account information through the Department's secure system (per the EDISON VERIFICATION FORM), determine compliance with TAC §35.54 (sworn statement requirements); and TAC §35.55 (written authorization requirements). A model form for

#27 Other Supervisory Issues

the [sworn statement](#) is provided on the Department's website on the Applications-Forms page. Questions regarding differences between the EDISON form and bank records should be directed to the Director of DSS.

Comment:

7. Dormant Accounts and Unclaimed Property

7a. Determine whether deficiencies in dormant accounts or escheat were noted in the last state examination and most recent internal/external audit and whether these have been addressed and/or corrected by management. Detail how deficiencies were corrected. *Include a copy of audit exceptions and/or prior examination criticisms and management response in work papers or summarize exceptions/criticisms below, if applicable.*

Comment:

7b. Determine whether the bank's internal or external audit program includes a review of the bank's compliance with applicable state law regarding submitting unclaimed property to the Texas Comptroller of Public Accounts.

Comment:

7c. Describe the bank's practices regarding dormant demand deposits, savings, CDs, and IRAs. Include:

1. What classifies an account as inactive or dormant / when are deposit accounts classified as inactive or dormant?
2. How long must an account be inactive or in dormant status before service charges are discontinued?
3. If there is a monthly or one-time charge for inactive accounts, what is the amount of such charges?
4. Are inactive accounts segregated and placed under special control procedures?
5. What steps are taken to contact dormant account owners or designated representative (if appropriate [form](#) was provided to the bank after September 1, 2017)?

Review for compliance with [TPC, Unclaimed Property, Chapter 73](#). Comment on compliance with §73.003.

If a customer provides the bank with the Designation of Representative for Notice Request form, as provided in TPC §72.1021 and §73.103, determine compliance with TPC [§74.1011](#). Comment on compliance.

Comment:

#27 Other Supervisory Issues

7d. Review the bank's account maintenance report of accounts that went from dormant status to active status in the last 12 months. Does the data appear reasonable? Determine what settings will change the status of an account from active to dormant. Determine what settings will change the status of an account from dormant to active. Determine who has the ability to change the settings, who can access these accounts, and who reviews the daily account maintenance report.

Comment:

7e. Regarding safe deposit boxes, describe the bank's practices regarding delinquent payments, inactive or presumed abandoned safe deposit boxes, and escheat procedures.

- Determine compliance with TPC §74.1011 if a designated representative form was provided to the bank (after September 1, 2017).
- Determine if any unsold contents of the box and any excess proceeds from a sale of contents are remitted to the comptroller as provided by Chapters 72-75 of the TPC.

Comment:

7f. Determine if the bank escheats dormant property to the State Comptroller as required by TPC Chapter 72 Abandonment of Personal Property. Describe the procedures followed by the bank relating to escheating property. For additional guidance, refer to the Appendix.

Comment:

7g. Determine when the institution last filed the property report (TPC §74.101) and remitted unclaimed funds (TPC §74.301) to the State. Determine if the report was filed by the bank or the bank holding company, if applicable. *Include copy of most recent report in the work papers. Per §74.101, the report shall be filed on or before July 1. Refer to Chapter 74 of the TPC.*

Comment:

7h. Determine if any unclaimed property not previously reported appears to be subject to remittance to the Comptroller. If not compliant with the TPC, provide the bank's reason for not reporting the property.

Comment:

7i. Determine if the bank complies with TPC §74.103 Retention of Records which requires the bank to retain records for 10 years from the date the property is reportable.

Comment:

8. Final Analysis

8. Complete the Summary of Findings page.

SUMMARY OF FINDINGS

#27- OTHER SUPERVISORY ISSUES

Describe all strengths evident from the evaluation.

Describe all weaknesses evident from evaluation, including violations of law/regulation/rules; noncompliance with Departmental policies/guidelines; internal policy deficiencies/ noncompliance; internal control weaknesses; MIS problems; and deficiencies in management supervision.

Determine why weaknesses exist and comment on management's response and plan of action. Identify bank personnel making the response.

SUMMARY RISK RATING ASSIGNED: Choose a rating

Provide copy of this page to EIC/AEIC. Receipt and review of this form by the EIC/AEIC will be evidenced by his/her initials in the appropriate column for this procedure on the SCOPE FORM.

[Return to Core Analysis](#)

APPENDIX

Debt Cancellation Contracts or Debt Suspension Agreements

Debt cancellation contracts, or DCCs, provide that all or part of a borrower's debt will be canceled upon some triggering event. For instance, if the borrower dies, the bank loan could be partially or wholly paid off under the terms of this contract. Debt suspension agreements, or DSAs, provide that a borrower's repayment obligation on a loan will be suspended upon some triggering event. For example, the borrower's loan payments may be suspended under the terms of this contract if he/she is disabled or unemployed. When the borrower is no longer disabled or unemployed, the payments resume. The borrower usually pays a fee for DCCs and DSAs. Banks normally sell these products under two different risk scenarios: the bank underwrites the risk; or the bank contracts with a third-party vendor, like an insurance company, to underwrite the risk. DCCs and DSAs are not considered credit insurance, though they have some characteristics of insurance. There are a number of safety and soundness concerns that must be addressed before a bank enters into these types of contracts. Adequate policies, procedures, and management expertise should be established. Accounting issues such as loss potential, reserves for losses, and IRS implications for borrowers must be considered. Finally, regulatory compliance with consumer disclosures should be assured.

[Return to Core Analysis](#)

NOTICE TO BORROWERS – TAC §3.34

TEXAS ADMINISTRATIVE CODE

§3.34. Posting of Notice in All Financial Institutions Regarding Requirements for Certain Loan Agreements To Be in Writing.

- (a) Pursuant to the Business and Commerce Code, §26.02, all financial institutions must conspicuously post notices informing borrowers of the requirements that certain loan agreements be in writing. Additionally, the finance commission is required to prescribe the language to be used in the notice. This section provides the language for the notice and clarifies the manner and location of the notice within the financial institutions so as to fully inform borrowers of the requirements.
- (b) Each financial institution shall post in the public lobby of each of its offices other than off-premises electronic deposit facilities, the public notice set forth in this subsection.

>> see Notice below<<
- (c) The finance commission shall provide the preceding notice in dimensions and print which it determines is appropriate to fully inform borrowers of the requirements of the Business and Commerce Code, §26.02.

Source: *The provisions of this §3.34 adopted to be effective February 14, 1990, 15 TexReg 485; amended to be effective March 9, 2006, 31 TexReg 1643*



NOTICE TO BORROWERS
CERTAIN LOAN AGREEMENTS
MUST BE IN WRITING

TEXAS LAW (Section 26.02, Business and Commerce Code) requires that all financial institutions conspicuously post notices summarizing requirements that loan agreements be in writing. You should know that:

- An agreement, promise, or commitment to loan more than \$50,000 **MUST BE IN WRITING AND SIGNED BY THE LENDER OR IT WILL BE UNENFORCEABLE.**
- The written loan agreement will be the **ONLY** source of rights and obligations for agreements to lend more than \$50,000.
- Oral agreements relating to loans over \$50,000 are **NOT EFFECTIVE** either to establish a commitment to lend or to vary the terms of a written loan agreement.

As part of the documentation required for loans over \$50,000, **BORROWERS MUST BE PROVIDED AND MUST SIGN A NOTICE** conspicuously stating that:

THIS WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

The notice set forth above, which must be signed by both the borrower and the financial institution, can be in a separate document or incorporated in one or more of the documents constituting the loan agreement. The notice must be in type that is boldfaced, capitalized, underlined or otherwise set out from surrounding written material so as to be conspicuous.

[Return to Core Analysis](#)

Mortgage Loan Fraud

TFC §343.105 Notice of Penalties for Making False or Misleading Statement became effective on September 1, 2007. The Texas Legislature passed this legislation in an effort to reduce mortgage loan fraud which has been rising consistently over the years. The Department issued Regulatory Guidance 3008 (RG3008) on January 14, 2008 which addresses the requirements for compliance and the establishment of the Texas Mortgage Fraud Task Force., which was abolished on September 1, 2017 by the Texas Legislature through Senate Bill 526. A sample “Notice” is included as an attachment to RG3008 which can be found in the Law and Guidance Manual and on the Department’s website.

All applicants of a 1-4 family, owner occupied residential mortgage loan secured by a manufactured home or dwelling to be used as the borrower’s principal residence must sign the Notice at closing.

Texas Finance Code 343.001. Definitions.(2).

(2) "Home loan" means a loan that is:

- (A) made to one or more individuals for personal, family, or household purposes; and
- (B) secured in whole or part by:

- (i) a manufactured home, as defined by Section [347.002](#), used or to be used as the borrower's principal residence; or
- (ii) real property improved by a dwelling designed for occupancy by four or fewer families and used or to be used as the borrower's principal residence.

TEXAS FINANCE CODE

§343.105. NOTICE OF PENALTIES FOR MAKING FALSE OR MISLEADING WRITTEN STATEMENT.

- (a) A lender, mortgage banker, or licensed mortgage broker shall provide to each applicant for a home loan a written notice at closing.
- (b) The notice must:
 - (1) be provided on a separate document;
 - (2) be in at least 14-point type; and
 - (3) have the following or substantially similar language:

"Warning: Intentionally or knowingly making a materially false or misleading written statement to obtain property or credit, including a mortgage loan, is a violation of Section 32.32, Texas Penal Code, and, depending on the amount of the loan or value of the property, is punishable by imprisonment for a term of 2 years to 99 years and a fine not to exceed \$10,000.

"I/we, the undersigned home loan applicant(s), represent that I/we have received, read, and understand this notice of penalties for making a materially false or misleading written statement to obtain a home loan.

"I/we represent that all statements and representations contained in my/our written home loan application, including statements or representations regarding my/our identity, employment, annual income, and intent to occupy the residential real property secured by the home loan, are true and correct as of the date of loan closing."
- (c) On receipt of the notice, the loan applicant shall verify the information and execute the notice.
- (d) The failure of a lender, mortgage banker, or licensed mortgage broker to provide a notice complying with this section to each applicant for a home loan does not affect the validity or enforceability of the home loan by any holder of the loan.

Added by Acts 2007, 80th Leg., R.S., Ch. 285, § 1, eff. September 1, 2007.

[Return to Core Analysis](#)

Credit Life Insurance Refund Requirements

Banks must comply with TFC §342.409 and Insurance Code §1153.202 regarding the refund of credit life insurance if the debt is adjusted or terminated. The Insurance Code §1153.202 states that the holder of a note that has terminated prior to original termination date, shall be responsible for notifying the insurance company in order that the insurance policy be cancelled and the customer is given the appropriate refund.

TEXAS FINANCE CODE

§ 342.409. LENDER'S DUTY IF INSURANCE IS ADJUSTED OR TERMINATED.

(a) If insurance for which a charge is included in or added to the loan contract is canceled, adjusted, or terminated, the lender shall:

(1) credit to the amount unpaid on the loan the amount of the refund received by the lender for unearned insurance premiums, less the amount of the refund that is applied to the purchase by the lender of similar insurance; and

(2) if the amount to be credited under Subdivision (1) is more than the unpaid balance, refund promptly to the borrower the difference between those amounts.

(b) A cash refund is not required under this section if the amount of the refund is less than \$1.

Amended by Acts 1999, 76th Leg., ch. 62, § 7.19(a), eff. Sept. 1, 1999.

INSURANCE CODE

§ 1153.202. REFUND OF INSURANCE CHARGE ON TERMINATION OF DEBT OR INSURANCE; FILING OF FORMULA.

(a) Each individual policy or group policy and group certificate must include a written notice stating that:

(1) if the underlying debt or the insurance terminates before the originally scheduled termination date of the insurance, including the termination of a debt by renewing or refinancing the debt, the debtor shall be entitled to a refund of unearned premium; and

(2) in the event that the underlying debt or the insurance terminates before the originally scheduled termination date of the insurance, including the termination of a debt by renewing or refinancing the debt, the person who is the holder of the underlying debt instrument on the date the debt terminates shall, no later than 60 days after the termination of the insurance, provide notice to the insurer of the termination of the debt, that includes the name and address of the insured and the payoff date of the underlying debt.

(a-1) The refund of any amount of unearned premium paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled to the refund no later than 30 days after receipt of the notice required to be sent to the insurer under Subsection (a)(2).

(a-2) In any claim or action asserted by an insured against an insurer for failure to refund any unearned premium in accordance with this section, the insurer shall be entitled to indemnity from a holder who failed to provide the notice required under Subsection (a)(2).

(b) A refund is not required if the amount of the refund is less than \$3.

(c) The formula to be used in computing the refund of the amount paid by or charged to the debtor for insurance if the underlying debt or the insurance terminates before the scheduled maturity date of the debt must be filed with and approved by the commissioner.

Added by Acts 2001, 77th Leg., ch. 1419, § 2, eff. June 1, 2003; Amended by Acts 2007, 80th Leg., R.S., Ch. 502, § 1, eff. September 1, 2007.

[Return to Core Analysis](#)

Check Verification Entities

TFC §11.309 required the banking commissioner to establish an electronic notification system, through secure e-mail or another secure system, to be used by a financial institution to notify check verification entities as required by Section 523.052, Business & Commerce Code. The Department created a system, called **CANS – Closed Account Notification System**.

Section §523.052 of the Business & Commerce Code requires financial institutions such as banks and credit unions operating in Texas to submit information, at the request of their customer, concerning suspected compromised deposit accounts to a secure electronic notification system which then alerts all of the major check verification companies to the potential fraudulent activity.

Specifically, the customer should request that the account be closed and that a notice be sent to all major check verification companies simultaneously through an electronic notification system. The customer must: (1) provide to the bank either a copy of the incident or case number of the police report filed by the victim, (2) sign a sworn statement confirming that the customer is a victim of identity theft, and (3) sign a written authorization permitting the financial institution to submit the account information to the secure electronic notification system (CANS). A model form that combines the sworn statement and the written authorization for use by financial institutions is provided on the Department's website under the [Check Verification Entities](#) section of the Applications & Forms page.

CANS – CLOSED ACCOUNT NOTIFICATION SYSTEM

CANS, the Closed Account Notification System, is a secure system on the Department's website accessible only to those check verification entities and all financial institutions operating in Texas that have enrolled in the system.

Banks are strongly encouraged to offer this service to their customers. Participation is required if a customer provides a written authorization to submit the information to the electronic notification system for secure distribution to check verification entities.

The Director of DSS maintains a listing of each bank's staff enrolled with access to CANS.

BUSINESS & COMMERCE CODE

§523.052. NOTIFICATION TO CHECK VERIFICATION ENTITIES THAT CUSTOMER IS VICTIM OF IDENTITY THEFT.

(a) In this section:

(1) "Check verification entity" means a consumer reporting agency that compiles and maintains, for businesses in this state, files on consumers on a nationwide basis regarding the consumers' check-writing history.

(2) "Financial institution" means a bank, savings association, savings bank, or credit union maintaining an office, branch, or agency office in this state.

(b) A financial institution shall submit the information as required by Subsection (c) if a customer notifies the financial institution that the customer was a victim of an offense under Section 32.51, Penal Code, requests that the financial institution close an account that has been compromised by the alleged offense, and presents to the financial institution:

(1) a copy of a police report of an offense under Section 32.51, Penal Code;

(2) a sworn statement by the person that the person was the victim of an offense under that section; and

(3) written authorization to submit the information required by Subsection (d) to the electronic notification system established under Section 11.309, Finance Code, for secure distribution to check verification entities.

(c) A financial institution that receives the documents required by Subsection (b), not later than the second

business day after the date the customer provides the documents to the financial institution, shall submit the information required by Subsection (d) to the electronic notification system established under Section 11.309, Finance Code.

(d) The information submitted by a financial institution under Subsection (c) must include:

- (1) the customer's name, address, phone number, date of birth, and driver's license number or government-issued identification number;
- (2) the financial institution account number of any account that has been compromised by the alleged offense and has been closed in response to the alleged offense;
- (3) the financial institution routing number; and
- (4) the number on any check that has been lost, stolen, or compromised.

(e) A check verification entity shall maintain reasonable procedures, in accordance with rules adopted by the finance commission, to prevent the check verification entity from recommending acceptance or approval of a check or similar sight order drawn on an account identified in the notification if:

- (1) the check verification entity receives notification through the electronic notification system; or
- (2) a customer presents to the check verification entity:
 - (A) a copy of a police report of an offense under Section 32.51, Penal Code;
 - (B) a sworn statement by the person that the person was the victim of an offense under that section and that the person has requested that the financial institution close any account that has been compromised by the alleged offense; and
 - (C) the information described by Subsection (d).

(f) A financial institution or check verification entity, or an officer, director, employee, or agent of the institution or entity, is not liable for damages resulting from providing the notification required by Subsection (c) or failing to recommend acceptance or approval of a check or similar sight order under Subsection (e).

(g) The Finance Commission of Texas may adopt rules:

- (1) to implement this section;
- (2) to institution, or check verification entity under this clarify the duties and responsibilities of a customer, financial section; and
- (3) to specify how an erroneous notification may be withdrawn, amended, or corrected.

Added by Acts 2007, 80th Leg., R.S., Ch. 1044, Sec. 1, eff. September 1, 2007. Transferred from Business and Commerce Code, Section 35.595 by Acts 2009, 81st Leg., R.S., Ch. 87, Sec. 4.011(c), eff. September 2, 2009.

[Return to Core Analysis](#)

Unclaimed Property and Escheat

The escheatment of unclaimed property falls under the TPC, Title 6- Unclaimed Property, (Chapters 72-76).

The Property code is available on the [Texas Constitution and Statutes](#) website.

[Unclaimed Property Reporting Details](#)

Unclaimed property is simply personal property, both tangible and intangible, belonging to a missing owner. It is presumed abandoned and subject to reporting to the State if, for longer than the applicable abandonment period:

- the location of the owner is unknown to the holder of the property; and
- according to the knowledge and records of the holder, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

Abandonment Period

Depository Accounts: Abandonment period is measured from the date of last customer activity and/or contact. Positive, documented contact between the bank and the owner is required for keeping an account in active status. Change of address notifications, payments on loans, activity in other accounts belonging to the same owner are all valid types of contact. Automatic deductions of safe deposit box rental, automatic interest deposits from one account to another, statement mailings, and internally generated file/account maintenance are types of **invalid** updates.

CDs – The abandonment period begins to run on the initial maturity date. In the case of automatically renewable CDs, the first maturity date is used.

IRAs – The abandonment period begins to run on the mandatory distribution date which, under federal law, is April 1 in the calendar year following the year in which the owner reached the age of 70 ½. If the owner is known to have died before that date, the abandonment period commences at the date of death if the existence or whereabouts of any beneficiaries are unknown.

Outstanding Checks - The abandonment period for an outstanding check is normally measured from the issue date.

Safe Deposit and Safekeeping - The abandonment period begins to run on the date the rental payment was due but not paid.

Collateral on fully-paid loans - The abandonment period is measured from the date the associated loan was paid off.

Stored Value Cards – The abandonment period is the earlier of:

- (1) the card's expiration date;
- (2) the third anniversary of the date the card was issued, if the card is not used after it is issued, or the date the card was last used or value was last added to the card; or
- (3) the first anniversary of the date the card was issued, if the card is not used after it is issued, or the date the card was last used or value was last added to the card, if the card's value represents wages, as defined by Section 61.001, Labor Code.

TYPE OF PROPERTY	REPORT IF INACTIVE FOR:
Wages	1 YR
Demand Deposit Accounts	3 YRS
Savings Accounts	3 YRS
Certificates of Deposit	3 YRS
Individual Retirement Accounts	3 YRS
Safe Deposit Box Contents	5YRS
Safekeeping Items	3 YRS
Loan Collateral	3 YRS
Cashier's Checks	3 YRS
Certified Checks	3 YRS
Registered Checks	3 YRS
Treasurer's Checks	3 YRS
Drafts	3 YRS
Warrants	3 YRS
Foreign Exchange	3 YRS
Dividend	3 YRS
Trust	3 YRS
Other Official Checks or Exchange Items	3 YRS
Expense Checks	3 YRS
Interest Checks	3 YRS
Travelers Checks	15 YRS
Money Orders	3 YRS
Stored Value Card	3 YRS

[Return to Core Analysis](#)