

## **BILL ANALYSIS**

H.B. 2007  
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Financial Institutions  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The "dual banking system" refers to the parallel state and federal structures for the chartering, supervision, and regulation of depository institutions. It encompasses the powers, activities, and competitiveness of banks as well as the powers, policies, and institutional structure of the bank regulatory agencies at the state and federal levels. The dual banking system contains an inherent competitive dynamic that causes both federal and state bank regulators to be flexible and innovative in order to retain their regulated constituents, in that it is not possible for one banking agency to exercise a regulatory monopoly to create and enforce a single industry cartel. This dynamic has produced a decentralized and unconcentrated banking system and a tradition of innovation in bank regulation. Federal and state regulatory components have each played a creative role in helping the banking industry to adapt to changing competitive conditions.

One important feature of the dual banking system has been a relative balance between the state and national systems, both in numerical terms and in the perception among bankers of the relative attractiveness of the two types of charters. Therefore, maintenance of the dual banking system requires constant attention to issues of competitive and regulatory parity among charters.

H.B. 2007 enhances the state charter and modernizes state regulation by addressing:

- opportunities for improving financial literacy of Texas citizens;
- flexibility in examination scheduling to preserve competitive and regulatory parity with other depository institutions;
- simplification of legal limit calculations on loans and investments;
- bank ownership of nominally valued, nonworking mineral or royalty interests;
- types of deposit accounts that can be secured by pledging bank assets; and
- authority of the department of banking to facilitate financial system restoration after a natural disaster or other emergency.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Finance Commission in SECTION 2 of this bill.

### **ANALYSIS**

H.B. 2007 amends the Finance Code to require the department to seek to improve the financial literacy and education of Texas residents, and to encourage access to mainstream financial products and services by persons who have not previously participated in the conventional finance system. The bill directs the department of banking to encourage and assist banks in developing programs for their local communities, in cooperation with other agencies and nonprofit foundations. The bill authorizes the department of banking to seek and accept gifts, grants, and donations for this purpose. The bill authorizes the finance commission to adopt rules specifying guidelines for the frequency of examination of state banks.

The bill permits legal loan and investment limits to be readily calculated based on a bank's quarterly call report, by deleting the concept of "capital and certified surplus" as a measurement tool and replacing it with "unimpaired capital and surplus," similar to existing federal law.

The bill permits state banks to hold nonworking mineral or royalty interests by classifying the interests as personal property instead of real property for bank regulatory purposes, but only if the interests were acquired for debts previously contracted and are of nominal value on the

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financial statements. The bill requires the banking commissioner to make a prior determination that the possession of such rights and interests is not inconsistent with the safety and soundness of the state bank, and authorizes the banking commissioner to order divestiture of such interests based on a determination that continued ownership is detrimental to the state bank.

The bill empowers a state bank to pledge collateral to secure a deposit made by:

- any state or an agency, political subdivision, or instrumentality of any state;
- the United States or an agency or instrumentality of the United States;
- any federally recognized Indian tribe; or
- another entity to the same extent and subject to the same limitations as may be authorized by the law of this state or of the United States for any other depository institution doing business in this state.

H.B. 2007 amends the Finance Code by adding Sections 37.007 and 37.008, relating to recovery from a natural disaster or other emergency. Section 37.007 authorizes the banking commissioner to approve temporary branch offices or other facilities as required for prompt restoration of public access to banking services, including interstate facilities. Section 37.008 authorizes the banking commissioner to enter into cooperative, coordinating, or information sharing agreements with other state and federal agencies and with affected banks and banking trade associations, and to temporarily waive legal restrictions and expedite or suspend application procedures in the Finance Code, to aid in rapid restoration of banking services after an emergency. The bill also requires the banking commissioner's to coordinate and cooperate with and assist the office of the governor in the performance of the larger duties of that office under other state or federal law, as required by Section 421.071, Government Code.

#### **EFFECTIVE DATE**

September 1, 2007