

BILL ANALYSIS

C.S.H.B. 2754
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Financial Institutions
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Financial institutions are subject to extensive regulation for the purpose of ensuring safe and sound operations and the protection of customer funds. In addition to being subject to regular examination, banks and trust companies must file applications for prior regulatory approval for a variety of activities. The collective weight of regulation is commonly referred to as "regulatory burden," and it is the objective of good government to minimize regulatory burden to the extent possible without jeopardizing safety and soundness oversight.

C.S.H.B. 2754 addresses efficiency and effectiveness of the corporate application and filing process at the department of banking with respect to state banks and trust companies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Finance Commission in SECTIONS 5, 6, 8, 14, 15, and 17 of this bill.

ANALYSIS

C.S.H.B. 2754 amends the Finance Code to require that subscriptions for stock in a state bank or trust company in formation must be irrevocable before the articles of association are filed with the department of banking.

C.S.H.B. 2754 clarifies that certain documents in the application file for a new state bank or trust company charter are confidential and not subject to public disclosure, specifically the investigation report of the department of banking, the business plan of the applicant, and the financial statements of proposed officers and directors.

C.S.H.B. 2754 requires a person protesting the formation of a new state bank or trust company to file a detailed protest responding to each contested statement in the application for charter, and relate each such statement and response to the statutory standards for approval. The bill provides that the banking commissioner cannot be compelled to hold a hearing prior to granting or denying the charter, but may do so in the exercise of discretion. A request for hearing made by a party must specifically indicate the issues involved that cannot be determined on the basis of the documentary record.

C.S.H.B. 2754 exempts from prior regulatory approval a change in capital of a state bank or trust company caused by a direct cash injection by shareholders without the corresponding issuance of additional shares of stock, and a "book" accounting adjustment required by Generally Accepted Accounting Principles if the corporate transaction that causes the adjustment is subject to prior application and approval of the banking commissioner and the required adjustments are reasonably disclosed in the application.

C.S.H.B. 2754 eliminates the publication and subsequent filing requirement applicable to certain mergers of state banks and trust companies. The bill authorizes the finance commission to adopt rules specifying the confidential or nonconfidential character of information contained in an application for change of control of a state bank or trust company.

C.S.H.B. 2754 eliminates the requirement for filing duplicate copies of certain dissolution documents with the department of banking. The bill requires a state bank to obtain the prior approval of the banking commissioner to engage in an asset purchase or sale transaction if the

C.S.H.B. 2754 80(R)

transaction price exceeds an amount equal to three times the purchasing bank's unimpaired capital and surplus. The bill authorizes the finance commission to create additional risk measures by rule that would require an application to be filed. If approval of the banking commissioner is not required but the sale would involve the disposition of a branch or other bank office accessible to the public, the bill requires the state bank to notify the banking commissioner in writing at least 30 days prior to the expected closing date of the sale.

C.S.H.B. 2754 requires a state trust company to obtain the prior approval of the banking commissioner to engage in an asset purchase or sale transaction if the transaction price exceeds an amount equal to three times the trust company's equity capital less intangible assets. The bill authorizes the finance commission to create additional risk measures by rule that would require an application to be filed.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2754 amends the language for banking institutions to read: "specify other circumstances under which the prior written approval of the banking commissioner is required to sell assets" and substitute "require a state bank to obtain the prior written approval of the banking commissioner for a transaction not otherwise subject to approval that involves potentially substantial risks to safety and soundness of the selling bank." The language is amended in two sections of the bill, on page 7, lines 11-12 and page 8, lines 2-4.

C.S.H.B. 2754 amends the language for trust companies to read: "specify other circumstances under which the prior written approval of the banking commissioner is required to purchase assets" and substitute "require a state trust company to obtain the prior written approval of the banking commissioner for a transaction not otherwise subject to approval that involves potentially substantial risks to safety and soundness of the purchasing trust company." The language is amended in two sections of the bill, on page 18, lines 6-7 and page 20, lines 3-4.