

## BILL ANALYSIS

Senate Research Center  
81R10957 JE-F

S.B. 2238  
By: Zaffirini  
Business & Commerce  
5/14/2009  
As Filed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Department of Banking, the Texas Department of Savings and Mortgage Lending, the Office of Consumer Credit Commission, and the Credit Union Commission and Department collect fees and assessments from the entities that they supervise. These fees and assessments are then collected by the state and then appropriated back to the agencies from the General Revenue.

This bill removes the Texas Department of Banking, the Texas Department of Savings and Mortgage Lending, the Office of Consumer Credit Commission, and the Credit Union Commission and Department from the appropriations process, and essentially cuts out the "middle man." This in turn would allow these agencies greater flexibility in keeping talented and expertly trained employees who leave for more lucrative federal positions.

As proposed, S.B. 2238 amends current law relating to revenue and expenses of certain financial regulatory agencies.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.105, Finance Code, by adding Subsections (a-1) and (a-2) and amending Subsection (b), as follows:

(a-1) Requires that all money paid to the Texas Department of Banking (TDB) be retained by TDB and deposited in a special fund created outside the state treasury to be administered by TDB and known as the Department of Banking expense fund. Provides that no money paid to TDB is authorized to be paid into the state treasury. Authorizes money in the fund to be used only for the administration of this chapter, Chapters 11 (Finance Commission of Texas) and 13 (Department of Savings and Mortgage Lending), and Subtitle A (Banks), Title 3 (Financial Institutions and Businesses), and to pay the expenses of TDB.

(a-2) Prohibits any expense incurred by TDB from being charged against the general revenue fund.

(b) Requires the state auditor to annually conduct an audit of the receipts and expenditures of TDB. Requires that the costs of an audit of TDB under Chapter 321 (State Auditor), Government Code, be paid to the state auditor from the money of TDB.

SECTION 2. Amends Subchapter B, Chapter 12, Finance Code, by adding Sections 12.1055 and 12.1056, as follows:

Sec. 12.1055. FISCAL YEAR. Provides that TDB's fiscal year begins on September 1 and ends on August 31.

Sec. 12.1056. BUDGET; REPORT. (a) Requires the Finance Commission of Texas (finance commission) to adopt a budget annually using generally accepted accounting

principles that directs the purposes for which and prescribes the amounts in which the fees and revenues of TDB may be expended.

(b) Requires the finance commission to submit to the governor, lieutenant governor, comptroller of public accounts (comptroller), and speaker of the house of representatives a report showing the receipts and expenditures of TDB for the preceding fiscal year, not later than December 1 of each year.

SECTION 3. Amends Section 13.005(b), Finance Code, as follows:

(b) Requires the finance commission to determine the number of employees of the Department of Savings and Mortgage Lending (SML) and the salaries of those employees. Deletes existing text providing that Chapter 654 (Position Classification), Government Code, applies to a position of SML only if it is classified in salary groups 1-10 under the General Appropriations Act; authorizing the legislature in the General Appropriations Act to determine the total amount appropriated to SML but prohibiting it from determining the number or salaries of employees other than the positions specifically subject to Chapter 654, Government Code, as provided by this section; requiring the finance commission, subject to the limits provided by this section, to otherwise determine the number of employees of SML and the salaries of those employees; and authorizing SML to use money appropriated to it for any purpose to pay the salaries determined by the finance commission.

SECTION 4. Amends Section 13.008, Finance Code, by adding Subsections (a-1) and (a-2) and amending Subsections (b) and (c), as follows:

(a-1) Requires that all money paid to SML be retained by SML and deposited in a special fund created outside the state treasury to be administered by SML and known as the Department of Savings and Mortgage Lending expense fund. Prohibits any money paid to SML from being paid into the state treasury. Authorizes money in the fund to be used only for:

(1) the administration of Subtitles B (Savings and Loan Associations) and C (Savings Banks), Title 3 (Financial Institutions and Businesses), and Chapters 156 (Mortgage Brokers) and 157 (Registration of Mortgage Brokers);

(2) the support of the finance commission as provided by Subchapter C (Staff and Expenses), Chapter 11 (Finance Commission of Texas); and

(3) to pay the expenses of SML.

(a-2) Prohibits any expense incurred by SML from being charged against the general revenue fund.

(b) Requires the savings and mortgage lending commissioner to:

(1) collect all fees, penalties, charges, and revenue required to be paid by state savings associations, savings banks, and persons regulated under Chapters 156 and 157; and

(2) periodically submit to the finance commission, as directed by the finance commission, a complete report of the receipts and expenditures of SML. Makes nonsubstantive changes.

(c) Requires the state auditor to annually conduct an audit of the receipts and expenditures of SML. Requires that the cost of an audit of SML under Chapter 321, Government Code, be paid to the state auditor from the money of SML.

SECTION 5. Amends Chapter 13, Finance Code, by adding Sections 13.0085 and 13.0086, as follows:

Sec. 13.0085. FISCAL YEAR. Provides that the fiscal year of SML begins on September 1 and ends on August 31.

Sec. 13.0086. BUDGET; REPORT. (a) Requires the finance commission to adopt a budget annually using generally accepted accounts principles that directs the purposes for which and prescribes the amounts in which the fees and revenues of SML are authorized to be expended.

(b) Requires the finance commission, not later than December 1 of each year, to submit to the governor, lieutenant governor, comptroller, and speaker of the house of representatives a report showing the receipts and disbursements fo SML for the preceding fiscal year.

SECTION 6. Amends Sections 14.053(a) and (c), Finance Code, as follows:

(a) Entitles each officer and employee of the Office of Consumer Credit Commissioner to compensation in an amount set by the finance commission. Requires that the compensation be paid from the money of the office. Deletes existing text providing that the Chapter 654 (Position Classification), Government Code, applies to an office position only if the position is classified in salary groups 1-10 under the state's position classification plan in effect on January 1, 1989, or a comparable position under a successor plan.

(c) Requires the finance commission, subject to the limits provided by this subchapter, to determine the number of employees of the office, rather than the number of employees of the office in exempt positions, and the salaries of those employees.

SECTION 7. Amends Subchapter B, Chapter 14, Finance Code, by adding Sections 14.0595, 14.0596, and 14.0605, as follows:

Sec. 14.0595. FEES, REVENUE, AND EXPENSES. (a) Requires that all money paid to the office be retained by the office and deposited in a special fund created outside the state treasury to be administered by the office and known as the Office of Consumer Credit Commissioner expense fund. Prohibits any money paid to the office from being paid into the state treasury. Authorizes money in the fund to be used only for the administration of this chapter, Subtitles B (Loans and Financed Transactions) and C (Pawnshops), Title 4 (Regulation of Interest, Loans, and Financed Transactions), and Chapter 394 (Debtor Assistance), and to pay the expenses of the office.

(b) Prohibits any expense incurred by the office from being charged against the general revenue fund.

Sec. 14.0596. FISCAL YEAR. Provides that the office's fiscal year begins on September 1 and ends on August 31.

Sec. 14.0605. BUDGET; REPORT. (a) Requires the finance commission to adopt a budget annually using generally accepted accounting principles that directs the purposes for which and prescribes the amounts in which the fees and authorizes the revenues of the office to be expended.

(b) Requires the finance commission, not later than December 1 of each year, to submit to the governor, lieutenant governor, comptroller of public accounts, and speaker of the house of representatives a report showing the receipts and disbursements of the office for the preceding fiscal year.

SECTION 8. Amends Section 14.061, Finance Code, as follows:

Sec. 14.061. New heading: AUDIT. (a) Requires the state auditor to annually conduct an audit of the receipts and expenditures of the office.

(b) Creates this subsection from existing text.

SECTION 9. Repealers: Sections 12.103(a) (relating to Chapter 654, Government Code, applying to a department position under certain circumstances), (b) (relating to authorizing the legislature in the General Appropriations Act to determine the total amount appropriated to the department), and (d) (relating to authorizing the department to use money appropriated to it for any certain purpose), Finance Code.

Repealers: Sections 14.053(b) (relating to authorizing the legislature in the General Appropriations Act to determine the total amount appropriated to the office), (d) (relating to authorizing the office to use money appropriated to it for any certain purpose), and (e) (relating to prohibiting an employee of the office in an exempt position other than the commissioner from receiving a salary that exceeds a certain amount), Finance Code.

Repealer: Section 14.060 (Financial Oversight), Finance Code.

SECTION 10. Effective date: September 1, 2010.