

BILL ANALYSIS

S.B. 1008
By: Carona
Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Department of Savings and Mortgage Lending is the state agency that charters and administers state savings and loan associations and state savings banks. Interested parties contend that current provisions of the Texas Savings and Loan Act and the Texas Savings Bank Act contain outdated references and may impose an unnecessary regulatory constraint on state savings institutions regarding certain types of commercial lending. In addition, these parties observe that state savings and loan associations are currently afforded the protection of a statutory penalty for criminal slander but that such protection is not as robust as that provided to other state chartered financial institutions and is not currently provided at all for state savings banks.

S.B. 1008 seeks to enhance regulatory oversight of state savings institutions by updating outdated statutory references, enhancing the qualifications of the commissioner of the department, eliminating certain regulatory provisions that some consider unnecessary, and updating protections against criminal slander.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1008 amends the Finance Code to reduce from seven to five the years of experience in the executive management of a savings association or savings bank or in savings association or savings bank supervision required of the savings and mortgage lending commissioner and to additionally require such experience to have occurred during the 10 years preceding the commissioner's appointment.

S.B. 1008 updates references to certain banking agencies in statutory provisions regulating savings and loan associations and savings banks. The bill removes a specification that the blanket indemnity bond protecting an association from loss by or through dishonest criminal action or omission by an officer or employee of the association or certain directors of the association required to be maintained by a savings and loan association be maintained on file with the savings and mortgage lending commissioner.

S.B. 1008 requires the commissioner to promptly report to the Finance Commission of Texas the existence of a supervisory order issued to an association under statutory provisions prescribing enforcement and regulation by the Department of Savings and Mortgage Lending and the commissioner but to maintain the confidentiality of the content of the order, rather than requiring the commissioner on issuance of the order to report promptly to the finance commission and in a closed meeting to furnish any information, to remain confidential, about the association or the person that is the subject of the order that the commission members may require. The bill removes an offense committed against a federal association from provisions prescribing the

offense of criminal slander and removes from conditions that constitute any criminal slander offense committing the offense with intent to injure an association in Texas. The bill adds to criminal slander conduct involving counseling, aiding, procuring, or inducing another person to originate, make, utter, transmit, or circulate a statement or rumor that is untrue and derogatory to the financial condition of a savings and loan association with intent to injure the association. The bill makes the offense a state jail felony, rather than an offense punishable by a fine not to exceed \$2,500, imprisonment in the Texas Department of Criminal Justice for not more than two years, or both the fine and imprisonment.

S.B. 1008 makes a loan's qualification as a commercial loan contingent on the loan not being a qualified thrift asset, in addition to other conditions.

S.B. 1008 clarifies that the finance commission's authorization to adopt rules relating to the form and content of certain reports that a savings bank is required to prepare and publish or file applies to any report under statutory provisions governing the supervision and regulation of savings banks and the protection of public investments in such banks. The bill removes the requirement that a report required by the commissioner be signed in the same manner as the annual report and instead requires the report to be in the form and manner the commissioner prescribes.

S.B. 1008 requires the commissioner, when a supervisory order is issued to a savings bank as a supervisory or regulatory measure, to report promptly the existence of the order to the finance commission but to maintain the confidentiality of the content of the order, rather than requiring the commissioner to report promptly to the finance commission and in a closed meeting to furnish any information, to remain confidential, about a savings bank or person as the commission may require in a closed meeting. The bill makes it a state jail felony offense of criminal slander or libel to knowingly make, utter, circulate, or transmit to another person a statement that is untrue and derogatory to the financial condition of a savings bank or, with intent to injure a savings bank, to counsel, aid, procure, or induce another person to originate, make, utter, transmit, or circulate a statement or rumor that is untrue and derogatory to the financial condition of the savings bank.

S.B. 1008 repeals provisions requiring a person to own, in good faith, in the person's own right, and as shown on the books of the savings and loan association, a savings account, capital stock, or a combination thereof that has a value of at least \$1,000 in order to qualify for election as a director on the board of directors of a savings and loan association.

S.B. 1008 repeals provisions requiring a savings bank, unless approved in advance by the commissioner, to maintain an amount equal to at least 10 percent of its average daily deposits for the most recently completed calendar quarter in an approved form; requiring a savings bank to maintain in its portfolio not less than 15 percent of its deposits from its local service area in certain loans and prescribing accompanying procedures; exempting from the required annual audit a savings bank that either received at its most recent examination a composite rating of 1 or 2 on the CAMEL financial institution rating scale or had at the beginning of its current fiscal year consolidated assets of \$500 million or less; and requiring a savings bank to provide to the commissioner an annual written report of its affairs and operations, including a complete statement of its financial condition with a statement of income and expenses since its last annual report.

S.B. 1008 repeals the following provisions of the Finance Code:

- Section 62.103
- Section 92.202
- Subchapter E, Chapter 94
- Subsection (d), Section 96.051

- Subsection (a), Section 96.053

EFFECTIVE DATE

September 1, 2013.