

By: Villarreal

H.B. No. 1664

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of banks, trust companies, and bank  
3 holding companies.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 11.107(c), Finance Code, is amended to  
6 read as follows:

7 (c) The presiding officer may:

8 (1) adopt rules and procedures as the presiding  
9 officer considers necessary for the orderly operation of the  
10 finance commission and for communication among the finance  
11 commission, the Texas Department of Banking [~~department~~], the  
12 Department of Savings and Mortgage Lending, and the Office of  
13 Consumer Credit Commissioner;

14 (2) adopt internal procedures governing the time and  
15 place of meetings, the type of notice for special public meetings,  
16 the manner in which public meetings are to be conducted, and other  
17 similar matters; and

18 (3) appoint committees composed of finance commission  
19 members as the presiding officer considers necessary to carry out  
20 the commission's business.

21 SECTION 2. Section 31.002(a)(8), Finance Code, is amended  
22 to read as follows:

23 (8) "Branch" means a location of a bank, other than the  
24 bank's home office, at which the bank engages the public in the

1 business of banking. The term does not include:

2 (A) a drive-in facility located not more than  
3 2,000 feet from the nearest wall of the home office or an approved  
4 branch office of the bank;

5 (B) a night depository;

6 (C) an electronic terminal;

7 (D) a deposit or loan production office as  
8 described by Section 32.204;

9 (E) a state or federally licensed armored car  
10 service or other courier service transporting items for deposit or  
11 payment, unless:

12 (i) the risk of loss of items in the custody  
13 of the service is borne by the employing bank; or

14 (ii) the items in the custody of the service  
15 are considered to be in customer accounts at the employing bank or  
16 federally insured through the employing bank;

17 (F) a location at which the bank offers  
18 exclusively nondepository financial products or services to the  
19 public, including financial, investment, or economic advisory  
20 services;

21 (G) a location that combines permissible  
22 non-branch functions or facilities; or

23 (H) another office or facility as provided by  
24 this subtitle or a rule adopted under this subtitle.

25 SECTION 3. Section 31.105, Finance Code, is amended by  
26 amending Subsections (c) and (d) and adding Subsections (c-1) and  
27 (e) to read as follows:

1 (c) The banking commissioner may:

2 (1) administer oaths and examine persons under oath on  
3 any subject that the commissioner considers pertinent to the  
4 financial condition or the safety and soundness of the activities  
5 of a state bank; and

6 (2) subpoena witnesses and require and compel by  
7 subpoena the production of documents not voluntarily produced.

8 (c-1) If a person refuses to obey a subpoena, a district  
9 court of Travis County, on application by the commissioner, may  
10 issue an order requiring the person to appear before the  
11 commissioner and produce documents or give evidence regarding the  
12 matter under examination or investigation.

13 (d) Disclosure of information to the banking commissioner  
14 pursuant to an examination request or a subpoena issued under this  
15 section does not constitute a waiver of or otherwise affect or  
16 diminish an evidentiary privilege to which the information is  
17 otherwise subject. A report of an examination under this section  
18 is confidential and may be disclosed only under the circumstances  
19 provided by this subtitle.

20 (e) A subpoena issued to a financial institution under this  
21 section is not subject to Section 59.006.

22 SECTION 4. Section 32.204, Finance Code, is amended to read  
23 as follows:

24 Sec. 32.204. DEPOSIT OR LOAN PRODUCTION OFFICES. (a) A  
25 state bank may establish one or more deposit or loan production  
26 offices for the purpose of:

27 (1) soliciting deposit accounts, applications for

1 loans, or equivalent transactions;

2 (2) [~~, accepting loan applications, and~~] performing  
3 ministerial duties related to solicitations described by  
4 Subdivision (1); and

5 (3) conducting other activities as permitted by rules  
6 adopted under this subtitle [~~consummating a granted loan, such as~~  
7 ~~execution of loan documents and dispensation of loan proceeds by~~  
8 ~~check or other draft, including a certified or cashier's check, but~~  
9 ~~not by cash. A credit decision, commitment to make a loan, and~~  
10 ~~preparation of a check or other draft to dispense loan proceeds must~~  
11 ~~occur at the bank's home office or a branch office and may not occur~~  
12 ~~at a loan production office].~~

13 (b) The bank shall notify the banking commissioner in  
14 writing of the location of and activities to be conducted at a  
15 proposed deposit or loan production office of the bank. The bank may  
16 establish the proposed office beginning on the 31st day after the  
17 date [~~before the 31st day before the date of establishment of a loan~~  
18 ~~production office, except that~~] the banking commissioner receives  
19 the bank's notice unless [~~may waive or shorten the period if~~] the  
20 banking commissioner specifies that the proposed office be  
21 established on an earlier or later date.

22 (c) The banking commissioner may extend the 30-day period  
23 prescribed by Subsection (b) on a determination that the bank's  
24 notice raises issues that require additional information or time  
25 for analysis. If the period is extended, [~~does not have a~~  
26 ~~significant supervisory or regulatory concern regarding~~] the bank  
27 may establish the proposed deposit or [~~its planned~~] loan production

1 office only with the prior written approval of the banking  
2 commissioner.

3 SECTION 5. Section 33.104, Finance Code, is amended to read  
4 as follows:

5 Sec. 33.104. ADVISORY DIRECTOR. (a) An advisory director  
6 is not considered a director if the advisory director:

7 (1) is not elected by the shareholders of the bank;

8 (2) does not vote on matters before the board or a  
9 committee of the board;

10 (3) is not counted for purposes of determining a  
11 quorum of the board or committee; and

12 (4) provides solely general policy advice to the  
13 board.

14 (b) A state bank may not disclose to an advisory director  
15 confidential information pertaining to the bank or the bank's  
16 customers unless:

17 (1) the board adopts a resolution that designates the  
18 advisory director as a person who is officially connected to the  
19 bank and that describes the purpose for disclosure of the  
20 information, which must be a reasonable business purpose; and

21 (2) the disclosure is made under a written  
22 confidentiality agreement between the bank and the advisory  
23 director.

24 SECTION 6. Section 33.105, Finance Code, is amended to read  
25 as follows:

26 Sec. 33.105. REQUIRED MONTHLY BOARD MEETING. (a) Except as  
27 provided by Subsection (b), the [The] board of a state bank shall

1 hold at least one regular meeting each month.

2 (b) On application by the board, the banking commissioner  
3 may grant the board approval to hold regular meetings on a less  
4 frequent basis than the period prescribed by Subsection (a). The  
5 commissioner may revoke or modify a prior approval granted under  
6 this subsection if the commissioner determines that more frequent  
7 regular meetings of the board are necessary to promote the safety  
8 and soundness of the bank.

9 (c) At each regular meeting the board shall review and  
10 approve the minutes of the prior meeting and review the operations,  
11 activities, and financial condition of the bank. The board may  
12 designate a committee from among its members to perform those  
13 duties and approve or disapprove the committee's report at each  
14 regular meeting. Each action of the board must be recorded in its  
15 minutes.

16 SECTION 7. Section 34.003(c), Finance Code, is amended to  
17 read as follows:

18 (c) A state bank shall dispose of real property subject to  
19 this section not later than~~+~~

20 ~~[(1)]~~ the fifth anniversary of the date the real  
21 property:

22 (1) [(A) it] was acquired except as otherwise  
23 provided by rules adopted under this subtitle; ~~[or]~~

24 (2) [(B) it] ceases to be used as a bank facility; or

25 (3) [(2) the second anniversary of the date it]  
26 ceases to be a bank facility as provided by Section 34.002(b).

27 SECTION 8. Section 34.004, Finance Code, is amended to read

1 as follows:

2           Sec. 34.004. RETENTION OF NONPARTICIPATING ROYALTY  
3 [PASSIVE INVESTMENT IN MINERAL] INTERESTS. (a) Notwithstanding  
4 Section 34.003(a), a state bank may hold nonparticipating  
5 [nonworking mineral or] royalty interests if:

6           (1) the state bank acquires the interest pursuant to  
7 Section 34.003(a)(3) or retains the interest in a sale of property  
8 acquired under that section;

9           (2) the interest is nonparticipating due to the fact  
10 the interest:

11                           (A) is nonpossessory;

12                           (B) does not bear executive rights, the right of  
13 ingress and egress, the right to receive bonus payments, or the  
14 right to receive delay rentals; and

15                           (C) is accordingly not subject to expenses of  
16 exploration, development, production, operation, maintenance, or  
17 abandonment, or [any] other expenses ~~[expense]~~ associated with  
18 extracting and marketing the minerals subject to the ~~[rights or]~~  
19 interest;

20           (3) the interest is reasonably valued on the books of  
21 the state bank for not more than a nominal amount, and the aggregate  
22 amount of earnings from such interests is separately disclosed in  
23 the annual financial statements of the state bank;

24           (4) the state bank does not make any new investments  
25 relating to the ~~[rights or]~~ interests without the approval of the  
26 banking commissioner; and

27           (5) the banking commissioner determines that the

1 possession of such [~~rights and~~] interests is not inconsistent with  
2 the safety and soundness of the state bank.

3 (b) The banking commissioner may order a state bank that  
4 holds nonparticipating [~~nonworking mineral or~~] royalty interests  
5 to divest such interests at any time if the banking commissioner  
6 determines that continued ownership of such interests is  
7 detrimental to the state bank.

8 (c) Subject to compliance with this section,  
9 nonparticipating [~~nonworking mineral or~~] royalty interests are not  
10 considered to be real property for purposes of this subtitle.

11 SECTION 9. Section 35.003(b), Finance Code, is amended to  
12 read as follows:

13 (b) If the banking commissioner has grounds for action under  
14 Subsection (a) and finds that a removal or prohibition order  
15 appears to be necessary and in the best interest of the public [~~bank~~  
16 ~~involved and its depositors, creditors, or shareholders~~], the  
17 banking commissioner may serve a proposed removal or prohibition  
18 order, as appropriate, on a person alleged to have committed or  
19 participated in the action. The proposed order must:

20 (1) be delivered by personal delivery or by registered  
21 or certified mail, return receipt requested;

22 (2) state with reasonable certainty the grounds for  
23 removal or prohibition;

24 (3) state the effective date of the order, which may  
25 not be before the 21st day after the date the proposed order is  
26 delivered or mailed; and

27 (4) state the duration of the order, including whether

1 the duration of the order is perpetual.

2 SECTION 10. Section 35.106, Finance Code, is amended to  
3 read as follows:

4 Sec. 35.106. AUTHORITY OF SUPERVISOR. During a period of  
5 supervision, a bank, without the prior approval of the banking  
6 commissioner or the supervisor or as otherwise permitted or  
7 restricted by the order of supervision, may not:

8 (1) dispose of, sell, transfer, convey, or encumber  
9 the bank's assets;

10 (2) lend or invest the bank's money;

11 (3) incur a debt, obligation, or liability; ~~or~~

12 (4) pay a cash dividend to the bank's shareholders; or

13 (5) remove an executive officer or director, change  
14 the number of executive officers or directors, or have any other  
15 change in the position of executive officer or director.

16 SECTION 11. Section 181.002(a), Finance Code, is amended by  
17 adding Subdivision (47-a) to read as follows:

18 (47-a) "Surplus" means the amount by which the assets  
19 of a state trust company exceed the company's liabilities, capital,  
20 and undivided profits.

21 SECTION 12. Section 181.104, Finance Code, is amended by  
22 amending Subsections (d) and (f) and adding Subsections (f-1) and  
23 (g) to read as follows:

24 (d) Disclosure of information to the banking commissioner  
25 pursuant to an examination request or a subpoena issued under this  
26 section does not constitute a waiver of or otherwise affect or  
27 diminish an evidentiary privilege to which the information is

1 otherwise subject. A report of an examination under this section is  
2 confidential and may be disclosed only under the circumstances  
3 provided by this subtitle.

4 (f) The banking commissioner may:

5 (1) administer oaths and examine persons under oath on  
6 any subject that the banking commissioner considers pertinent to  
7 the financial condition or the safety and soundness of the  
8 activities of a state trust company; and

9 (2) subpoena witnesses and require and compel by  
10 subpoena the production of documents not voluntarily produced.

11 (f-1) If a person refuses to obey a subpoena, a district  
12 court of Travis County, on application by the commissioner, may  
13 issue an order requiring the person to appear before the  
14 commissioner and produce documents or give evidence regarding the  
15 matter under examination or investigation.

16 (g) A subpoena issued to a financial institution under this  
17 section is not subject to Section 59.006.

18 SECTION 13. Section 183.104, Finance Code, is amended to  
19 read as follows:

20 Sec. 183.104. ADVISORY DIRECTOR OR ADVISORY MANAGER. (a)  
21 An advisory director or advisory manager is not considered to be a  
22 director if the advisory director or advisory manager:

23 (1) is not elected by the shareholders or participants  
24 of the state trust company;

25 (2) does not vote on matters before the board or a  
26 committee of the board;

27 (3) is not counted for purposes of determining a

1 quorum of the board or committee; and

2 (4) provides solely general policy advice to the  
3 board.

4 (b) A state trust company may not disclose to an advisory  
5 director or advisory manager confidential information pertaining  
6 to the state trust company or the company's clients unless:

7 (1) the board adopts a resolution that designates the  
8 advisory director or advisory manager as a person who is officially  
9 connected to the trust company and that describes the purpose for  
10 disclosure of the information, which must be a reasonable business  
11 purpose; and

12 (2) the disclosure is made under a written  
13 confidentiality agreement between the state trust company and the  
14 advisory director or advisory manager.

15 SECTION 14. Sections 184.002(a) and (c), Finance Code, are  
16 amended to read as follows:

17 (a) Without the prior written approval of the banking  
18 commissioner, a state trust company may not directly or indirectly  
19 invest an amount in excess of the company's [~~60 percent of its~~]  
20 restricted capital in state trust company facilities, furniture,  
21 fixtures, and equipment. Except as otherwise provided by rules  
22 adopted under this subtitle, in computing the limitation provided  
23 by this subsection a state trust company:

24 (1) shall include:

25 (A) its direct investment in state trust company  
26 facilities;

27 (B) an investment in equity or investment

1 securities of a company holding title to a facility used by the  
2 state trust company for the purposes specified by Section 184.001;

3 (C) a loan made by the state trust company to or  
4 on the security of equity or investment securities issued by a  
5 company holding title to a facility used by the state trust company;  
6 and

7 (D) any indebtedness incurred on state trust  
8 company facilities by a company:

9 (i) that holds title to the facility;

10 (ii) that is an affiliate of the state trust  
11 company; and

12 (iii) in which the state trust company is  
13 invested in the manner described by Paragraph (B) or (C); and

14 (2) may exclude an amount included under Subdivisions  
15 (1)(B)-(D) to the extent any lease of a facility from the company  
16 holding title to the facility is capitalized on the books of the  
17 state trust company.

18 (c) A state trust company shall dispose of any real property  
19 subject to Subsection (a) not later than the fifth anniversary of  
20 the date the real property:

21 (1) was acquired, except as otherwise provided by  
22 rules adopted under this subtitle;

23 (2) ceases to be used as a state trust company  
24 facility; or

25 (3) ceases to be a [~~comply with regulatory accounting~~  
26 ~~principles in accounting for its investment in and depreciation of~~]  
27 state trust company facility as provided by Subsection (b)

1 [~~facilities, furniture, fixtures, and equipment~~].

2 SECTION 15. Section 185.003(b), Finance Code, is amended to  
3 read as follows:

4 (b) If the banking commissioner has grounds for action under  
5 Subsection (a) and finds that a removal or prohibition order  
6 appears to be necessary and in the best interest of the public  
7 [~~state trust company involved and its clients, creditors,~~  
8 ~~shareholders, or participants~~], the banking commissioner may serve  
9 a proposed removal or prohibition order, as appropriate, on an  
10 officer, employee, director, manager or managing participant,  
11 controlling shareholder or participant, or other person alleged to  
12 have committed or participated in the violation or other conduct  
13 described by Section 185.002(a). The order must:

14 (1) be delivered by personal delivery or by registered  
15 or certified mail, return receipt requested;

16 (2) state with reasonable certainty the grounds for  
17 removal or prohibition;

18 (3) state the effective date of the order, which may  
19 not be before the 21st day after the date the proposed order is  
20 delivered or mailed; and

21 (4) state the duration of the order, including whether  
22 the duration of the order is perpetual.

23 SECTION 16. Section 185.106, Finance Code, is amended to  
24 read as follows:

25 Sec. 185.106. DUTIES OF STATE TRUST COMPANY UNDER  
26 SUPERVISION. During a period of supervision, a state trust  
27 company, without the prior approval of the banking commissioner or

1 the supervisor or as otherwise permitted or restricted by the order  
2 of supervision, may not:

3 (1) dispose of, sell, transfer, convey, or encumber  
4 the state trust company's assets;

5 (2) lend or invest the state trust company's funds;

6 (3) incur a debt, obligation, or liability;

7 (4) pay a cash dividend to the state trust company's  
8 shareholders or participants; ~~or~~

9 (5) solicit or accept any new client accounts; or

10 (6) remove an executive officer or director, change  
11 the number of executive officers or directors, or have any other  
12 change in the position of executive officer or director.

13 SECTION 17. Section 187.103(a), Finance Code, is amended to  
14 read as follows:

15 (a) An out-of-state trust company that does not operate a  
16 trust office in this state and that meets the requirements of this  
17 subchapter may acquire an existing trust institution in this state  
18 and after the acquisition operate and maintain the acquired  
19 institution as a trust office in this state, subject to Subchapter  
20 A, Chapter 183, or Subchapter A, Chapter 33, if applicable. [~~If the~~  
21 ~~institution to be acquired is a bank or a state savings bank,~~  
22 ~~Section 203.005 applies to the transaction.~~]

23 SECTION 18. Section 187.105(a), Finance Code, is amended to  
24 read as follows:

25 (a) A trust office of an out-of-state trust company may be  
26 acquired or established in this state under this subchapter if:

27 (1) the out-of-state trust company confirms in writing

1 to the banking commissioner that while it maintains a trust office  
2 in this state, it will comply with all applicable laws of this  
3 state;

4 (2) the out-of-state trust company provides  
5 satisfactory evidence to the banking commissioner of compliance  
6 with Section 201.102 and the applicable requirements of its home  
7 state regulator for acquiring or establishing and maintaining the  
8 office;

9 (3) all filing fees have been paid as required by law;  
10 and

11 (4) the banking commissioner finds that:

12 (A) applicable conditions of Section 187.102 or  
13 187.103 have been met;

14 (B) if a state bank is being acquired, the  
15 applicable requirements of Subchapter A, Chapter 33~~, and Section~~  
16 ~~203.005~~] have been met, or if a state trust company is being  
17 acquired, the applicable requirements of Subchapter A, Chapter 183  
18 have been met; and

19 (C) any conditions imposed by the banking  
20 commissioner pursuant to Subsection (b) have been satisfied.

21 SECTION 19. Section 201.002(a)(7), Finance Code, is amended  
22 to read as follows:

23 (7) "Bank supervisory agency" means any of the  
24 following:

25 (A) an agency of another state with primary  
26 responsibility for chartering and supervising banks;

27 (B) the Office of the Comptroller of the

1 Currency, the Federal Deposit Insurance Corporation, [~~or~~] the Board  
2 of Governors of the Federal Reserve System, or the Bureau of  
3 Consumer Financial Protection, and any successor to these agencies;  
4 or

5 (C) an agency of a country, including a colony,  
6 dependency, possession, or political subdivision of a country,  
7 other than the United States with primary responsibility for  
8 chartering and supervising banks.

9 SECTION 20. Section 201.004, Finance Code, is amended by  
10 amending Subsection (a) and adding Subsection (d) to read as  
11 follows:

12 (a) The laws of this state, including laws regarding  
13 community reinvestment, consumer protection, fair lending, and  
14 establishment of intrastate branches, apply to an interstate branch  
15 located in this state to the same extent the laws of this state  
16 would apply if the branch in this state were a branch of an  
17 out-of-state national bank [~~with its main office located~~] in this  
18 state, except to the extent otherwise provided under federal law.  
19 An out-of-state state bank that establishes an interstate branch in  
20 this state under this subtitle may conduct any activity at the  
21 branch in this state that is permissible under the laws of the  
22 bank's home state, to the extent the activity is permissible for a  
23 Texas state bank or for a branch of an out-of-state national bank in  
24 this state.

25 (d) This subtitle does not limit or affect the authority of:

26 (1) the home state regulator of a bank's home state to  
27 enforce any law applicable to a branch of an out-of-state state

1 bank;

2 (2) a law enforcement officer, a regulatory  
3 supervisor, other than the commissioner, or another official of  
4 this state to enforce the laws of this state applicable to a branch  
5 of an out-of-state state bank; or

6 (3) this state to adopt, apply, or administer any tax  
7 or method of taxation to a bank, bank holding company, or foreign  
8 bank, or any affiliate of a bank, bank holding company, or foreign  
9 bank, to the extent that the tax or tax method is otherwise  
10 permissible by or under the United States Constitution or other  
11 federal law.

12 SECTION 21. Section 201.005, Finance Code, is amended by  
13 adding Subsection (c) to read as follows:

14 (c) A cooperative agreement entered into by the  
15 commissioner under this section does not limit the authority of a  
16 law enforcement officer, regulatory supervisor, or other official  
17 of this state who is not a party to the agreement to enforce the laws  
18 of this state applicable to a branch of an out-of-state state bank  
19 located in this state.

20 SECTION 22. Section 201.009(b), Finance Code, is amended to  
21 read as follows:

22 (b) If the commissioner determines that an interstate  
23 branch maintained by an out-of-state state bank in this state is  
24 being operated in violation of a law of this state that is  
25 applicable to the branch under Section 24(j), Federal Deposit  
26 Insurance Act (12 U.S.C. Section 1831a(j)), including a law that  
27 governs community reinvestment, fair lending, or consumer

1 protection [~~or in an unsafe and unsound manner~~], the commissioner,  
2 with written notice to the home state regulator and subject to the  
3 terms of any applicable cooperative agreement with the home state  
4 regulator, may take any enforcement action the commissioner would  
5 be empowered to take if the branch were a Texas state bank or state  
6 savings bank, as the case may be [~~, except that the commissioner~~  
7 ~~shall promptly give notice to the home state regulator of each~~  
8 ~~enforcement action taken against an out-of-state state bank and, to~~  
9 ~~the extent practicable, shall consult and cooperate with the home~~  
10 ~~state regulator in pursuing and resolving the enforcement action)].  
11 An out-of-state state bank may appeal a final order or other  
12 decision of the commissioner under this subtitle as provided by  
13 Sections 31.202, 31.203, and 31.204, or as provided under Subtitle  
14 C with respect to a state savings bank.~~

15 SECTION 23. Section 203.002(a), Finance Code, is amended to  
16 read as follows:

17 (a) An out-of-state bank may establish a de novo branch in  
18 this state if:

19 (1) [~~the laws of the home state of the out-of-state~~  
20 ~~bank would permit a Texas bank to establish and maintain a de novo~~  
21 ~~branch in that state under substantially the same terms and~~  
22 ~~conditions as set forth in this subchapter,~~

23 [~~(2)~~] the out-of-state bank confirms in writing to the  
24 commissioner that as long as it maintains a branch in this state, it  
25 will comply with all applicable laws of this state;

26 (2) [~~(3)~~] the applicant provides satisfactory  
27 evidence to the commissioner of compliance with the applicable

1 requirements of Section 201.102; and

2           (3) [~~4~~] the commissioner, acting on or before the  
3 30th day after the date the commissioner receives notice of an  
4 application under Subsection (b), certifies to the responsible  
5 federal bank supervisory agency that the requirements of this  
6 subchapter have been met.

7           SECTION 24. Section 203.003(a), Finance Code, is amended to  
8 read as follows:

9           (a) Subject to Section [~~Sections~~] 203.004 [~~and 203.005~~],  
10 one or more Texas banks may enter into an interstate merger  
11 transaction with one or more out-of-state banks under this chapter,  
12 and an out-of-state bank resulting from the transaction may  
13 maintain and operate the branches in this state of a Texas bank that  
14 participated in the transaction. An out-of-state bank that will be  
15 the resulting bank in the interstate merger transaction shall  
16 comply with Section 201.102.

17           SECTION 25. Section 203.007, Finance Code, is amended to  
18 read as follows:

19           Sec. 203.007. EXAMINATIONS[~~, PERIODIC REPORTS~~]. (a) With  
20 respect to an interstate branch maintained by an out-of-state state  
21 bank in this state, the [~~The~~] banking commissioner:

22           (1) with written notice to the home state regulator  
23 and subject to the terms of any applicable cooperative agreement  
24 with the home state regulator, may examine the branch for the  
25 purpose of determining whether the branch is in [~~may make~~  
26 ~~examinations of a branch established and maintained in this state~~  
27 ~~pursuant to this chapter by an out-of-state bank as the banking~~

1 ~~commissioner considers necessary to determine whether the branch is~~  
2 ~~being operated in]~~ compliance with the laws of this state that are  
3 applicable under Section 24(j), Federal Deposit Insurance Act (12  
4 U.S.C. Section 1831a(j)), including laws governing community  
5 reinvestment, fair lending, and consumer protection; and

6 (2) if expressly permitted under and subject to the  
7 terms of any cooperative agreement with the home state regulator,  
8 or if the bank has been determined to be in a troubled condition by  
9 the home state regulator or the bank's appropriate federal banking  
10 agency, may participate in the examination of the bank by the home  
11 state regulator to ascertain whether the activities of the branch  
12 in this state are being conducted in an unsafe or unsound manner  
13 ~~[and in accordance with safe and sound banking practices. Sections~~  
14 ~~31.105-31.107 or 96.054-96.057, as appropriate, apply to the~~  
15 ~~examinations].~~

16 (b) For purposes of this section, a bank is considered to be  
17 in a troubled condition if the bank:

18 (1) has a composite rating, as determined in the bank's  
19 most recent report of examination, of four or five under the Uniform  
20 Financial Institutions Ratings System;

21 (2) is subject to a proceeding initiated by the  
22 Federal Deposit Insurance Corporation for termination or  
23 suspension of deposit insurance; or

24 (3) is subject to a proceeding initiated by the home  
25 state regulator to:

26 (A) vacate, revoke, or terminate the bank's  
27 charter;

1                   (B) liquidate the bank; or

2                   (C) appoint a receiver for the bank. [~~The~~

3 ~~commissioner may prescribe requirements for periodic reports from~~  
4 ~~an out-of-state bank that operates a branch in Texas pursuant to~~  
5 ~~this chapter. Reporting requirements prescribed by the~~  
6 ~~commissioner under this section must be:~~

7                   ~~[(1) consistent with the reporting requirements~~  
8 ~~applicable to Texas state banks or state savings banks, as~~  
9 ~~appropriate; and~~

10                   ~~[(2) appropriate to discharge the responsibilities of~~  
11 ~~the commissioner under this chapter.]~~

12           SECTION 26. Sections 201.009(c), 203.003(c), and 203.005,  
13 Finance Code, are repealed.

14           SECTION 27. This Act takes effect immediately if it  
15 receives a vote of two-thirds of all the members elected to each  
16 house, as provided by Section 39, Article III, Texas Constitution.  
17 If this Act does not receive the vote necessary for immediate  
18 effect, this Act takes effect September 1, 2013.