

By: Anderson

H.B. No. 2758

A BILL TO BE ENTITLED

AN ACT

relating to the business, supervision, and regulation of state savings and loan associations and state savings banks; providing a criminal penalty.

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

SECTION 1. Section 13.002(b), Finance Code, is amended to read as follows:

(b) The savings and mortgage lending commissioner must have not less than five [~~seven~~] years' experience in the executive management of a savings association or savings bank or in savings association or savings bank supervision during the 10 years preceding the commissioner's appointment.

SECTION 2. Section 61.002, Finance Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Appropriate banking agency":

(A) means:

(i) with respect to a savings bank chartered by this state, the Department of Savings and Mortgage Lending;

(ii) with respect to a federal savings bank, the Office of the Comptroller of the Currency;

(iii) with respect to a savings and loan association chartered by this state, the Department of Savings and

1 Mortgage Lending;

2 (iv) with respect to a federal savings and
3 loan association, the Office of the Comptroller of the Currency;

4 (v) with respect to a bank chartered by this
5 state, the Texas Department of Banking;

6 (vi) with respect to a national bank, the
7 Office of the Comptroller of the Currency; and

8 (vii) with respect to a bank, savings bank,
9 or savings and loan association chartered by another state, the
10 chartering agency; and

11 (B) includes:

12 (i) in each case in which a state bank is a
13 member of the Federal Reserve System, the board of governors of the
14 Federal Reserve System;

15 (ii) in each case where required by the
16 Federal Deposit Insurance Act (12 U.S.C. Section 1811 et seq.), the
17 Federal Deposit Insurance Corporation; and

18 (iii) any successor of a state or federal
19 agency specified by this subdivision.

20 (1-a) "Association" means a savings and loan
21 association subject to this subtitle.

22 SECTION 3. Section 62.105(a), Finance Code, is amended to
23 read as follows:

24 (a) An association shall maintain [~~on file with the~~
25 ~~commissioner~~] a blanket indemnity bond with an adequate corporate
26 surety protecting the association from loss by or through dishonest
27 or criminal action or omission, including fraud, theft, robbery, or

1 burglary, by an officer or employee of the association or a director
2 of the association when the director performs the duties of an
3 officer or employee.

4 SECTION 4. Section 62.206(a), Finance Code, is amended to
5 read as follows:

6 (a) The converted association shall file with the
7 commissioner:

8 (1) a copy of the charter issued to the federal
9 association by the Office of the Comptroller of the Currency
10 [~~Office of Thrift Supervision~~]; or

11 (2) a certificate showing the organization of the
12 association as a federal association, certified by the secretary or
13 assistant secretary of the Office of the Comptroller of the
14 Currency [~~Office of Thrift Supervision~~].

15 SECTION 5. Section 62.207, Finance Code, is amended to read
16 as follows:

17 Sec. 62.207. EFFECT OF ISSUANCE OF CHARTER. On the issuance
18 of a charter by the Office of the Comptroller of the Currency
19 [~~Office of Thrift Supervision~~], the association:

20 (1) ceases to be an association incorporated under
21 this subtitle; and

22 (2) is no longer subject to the supervision and
23 control of the commissioner.

24 SECTION 6. Section 62.251(b), Finance Code, is amended to
25 read as follows:

26 (b) The application to convert must:

27 (1) be filed in the office of the commissioner and with

1 the appropriate banking agency [~~Office of Thrift Supervision or its~~
2 ~~successor~~] not later than the 10th day after the date of the
3 meeting; and

4 (2) include a copy of the minutes of the meeting, sworn
5 to by the secretary or an assistant secretary.

6 SECTION 7. Section 89.052(c), Finance Code, is amended to
7 read as follows:

8 (c) When a supervisory order is issued under Chapter 66, the
9 commissioner shall report the existence of the order promptly to
10 the finance commission but shall maintain the confidentiality of
11 the content of the order [~~and in a closed meeting shall furnish any~~
12 ~~information about the association or the person that is the subject~~
13 ~~of the order that the commission members may require. Any~~
14 ~~information discussed in the closed meeting is confidential)].~~

15 SECTION 8. Section 89.101, Finance Code, is amended to read
16 as follows:

17 Sec. 89.101. CRIMINAL SLANDER. (a) A person commits an
18 offense if the person [~~, with intent to injure an association or a~~
19 ~~federal association in this state]:~~

20 (1) knowingly makes, utters, circulates, or transmits
21 to another person a statement that is untrue and derogatory to the
22 financial condition of an [~~the~~] association [~~or federal~~
23 ~~association~~]; or

24 (2) with intent to injure an association counsels,
25 aids, procures, or induces another person to originate, make,
26 utter, transmit, or circulate a statement or rumor that is untrue
27 and derogatory to the financial condition of the association [~~or~~

1 ~~federal association~~].

2 (b) An offense under Subsection (a) is a state jail felony
3 ~~[punishable by:~~

4 ~~[(1) a fine not to exceed \$2,500,~~

5 ~~[(2) imprisonment in the Texas Department of Criminal~~
6 ~~Justice for not more than two years; or~~

7 ~~[(3) both the fine and imprisonment].~~

8 SECTION 9. Section 91.002(1), Finance Code, is amended to
9 read as follows:

10 (1) "Appropriate banking agency":

11 (A) means:

12 (i) with respect to a savings bank
13 chartered by this state, the Department of Savings and Mortgage
14 Lending;

15 (ii) with respect to a federal savings
16 bank, the Office of the Comptroller of the Currency ~~[Office of~~
17 ~~Thrift Supervision]~~;

18 (iii) with respect to a savings and loan
19 association chartered by this state, the Department of Savings and
20 Mortgage Lending;

21 (iv) with respect to a federal savings and
22 loan association, the Office of the Comptroller of the Currency
23 ~~[Office of Thrift Supervision]~~;

24 (v) with respect to a bank chartered by this
25 state, the Texas Department of Banking; ~~and]~~

26 (vi) with respect to a national bank, the
27 Office of the Comptroller of the Currency; and

1 (vii) with respect to a bank, savings bank,
2 or savings and loan association chartered by another state, the
3 chartering agency; and

4 (B) includes:

5 (i) in each case in which a state bank is a
6 member of the Federal Reserve System, the board of governors of the
7 Federal Reserve System;

8 (ii) in each case where required by the
9 Federal Deposit Insurance Act (12 U.S.C. Section 1811 et seq.), the
10 Federal Deposit Insurance Corporation; and

11 (iii) any successor of a state or federal
12 agency specified by this subdivision.

13 SECTION 10. Section 94.002(b), Finance Code, is amended to
14 read as follows:

15 (b) In this section, "commercial loan" means a loan that:

16 (1) is for business, commercial, corporate, or
17 agricultural purposes; ~~and~~

18 (2) is not a real property loan; and

19 (3) is not a qualified thrift asset under Section
20 92.204.

21 SECTION 11. Section 96.002(a), Finance Code, is amended to
22 read as follows:

23 (a) The finance commission may adopt rules necessary to
24 supervise and regulate savings banks and to protect public
25 investment in savings banks, including rules relating to:

26 (1) the minimum amounts of capital required to
27 incorporate and operate as a savings bank, which may not be less

1 than the amounts required of corresponding national banks;

2 (2) the fees and procedures for processing, hearing,
3 and deciding applications filed with the commissioner or the
4 Department of Savings and Mortgage Lending under this subtitle;

5 (3) the books and records that a savings bank is
6 required to keep and the location at which the books and records are
7 required to be maintained;

8 (4) the accounting principles and practices that a
9 savings bank is required to observe;

10 (5) the conditions under which records may be copied
11 or reproduced for permanent storage before the originals are
12 destroyed;

13 (6) the form, content, and time of publication of
14 statements of condition;

15 (7) the form and content of any report [~~annual reports~~
16 ~~and other reports~~] that a savings bank is required to prepare and
17 publish or file under this chapter;

18 (8) the manner in which assets, liabilities, and
19 transactions in general are to be described when entered in the
20 books of a savings bank, so that the entry accurately describes the
21 subject matter of the entry;

22 (9) the conditions under which the commissioner may
23 require an asset to be charged off or reserves established by
24 transfer from surplus or paid-in capital because of depreciation of
25 or overstated value of the asset;

26 (10) the change of control of a savings bank;

27 (11) the conduct, management, and operation of a

1 savings bank;

2 (12) the withdrawable accounts, bonuses, plans, and
3 contracts for savings programs;

4 (13) the merger, consolidation, reorganization,
5 conversion, and liquidation of a savings bank;

6 (14) the establishment of an additional office or the
7 change of office location or name of a savings bank;

8 (15) the requirements for a savings bank's holding
9 companies, including those relating to:

10 (A) registration and periodic reporting of a
11 holding company with the commissioner; and

12 (B) transactions between a holding company, an
13 affiliate of a holding company, or a savings bank; and

14 (16) the powers of a savings bank to make loans and
15 investments that contain provisions reasonably necessary to ensure
16 that a loan made by a savings bank is consistent with sound lending
17 practices and that the savings bank's investment will promote the
18 purposes of this subtitle, including provisions governing:

19 (A) the type of loans and the conditions under
20 which a savings bank may originate, make, or sell loans;

21 (B) the conditions under which a savings bank may
22 purchase or participate in a loan made by another lender;

23 (C) the conditions for the servicing of a loan
24 for another lender;

25 (D) the conditions under which a savings bank may
26 lend money on the security of a loan made by another person;

27 (E) the conditions under which a savings bank may

1 pledge loans held by it as collateral for borrowing by the savings
2 bank;

3 (F) the conditions under which a savings bank may
4 invest in securities and debt instruments;

5 (G) the documentation that a savings bank must
6 have in its files at the time of funding or purchase of a loan, an
7 investment, or a participation in a loan;

8 (H) the form and content of statements of
9 expenses and fees and other charges that are paid by a borrower or
10 that a borrower is obligated to pay;

11 (I) the title information that must be
12 maintained;

13 (J) the borrower's insurance coverage of
14 property securing a loan;

15 (K) an appraisal report;

16 (L) the financial statement of a borrower;

17 (M) the fees or other compensation that may be
18 paid to a person in connection with obtaining a loan for a savings
19 bank, including an officer, director, employee, affiliated person,
20 consultant, or third party;

21 (N) the conditions under which the savings bank
22 may advance money to pay a tax, assessment, insurance premium, or
23 other similar charge for the protection of the savings bank's
24 interest in property securing the savings bank's loans;

25 (O) the terms under which a savings bank may
26 acquire and deal in real property;

27 (P) the valuation on a savings bank's books of

1 real property held by the savings bank;

2 (Q) the terms governing the investment by a
3 savings bank in a subsidiary, the powers that may be exercised by a
4 subsidiary, and the activities that may be engaged in by a
5 subsidiary; and

6 (R) any other matter considered necessary to
7 administer each type of transaction.

8 SECTION 12. Section 96.053(b), Finance Code, is amended to
9 read as follows:

10 (b) A savings bank shall make any ~~[other]~~ report the
11 commissioner may require to administer and enforce this chapter. A
12 ~~[An additional]~~ report under this section must be:

13 (1) ~~[signed in the same manner as the annual report,~~
14 ~~(2)]~~ in the form and manner the commissioner
15 prescribes; and

16 (2) ~~(3)]~~ filed on the date the commissioner
17 prescribes.

18 SECTION 13. Section 96.111(a), Finance Code, is amended to
19 read as follows:

20 (a) When a supervisory order is issued under this chapter,
21 the [The] commissioner shall report the existence of the order
22 promptly to the finance commission but shall maintain the
23 confidentiality of the content of the order ~~[when a supervisory~~
24 ~~order is issued under this chapter]~~. ~~[The commissioner shall~~
25 ~~furnish information about a savings bank or person as the finance~~
26 ~~commission may require in a closed meeting. All information~~
27 ~~discussed in the closed meeting is confidential.]~~

1 SECTION 14. Subchapter C, Chapter 119, Finance Code, is
2 amended by adding Section 119.202 to read as follows:

3 Sec. 119.202. CRIMINAL SLANDER OR LIBEL. (a) A person
4 commits an offense if the person:

5 (1) knowingly makes, utters, circulates, or transmits
6 to another person a statement that is untrue and derogatory to the
7 financial condition of a savings bank; or

8 (2) with intent to injure a savings bank counsels,
9 aids, procures, or induces another person to originate, make,
10 utter, transmit, or circulate a statement or rumor that is untrue
11 and derogatory to the financial condition of the savings bank.

12 (b) An offense under Subsection (a) is a state jail felony.

13 SECTION 15. The following provisions of the Finance Code
14 are repealed:

- 15 (1) Section 62.103;
- 16 (2) Section 92.202;
- 17 (3) Subchapter E, Chapter 94;
- 18 (4) Section 96.051(d); and
- 19 (5) Section 96.053(a).

20 SECTION 16. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 governed by the law in effect on the date the offense was committed,
24 and the former law is continued in effect for that purpose. For
25 purposes of this section, an offense was committed before the
26 effective date of this Act if any element of the offense occurred
27 before that date.

1 SECTION 17. This Act takes effect September 1, 2013.