

1-1 By: Anderson (Senate Sponsor - Carona) H.B. No. 2758
1-2 (In the Senate - Received from the House April 22, 2013;
1-3 May 7, 2013, read first time and referred to Committee on Business
1-4 and Commerce; May 15, 2013, reported favorably by the following
1-5 vote: Yeas 9, Nays 0; May 15, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Carona	X		
1-9	Taylor	X		
1-10	Eltife	X		
1-11	Estes	X		
1-12	Hancock	X		
1-13	Lucio	X		
1-14	Van de Putte	X		
1-15	Watson	X		
1-16	Whitmire	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the business, supervision, and regulation of state
1-20 savings and loan associations and state savings banks; providing a
1-21 criminal penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 13.002(b), Finance Code, is amended to
1-24 read as follows:

1-25 (b) The savings and mortgage lending commissioner must have
1-26 not less than five [~~seven~~] years' experience in the executive
1-27 management of a savings association or savings bank or in savings
1-28 association or savings bank supervision during the 10 years
1-29 preceding the commissioner's appointment.

1-30 SECTION 2. Section 61.002, Finance Code, is amended by
1-31 amending Subdivision (1) and adding Subdivision (1-a) to read as
1-32 follows:

1-33 (1) "Appropriate banking agency":

1-34 (A) means:

1-35 (i) with respect to a savings bank
1-36 chartered by this state, the Department of Savings and Mortgage
1-37 Lending;

1-38 (ii) with respect to a federal savings
1-39 bank, the Office of the Comptroller of the Currency;

1-40 (iii) with respect to a savings and loan
1-41 association chartered by this state, the Department of Savings and
1-42 Mortgage Lending;

1-43 (iv) with respect to a federal savings and
1-44 loan association, the Office of the Comptroller of the Currency;

1-45 (v) with respect to a bank chartered by this
1-46 state, the Texas Department of Banking;

1-47 (vi) with respect to a national bank, the
1-48 Office of the Comptroller of the Currency; and

1-49 (vii) with respect to a bank, savings bank,
1-50 or savings and loan association chartered by another state, the
1-51 chartering agency; and

1-52 (B) includes:

1-53 (i) in each case in which a state bank is a
1-54 member of the Federal Reserve System, the board of governors of the
1-55 Federal Reserve System;

1-56 (ii) in each case where required by the
1-57 Federal Deposit Insurance Act (12 U.S.C. Section 1811 et seq.), the
1-58 Federal Deposit Insurance Corporation; and

1-59 (iii) any successor of a state or federal
1-60 agency specified by this subdivision.

1-61 (1-a) "Association" means a savings and loan

2-1 association subject to this subtitle.

2-2 SECTION 3. Section 62.105(a), Finance Code, is amended to
2-3 read as follows:

2-4 (a) An association shall maintain ~~[on file with the~~
2-5 ~~commissioner]~~ a blanket indemnity bond with an adequate corporate
2-6 surety protecting the association from loss by or through dishonest
2-7 or criminal action or omission, including fraud, theft, robbery, or
2-8 burglary, by an officer or employee of the association or a director
2-9 of the association when the director performs the duties of an
2-10 officer or employee.

2-11 SECTION 4. Section 62.206(a), Finance Code, is amended to
2-12 read as follows:

2-13 (a) The converted association shall file with the
2-14 commissioner:

2-15 (1) a copy of the charter issued to the federal
2-16 association by the Office of the Comptroller of the Currency
2-17 ~~[Office of Thrift Supervision]~~; or

2-18 (2) a certificate showing the organization of the
2-19 association as a federal association, certified by the secretary or
2-20 assistant secretary of the Office of the Comptroller of the
2-21 Currency ~~[Office of Thrift Supervision]~~.

2-22 SECTION 5. Section 62.207, Finance Code, is amended to read
2-23 as follows:

2-24 Sec. 62.207. EFFECT OF ISSUANCE OF CHARTER. On the issuance
2-25 of a charter by the Office of the Comptroller of the Currency
2-26 ~~[Office of Thrift Supervision]~~, the association:

2-27 (1) ceases to be an association incorporated under
2-28 this subtitle; and

2-29 (2) is no longer subject to the supervision and
2-30 control of the commissioner.

2-31 SECTION 6. Section 62.251(b), Finance Code, is amended to
2-32 read as follows:

2-33 (b) The application to convert must:

2-34 (1) be filed in the office of the commissioner and with
2-35 the appropriate banking agency ~~[Office of Thrift Supervision or its~~
2-36 ~~successor]~~ not later than the 10th day after the date of the
2-37 meeting; and

2-38 (2) include a copy of the minutes of the meeting, sworn
2-39 to by the secretary or an assistant secretary.

2-40 SECTION 7. Section 89.052(c), Finance Code, is amended to
2-41 read as follows:

2-42 (c) When a supervisory order is issued under Chapter 66, the
2-43 commissioner shall report the existence of the order promptly to
2-44 the finance commission but shall maintain the confidentiality of
2-45 the content of the order ~~[and in a closed meeting shall furnish any~~
2-46 ~~information about the association or the person that is the subject~~
2-47 ~~of the order that the commission members may require. Any~~
2-48 ~~information discussed in the closed meeting is confidential]~~.

2-49 SECTION 8. Section 89.101, Finance Code, is amended to read
2-50 as follows:

2-51 Sec. 89.101. CRIMINAL SLANDER. (a) A person commits an
2-52 offense if the person ~~[, with intent to injure an association or a~~
2-53 ~~federal association in this state]~~:

2-54 (1) knowingly makes, utters, circulates, or transmits
2-55 to another person a statement that is untrue and derogatory to the
2-56 financial condition of an ~~[the]~~ association ~~[or federal~~
2-57 ~~association]~~; or

2-58 (2) with intent to injure an association counsels,
2-59 aids, procures, or induces another person to originate, make,
2-60 utter, transmit, or circulate a statement or rumor that is untrue
2-61 and derogatory to the financial condition of the association ~~[or~~
2-62 ~~federal association]~~.

2-63 (b) An offense under Subsection (a) is a state jail felony
2-64 ~~[punishable by:~~

2-65 ~~[(1) a fine not to exceed \$2,500,~~

2-66 ~~[(2) imprisonment in the Texas Department of Criminal~~
2-67 ~~Justice for not more than two years, or~~

2-68 ~~[(3) both the fine and imprisonment].~~

2-69 SECTION 9. Section 91.002(1), Finance Code, is amended to

3-1 read as follows:

3-2 (1) "Appropriate banking agency":

3-3 (A) means:

3-4 (i) with respect to a savings bank
3-5 chartered by this state, the Department of Savings and Mortgage
3-6 Lending;

3-7 (ii) with respect to a federal savings
3-8 bank, the Office of the Comptroller of the Currency [~~Office of~~
3-9 ~~Thrift Supervision~~];

3-10 (iii) with respect to a savings and loan
3-11 association chartered by this state, the Department of Savings and
3-12 Mortgage Lending;

3-13 (iv) with respect to a federal savings and
3-14 loan association, the Office of the Comptroller of the Currency
3-15 [~~Office of Thrift Supervision~~];

3-16 (v) with respect to a bank chartered by this
3-17 state, the Texas Department of Banking; [~~and~~]

3-18 (vi) with respect to a national bank, the
3-19 Office of the Comptroller of the Currency; and

3-20 (vii) with respect to a bank, savings bank,
3-21 or savings and loan association chartered by another state, the
3-22 chartering agency; and

3-23 (B) includes:

3-24 (i) in each case in which a state bank is a
3-25 member of the Federal Reserve System, the board of governors of the
3-26 Federal Reserve System;

3-27 (ii) in each case where required by the
3-28 Federal Deposit Insurance Act (12 U.S.C. Section 1811 et seq.), the
3-29 Federal Deposit Insurance Corporation; and

3-30 (iii) any successor of a state or federal
3-31 agency specified by this subdivision.

3-32 SECTION 10. Section 94.002(b), Finance Code, is amended to
3-33 read as follows:

3-34 (b) In this section, "commercial loan" means a loan that:

3-35 (1) is for business, commercial, corporate, or
3-36 agricultural purposes; [~~and~~]

3-37 (2) is not a real property loan; and

3-38 (3) is not a qualified thrift asset under Section
3-39 92.204.

3-40 SECTION 11. Section 96.002(a), Finance Code, is amended to
3-41 read as follows:

3-42 (a) The finance commission may adopt rules necessary to
3-43 supervise and regulate savings banks and to protect public
3-44 investment in savings banks, including rules relating to:

3-45 (1) the minimum amounts of capital required to
3-46 incorporate and operate as a savings bank, which may not be less
3-47 than the amounts required of corresponding national banks;

3-48 (2) the fees and procedures for processing, hearing,
3-49 and deciding applications filed with the commissioner or the
3-50 Department of Savings and Mortgage Lending under this subtitle;

3-51 (3) the books and records that a savings bank is
3-52 required to keep and the location at which the books and records are
3-53 required to be maintained;

3-54 (4) the accounting principles and practices that a
3-55 savings bank is required to observe;

3-56 (5) the conditions under which records may be copied
3-57 or reproduced for permanent storage before the originals are
3-58 destroyed;

3-59 (6) the form, content, and time of publication of
3-60 statements of condition;

3-61 (7) the form and content of any report [~~annual reports~~
3-62 ~~and other reports~~] that a savings bank is required to prepare and
3-63 publish or file under this chapter;

3-64 (8) the manner in which assets, liabilities, and
3-65 transactions in general are to be described when entered in the
3-66 books of a savings bank, so that the entry accurately describes the
3-67 subject matter of the entry;

3-68 (9) the conditions under which the commissioner may
3-69 require an asset to be charged off or reserves established by

4-1 transfer from surplus or paid-in capital because of depreciation of
4-2 or overstated value of the asset;

4-3 (10) the change of control of a savings bank;

4-4 (11) the conduct, management, and operation of a
4-5 savings bank;

4-6 (12) the withdrawable accounts, bonuses, plans, and
4-7 contracts for savings programs;

4-8 (13) the merger, consolidation, reorganization,
4-9 conversion, and liquidation of a savings bank;

4-10 (14) the establishment of an additional office or the
4-11 change of office location or name of a savings bank;

4-12 (15) the requirements for a savings bank's holding
4-13 companies, including those relating to:

4-14 (A) registration and periodic reporting of a
4-15 holding company with the commissioner; and

4-16 (B) transactions between a holding company, an
4-17 affiliate of a holding company, or a savings bank; and

4-18 (16) the powers of a savings bank to make loans and
4-19 investments that contain provisions reasonably necessary to ensure
4-20 that a loan made by a savings bank is consistent with sound lending
4-21 practices and that the savings bank's investment will promote the
4-22 purposes of this subtitle, including provisions governing:

4-23 (A) the type of loans and the conditions under
4-24 which a savings bank may originate, make, or sell loans;

4-25 (B) the conditions under which a savings bank may
4-26 purchase or participate in a loan made by another lender;

4-27 (C) the conditions for the servicing of a loan
4-28 for another lender;

4-29 (D) the conditions under which a savings bank may
4-30 lend money on the security of a loan made by another person;

4-31 (E) the conditions under which a savings bank may
4-32 pledge loans held by it as collateral for borrowing by the savings
4-33 bank;

4-34 (F) the conditions under which a savings bank may
4-35 invest in securities and debt instruments;

4-36 (G) the documentation that a savings bank must
4-37 have in its files at the time of funding or purchase of a loan, an
4-38 investment, or a participation in a loan;

4-39 (H) the form and content of statements of
4-40 expenses and fees and other charges that are paid by a borrower or
4-41 that a borrower is obligated to pay;

4-42 (I) the title information that must be
4-43 maintained;

4-44 (J) the borrower's insurance coverage of
4-45 property securing a loan;

4-46 (K) an appraisal report;

4-47 (L) the financial statement of a borrower;

4-48 (M) the fees or other compensation that may be
4-49 paid to a person in connection with obtaining a loan for a savings
4-50 bank, including an officer, director, employee, affiliated person,
4-51 consultant, or third party;

4-52 (N) the conditions under which the savings bank
4-53 may advance money to pay a tax, assessment, insurance premium, or
4-54 other similar charge for the protection of the savings bank's
4-55 interest in property securing the savings bank's loans;

4-56 (O) the terms under which a savings bank may
4-57 acquire and deal in real property;

4-58 (P) the valuation on a savings bank's books of
4-59 real property held by the savings bank;

4-60 (Q) the terms governing the investment by a
4-61 savings bank in a subsidiary, the powers that may be exercised by a
4-62 subsidiary, and the activities that may be engaged in by a
4-63 subsidiary; and

4-64 (R) any other matter considered necessary to
4-65 administer each type of transaction.

4-66 SECTION 12. Section 96.053(b), Finance Code, is amended to
4-67 read as follows:

4-68 (b) A savings bank shall make any ~~other~~ report the
4-69 commissioner may require to administer and enforce this chapter. A

5-1 ~~[An additional]~~ report under this section must be:

5-2 (1) ~~[signed in the same manner as the annual report,~~
5-3 ~~(2)]~~ in the form and manner the commissioner
5-4 prescribes; and

5-5 (2) ~~(3)]~~ filed on the date the commissioner
5-6 prescribes.

5-7 SECTION 13. Section 96.111(a), Finance Code, is amended to
5-8 read as follows:

5-9 (a) When a supervisory order is issued under this chapter,
5-10 the [The] commissioner shall report the existence of the order
5-11 promptly to the finance commission but shall maintain the
5-12 confidentiality of the content of the order [when a supervisory
5-13 order is issued under this chapter]. [The commissioner shall
5-14 furnish information about a savings bank or person as the finance
5-15 commission may require in a closed meeting. All information
5-16 discussed in the closed meeting is confidential.]

5-17 SECTION 14. Subchapter C, Chapter 119, Finance Code, is
5-18 amended by adding Section 119.202 to read as follows:

5-19 Sec. 119.202. CRIMINAL SLANDER OR LIBEL. (a) A person
5-20 commits an offense if the person:

5-21 (1) knowingly makes, utters, circulates, or transmits
5-22 to another person a statement that is untrue and derogatory to the
5-23 financial condition of a savings bank; or

5-24 (2) with intent to injure a savings bank counsels,
5-25 aids, procures, or induces another person to originate, make,
5-26 utter, transmit, or circulate a statement or rumor that is untrue
5-27 and derogatory to the financial condition of the savings bank.

5-28 (b) An offense under Subsection (a) is a state jail felony.

5-29 SECTION 15. The following provisions of the Finance Code
5-30 are repealed:

- 5-31 (1) Section 62.103;
- 5-32 (2) Section 92.202;
- 5-33 (3) Subchapter E, Chapter 94;
- 5-34 (4) Section 96.051(d); and
- 5-35 (5) Section 96.053(a).

5-36 SECTION 16. The change in law made by this Act applies only
5-37 to an offense committed on or after the effective date of this Act.
5-38 An offense committed before the effective date of this Act is
5-39 governed by the law in effect on the date the offense was committed,
5-40 and the former law is continued in effect for that purpose. For
5-41 purposes of this section, an offense was committed before the
5-42 effective date of this Act if any element of the offense occurred
5-43 before that date.

5-44 SECTION 17. This Act takes effect September 1, 2013.

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