

1-1 By: Carona S.B. No. 805  
 1-2 (In the Senate - Filed February 25, 2013; March 5, 2013,  
 1-3 read first time and referred to Committee on Business and Commerce;  
 1-4 March 13, 2013, reported favorably by the following vote: Yeas 8,  
 1-5 Nays 0; March 13, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

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

1-19 relating to the regulation of banks, trust companies, and bank  
 1-20 holding companies.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subsection (c), Section 11.107, Finance Code, is  
 1-23 amended to read as follows:

1-24 (c) The presiding officer may:

1-25 (1) adopt rules and procedures as the presiding  
 1-26 officer considers necessary for the orderly operation of the  
 1-27 finance commission and for communication among the finance  
 1-28 commission, the Texas Department of Banking [~~department~~], the  
 1-29 Department of Savings and Mortgage Lending, and the Office of  
 1-30 Consumer Credit Commissioner;

1-31 (2) adopt internal procedures governing the time and  
 1-32 place of meetings, the type of notice for special public meetings,  
 1-33 the manner in which public meetings are to be conducted, and other  
 1-34 similar matters; and

1-35 (3) appoint committees composed of finance commission  
 1-36 members as the presiding officer considers necessary to carry out  
 1-37 the commission's business.

1-38 SECTION 2. Subdivision (8), Subsection (a), Section 31.002,  
 1-39 Finance Code, is amended to read as follows:

1-40 (8) "Branch" means a location of a bank, other than the  
 1-41 bank's home office, at which the bank engages the public in the  
 1-42 business of banking. The term does not include:

1-43 (A) a drive-in facility located not more than  
 1-44 2,000 feet from the nearest wall of the home office or an approved  
 1-45 branch office of the bank;

1-46 (B) a night depository;

1-47 (C) an electronic terminal;

1-48 (D) a deposit or loan production office as  
 1-49 described by Section 32.204;

1-50 (E) a state or federally licensed armored car  
 1-51 service or other courier service transporting items for deposit or  
 1-52 payment, unless:

1-53 (i) the risk of loss of items in the custody  
 1-54 of the service is borne by the employing bank; or

1-55 (ii) the items in the custody of the service  
 1-56 are considered to be in customer accounts at the employing bank or  
 1-57 federally insured through the employing bank;

1-58 (F) a location at which the bank offers  
 1-59 exclusively nondepository financial products or services to the  
 1-60 public, including financial, investment, or economic advisory  
 1-61 services;

2-1 (G) a location that combines permissible  
2-2 non-branch functions or facilities; or

2-3 (H) another office or facility as provided by  
2-4 this subtitle or a rule adopted under this subtitle.

2-5 SECTION 3. Section 31.105, Finance Code, is amended by  
2-6 amending Subsections (c) and (d) and adding Subsections (c-1) and  
2-7 (e) to read as follows:

2-8 (c) The banking commissioner may:

2-9 (1) administer oaths and examine persons under oath on  
2-10 any subject that the commissioner considers pertinent to the  
2-11 financial condition or the safety and soundness of the activities  
2-12 of a state bank; and

2-13 (2) subpoena witnesses and require and compel by  
2-14 subpoena the production of documents not voluntarily produced.

2-15 (c-1) If a person refuses to obey a subpoena, a district  
2-16 court of Travis County, on application by the banking commissioner,  
2-17 may issue an order requiring the person to appear before the  
2-18 commissioner and produce documents or give evidence regarding the  
2-19 matter under examination or investigation.

2-20 (d) Disclosure of information to the banking commissioner  
2-21 pursuant to an examination request or a subpoena issued under this  
2-22 section does not constitute a waiver of or otherwise affect or  
2-23 diminish an evidentiary privilege to which the information is  
2-24 otherwise subject. A report of an examination under this section  
2-25 is confidential and may be disclosed only under the circumstances  
2-26 provided by this subtitle.

2-27 (e) A subpoena issued to a financial institution under this  
2-28 section is not subject to Section 59.006.

2-29 SECTION 4. Section 32.204, Finance Code, is amended to read  
2-30 as follows:

2-31 Sec. 32.204. DEPOSIT OR LOAN PRODUCTION OFFICES. (a) A  
2-32 state bank may establish one or more deposit or loan production  
2-33 offices for the purpose of:

2-34 (1) soliciting deposit accounts, applications for  
2-35 loans, or equivalent transactions;

2-36 (2) [, accepting loan applications, and] performing  
2-37 ministerial duties related to solicitations described by  
2-38 Subdivision (1); and

2-39 (3) conducting other activities as permitted by rules  
2-40 adopted under this subtitle [consummating a granted loan, such as  
2-41 execution of loan documents and dispensation of loan proceeds by  
2-42 check or other draft, including a certified or cashier's check, but  
2-43 not by cash. A credit decision, commitment to make a loan, and  
2-44 preparation of a check or other draft to dispense loan proceeds must  
2-45 occur at the bank's home office or a branch office and may not occur  
2-46 at a loan production office].

2-47 (b) The bank shall notify the banking commissioner in  
2-48 writing of the location of and activities to be conducted at a  
2-49 proposed deposit or loan production office of the bank. The bank  
2-50 may establish the proposed office beginning on the 31st day after  
2-51 the date [before the 31st day before the date of establishment of a  
2-52 loan production office, except that] the banking commissioner  
2-53 receives the bank's notice unless [may waive or shorten the period  
2-54 if] the banking commissioner specifies that the proposed office be  
2-55 established on an earlier or later date.

2-56 (c) The banking commissioner may extend the 30-day period  
2-57 prescribed by Subsection (b) on a determination that the bank's  
2-58 notice raises issues that require additional information or time  
2-59 for analysis. If the period is extended, [does not have a  
2-60 significant supervisory or regulatory concern regarding] the bank  
2-61 may establish the proposed deposit or [its planned] loan production  
2-62 office only with the prior written approval of the banking  
2-63 commissioner.

2-64 SECTION 5. Section 33.104, Finance Code, is amended to read  
2-65 as follows:

2-66 Sec. 33.104. ADVISORY DIRECTOR. (a) An advisory director  
2-67 is not considered a director if the advisory director:

2-68 (1) is not elected by the shareholders of the bank;

2-69 (2) does not vote on matters before the board or a

3-1 committee of the board;

3-2 (3) is not counted for purposes of determining a  
3-3 quorum of the board or committee; and

3-4 (4) provides solely general policy advice to the  
3-5 board.

3-6 (b) A state bank may not disclose to an advisory director  
3-7 confidential information pertaining to the bank or the bank's  
3-8 customers unless:

3-9 (1) the board adopts a resolution that designates the  
3-10 advisory director as a person who is officially connected to the  
3-11 bank and that describes the purpose for disclosure of the  
3-12 information, which must be a reasonable business purpose; and

3-13 (2) the disclosure is made under a written  
3-14 confidentiality agreement between the bank and the advisory  
3-15 director.

3-16 SECTION 6. Section 33.105, Finance Code, is amended to read  
3-17 as follows:

3-18 Sec. 33.105. REQUIRED MONTHLY BOARD MEETING. (a) Except  
3-19 as provided by Subsection (b), the [The] board of a state bank shall  
3-20 hold at least one regular meeting each month.

3-21 (b) On application by the board, the banking commissioner  
3-22 may grant the board approval to hold regular meetings on a less  
3-23 frequent basis than the period prescribed by Subsection (a). The  
3-24 commissioner may revoke or modify a prior approval granted under  
3-25 this subsection if the commissioner determines that more frequent  
3-26 regular meetings of the board are necessary to promote the safety  
3-27 and soundness of the bank.

3-28 (c) At each regular meeting the board shall review and  
3-29 approve the minutes of the prior meeting and review the operations,  
3-30 activities, and financial condition of the bank. The board may  
3-31 designate a committee from among its members to perform those  
3-32 duties and approve or disapprove the committee's report at each  
3-33 regular meeting. Each action of the board must be recorded in its  
3-34 minutes.

3-35 SECTION 7. Subsection (c), Section 34.003, Finance Code, is  
3-36 amended to read as follows:

3-37 (c) A state bank shall dispose of real property subject to  
3-38 this section not later than~~+~~

3-39 ~~[(1)]~~ the fifth anniversary of the date the real  
3-40 property:

3-41 (1) ~~[(A) it]~~ was acquired except as otherwise  
3-42 provided by rules adopted under this subtitle; ~~[or]~~

3-43 (2) ~~[(B) it]~~ ceases to be used as a bank facility; or

3-44 (3) ~~[(2) the second anniversary of the date it]~~  
3-45 ceases to be a bank facility as provided by Section 34.002(b).

3-46 SECTION 8. Section 34.004, Finance Code, is amended to read  
3-47 as follows:

3-48 Sec. 34.004. RETENTION OF NONPARTICIPATING ROYALTY  
3-49 [PASSIVE INVESTMENT IN MINERAL] INTERESTS. (a) Notwithstanding  
3-50 Section 34.003(a), a state bank may hold nonparticipating  
3-51 [~~nonworking mineral or~~] royalty interests if:

3-52 (1) the state bank acquires the interest pursuant to  
3-53 Section 34.003(a)(3) or retains the interest in a sale of property  
3-54 acquired under that section;

3-55 (2) the interest is nonparticipating due to the fact  
3-56 the interest:

3-57 (A) is nonpossessory;

3-58 (B) does not bear executive rights, the right of  
3-59 ingress and egress, the right to receive bonus payments, or the  
3-60 right to receive delay rentals; and

3-61 (C) is accordingly not subject to expenses of  
3-62 exploration, development, production, operation, maintenance, or  
3-63 abandonment, or ~~[any]~~ other expenses ~~[expense]~~ associated with  
3-64 extracting and marketing the minerals subject to the ~~[rights or]~~  
3-65 interest;

3-66 (3) the interest is reasonably valued on the books of  
3-67 the state bank for not more than a nominal amount, and the aggregate  
3-68 amount of earnings from such interests is separately disclosed in  
3-69 the annual financial statements of the state bank;

4-1 (4) the state bank does not make any new investments  
 4-2 relating to the ~~[rights or]~~ interests without the approval of the  
 4-3 banking commissioner; and

4-4 (5) the banking commissioner determines that the  
 4-5 possession of such ~~[rights and]~~ interests is not inconsistent with  
 4-6 the safety and soundness of the state bank.

4-7 (b) The banking commissioner may order a state bank that  
 4-8 holds nonparticipating ~~[nonworking mineral or]~~ royalty interests  
 4-9 to divest such interests at any time if the banking commissioner  
 4-10 determines that continued ownership of such interests is  
 4-11 detrimental to the state bank.

4-12 (c) Subject to compliance with this section,  
 4-13 nonparticipating ~~[nonworking mineral or]~~ royalty interests are not  
 4-14 considered to be real property for purposes of this subtitle.

4-15 SECTION 9. Subsection (b), Section 35.003, Finance Code, is  
 4-16 amended to read as follows:

4-17 (b) If the banking commissioner has grounds for action under  
 4-18 Subsection (a) and finds that a removal or prohibition order  
 4-19 appears to be necessary and in the best interest of the public ~~[bank~~  
 4-20 ~~involved and its depositors, creditors, or shareholders]~~, the  
 4-21 banking commissioner may serve a proposed removal or prohibition  
 4-22 order, as appropriate, on a person alleged to have committed or  
 4-23 participated in the action. The proposed order must:

4-24 (1) be delivered by personal delivery or by registered  
 4-25 or certified mail, return receipt requested;

4-26 (2) state with reasonable certainty the grounds for  
 4-27 removal or prohibition;

4-28 (3) state the effective date of the order, which may  
 4-29 not be before the 21st day after the date the proposed order is  
 4-30 delivered or mailed; and

4-31 (4) state the duration of the order, including whether  
 4-32 the duration of the order is perpetual.

4-33 SECTION 10. Section 35.106, Finance Code, is amended to  
 4-34 read as follows:

4-35 Sec. 35.106. AUTHORITY OF SUPERVISOR. During a period of  
 4-36 supervision, a bank, without the prior approval of the banking  
 4-37 commissioner or the supervisor or as otherwise permitted or  
 4-38 restricted by the order of supervision, may not:

4-39 (1) dispose of, sell, transfer, convey, or encumber  
 4-40 the bank's assets;

4-41 (2) lend or invest the bank's money;

4-42 (3) incur a debt, obligation, or liability; ~~[or]~~

4-43 (4) pay a cash dividend to the bank's shareholders; or

4-44 (5) remove an executive officer or director, change  
 4-45 the number of executive officers or directors, or have any other  
 4-46 change in the position of executive officer or director.

4-47 SECTION 11. Subsection (a), Section 181.002, Finance Code,  
 4-48 is amended by adding Subdivision (47-a) to read as follows:

4-49 (47-a) "Surplus" means the amount by which the assets  
 4-50 of a state trust company exceed the company's liabilities, capital,  
 4-51 and undivided profits.

4-52 SECTION 12. Section 181.104, Finance Code, is amended by  
 4-53 amending Subsections (d) and (f) and adding Subsections (f-1) and  
 4-54 (g) to read as follows:

4-55 (d) Disclosure of information to the banking commissioner  
 4-56 pursuant to an examination request or a subpoena issued under this  
 4-57 section does not constitute a waiver of or otherwise affect or  
 4-58 diminish an evidentiary privilege to which the information is  
 4-59 otherwise subject. A report of an examination under this section is  
 4-60 confidential and may be disclosed only under the circumstances  
 4-61 provided by this subtitle.

4-62 (f) The banking commissioner may:

4-63 (1) administer oaths and examine persons under oath on  
 4-64 any subject that the banking commissioner considers pertinent to  
 4-65 the financial condition or the safety and soundness of the  
 4-66 activities of a state trust company; and

4-67 (2) subpoena witnesses and require and compel by  
 4-68 subpoena the production of documents not voluntarily produced.

4-69 (f-1) If a person refuses to obey a subpoena, a district

5-1 court of Travis County, on application by the banking commissioner,  
 5-2 may issue an order requiring the person to appear before the  
 5-3 commissioner and produce documents or give evidence regarding the  
 5-4 matter under examination or investigation.

5-5 (g) A subpoena issued to a financial institution under this  
 5-6 section is not subject to Section 59.006.

5-7 SECTION 13. Section 183.104, Finance Code, is amended to  
 5-8 read as follows:

5-9 Sec. 183.104. ADVISORY DIRECTOR OR ADVISORY MANAGER.

5-10 (a) An advisory director or advisory manager is not considered to  
 5-11 be a director if the advisory director or advisory manager:

5-12 (1) is not elected by the shareholders or participants  
 5-13 of the state trust company;

5-14 (2) does not vote on matters before the board or a  
 5-15 committee of the board;

5-16 (3) is not counted for purposes of determining a  
 5-17 quorum of the board or committee; and

5-18 (4) provides solely general policy advice to the  
 5-19 board.

5-20 (b) A state trust company may not disclose to an advisory  
 5-21 director or advisory manager confidential information pertaining  
 5-22 to the state trust company or the company's clients unless:

5-23 (1) the board adopts a resolution that designates the  
 5-24 advisory director or advisory manager as a person who is officially  
 5-25 connected to the trust company and that describes the purpose for  
 5-26 disclosure of the information, which must be a reasonable business  
 5-27 purpose; and

5-28 (2) the disclosure is made under a written  
 5-29 confidentiality agreement between the state trust company and the  
 5-30 advisory director or advisory manager.

5-31 SECTION 14. Subsections (a) and (c), Section 184.002,  
 5-32 Finance Code, are amended to read as follows:

5-33 (a) Without the prior written approval of the banking  
 5-34 commissioner, a state trust company may not directly or indirectly  
 5-35 invest an amount in excess of the company's [~~60 percent of its~~]  
 5-36 restricted capital in state trust company facilities, furniture,  
 5-37 fixtures, and equipment. Except as otherwise provided by rules  
 5-38 adopted under this subtitle, in computing the limitation provided  
 5-39 by this subsection a state trust company:

5-40 (1) shall include:

5-41 (A) its direct investment in state trust company  
 5-42 facilities;

5-43 (B) an investment in equity or investment  
 5-44 securities of a company holding title to a facility used by the  
 5-45 state trust company for the purposes specified by Section 184.001;

5-46 (C) a loan made by the state trust company to or  
 5-47 on the security of equity or investment securities issued by a  
 5-48 company holding title to a facility used by the state trust company;  
 5-49 and

5-50 (D) any indebtedness incurred on state trust  
 5-51 company facilities by a company:

5-52 (i) that holds title to the facility;

5-53 (ii) that is an affiliate of the state trust  
 5-54 company; and

5-55 (iii) in which the state trust company is  
 5-56 invested in the manner described by Paragraph (B) or (C); and

5-57 (2) may exclude an amount included under Subdivisions  
 5-58 (1)(B)-(D) to the extent any lease of a facility from the company  
 5-59 holding title to the facility is capitalized on the books of the  
 5-60 state trust company.

5-61 (c) A state trust company shall dispose of any real property  
 5-62 subject to Subsection (a) not later than the fifth anniversary of  
 5-63 the date the real property:

5-64 (1) was acquired, except as otherwise provided by  
 5-65 rules adopted under this subtitle;

5-66 (2) ceases to be used as a state trust company  
 5-67 facility; or

5-68 (3) ceases to be a [~~comply with regulatory accounting~~  
 5-69 ~~principles in accounting for its investment in and depreciation of]~~

6-1 state trust company facility as provided by Subsection (b)  
 6-2 [~~facilities, furniture, fixtures, and equipment~~].

6-3 SECTION 15. Subsection (b), Section 185.003, Finance Code,  
 6-4 is amended to read as follows:

6-5 (b) If the banking commissioner has grounds for action under  
 6-6 Subsection (a) and finds that a removal or prohibition order  
 6-7 appears to be necessary and in the best interest of the public  
 6-8 [~~state trust company involved and its clients, creditors,~~  
 6-9 ~~shareholders, or participants~~], the banking commissioner may serve  
 6-10 a proposed removal or prohibition order, as appropriate, on an  
 6-11 officer, employee, director, manager or managing participant,  
 6-12 controlling shareholder or participant, or other person alleged to  
 6-13 have committed or participated in the violation or other conduct  
 6-14 described by Section 185.002(a). The order must:

6-15 (1) be delivered by personal delivery or by registered  
 6-16 or certified mail, return receipt requested;

6-17 (2) state with reasonable certainty the grounds for  
 6-18 removal or prohibition;

6-19 (3) state the effective date of the order, which may  
 6-20 not be before the 21st day after the date the proposed order is  
 6-21 delivered or mailed; and

6-22 (4) state the duration of the order, including whether  
 6-23 the duration of the order is perpetual.

6-24 SECTION 16. Section 185.106, Finance Code, is amended to  
 6-25 read as follows:

6-26 Sec. 185.106. DUTIES OF STATE TRUST COMPANY UNDER  
 6-27 SUPERVISION. During a period of supervision, a state trust  
 6-28 company, without the prior approval of the banking commissioner or  
 6-29 the supervisor or as otherwise permitted or restricted by the order  
 6-30 of supervision, may not:

6-31 (1) dispose of, sell, transfer, convey, or encumber  
 6-32 the state trust company's assets;

6-33 (2) lend or invest the state trust company's funds;

6-34 (3) incur a debt, obligation, or liability;

6-35 (4) pay a cash dividend to the state trust company's  
 6-36 shareholders or participants; ~~or~~

6-37 (5) solicit or accept any new client accounts; or

6-38 (6) remove an executive officer or director, change  
 6-39 the number of executive officers or directors, or have any other  
 6-40 change in the position of executive officer or director.

6-41 SECTION 17. Subsection (a), Section 187.103, Finance Code,  
 6-42 is amended to read as follows:

6-43 (a) An out-of-state trust company that does not operate a  
 6-44 trust office in this state and that meets the requirements of this  
 6-45 subchapter may acquire an existing trust institution in this state  
 6-46 and after the acquisition operate and maintain the acquired  
 6-47 institution as a trust office in this state, subject to Subchapter  
 6-48 A, Chapter 183, or Subchapter A, Chapter 33, if applicable. [~~If the~~  
 6-49 ~~institution to be acquired is a bank or a state savings bank,~~  
 6-50 ~~Section 203.005 applies to the transaction.~~]

6-51 SECTION 18. Subsection (a), Section 187.105, Finance Code,  
 6-52 is amended to read as follows:

6-53 (a) A trust office of an out-of-state trust company may be  
 6-54 acquired or established in this state under this subchapter if:

6-55 (1) the out-of-state trust company confirms in writing  
 6-56 to the banking commissioner that while it maintains a trust office  
 6-57 in this state, it will comply with all applicable laws of this  
 6-58 state;

6-59 (2) the out-of-state trust company provides  
 6-60 satisfactory evidence to the banking commissioner of compliance  
 6-61 with Section 201.102 and the applicable requirements of its home  
 6-62 state regulator for acquiring or establishing and maintaining the  
 6-63 office;

6-64 (3) all filing fees have been paid as required by law;  
 6-65 and

6-66 (4) the banking commissioner finds that:

6-67 (A) applicable conditions of Section 187.102 or  
 6-68 187.103 have been met;

6-69 (B) if a state bank is being acquired, the

7-1 applicable requirements of Subchapter A, Chapter 33~~, and Section~~  
 7-2 ~~203.005~~] have been met, or if a state trust company is being  
 7-3 acquired, the applicable requirements of Subchapter A, Chapter 183  
 7-4 have been met; and

7-5 (C) any conditions imposed by the banking  
 7-6 commissioner pursuant to Subsection (b) have been satisfied.

7-7 SECTION 19. Subdivision (7), Subsection (a), Section  
 7-8 201.002, Finance Code, is amended to read as follows:

7-9 (7) "Bank supervisory agency" means any of the  
 7-10 following:

7-11 (A) an agency of another state with primary  
 7-12 responsibility for chartering and supervising banks;

7-13 (B) the Office of the Comptroller of the  
 7-14 Currency, the Federal Deposit Insurance Corporation, ~~[or]~~ the Board  
 7-15 of Governors of the Federal Reserve System, or the Bureau of  
 7-16 Consumer Financial Protection, and any successor to these agencies;  
 7-17 or

7-18 (C) an agency of a country, including a colony,  
 7-19 dependency, possession, or political subdivision of a country,  
 7-20 other than the United States with primary responsibility for  
 7-21 chartering and supervising banks.

7-22 SECTION 20. Section 201.004, Finance Code, is amended by  
 7-23 amending Subsection (a) and adding Subsection (d) to read as  
 7-24 follows:

7-25 (a) The laws of this state, including laws regarding  
 7-26 community reinvestment, consumer protection, fair lending, and  
 7-27 establishment of intrastate branches, apply to an interstate branch  
 7-28 located in this state to the same extent the laws of this state  
 7-29 would apply if the branch in this state were a branch of an  
 7-30 out-of-state national bank [with its main office located] in this  
 7-31 state, except to the extent otherwise provided under federal law.  
 7-32 An out-of-state state bank that establishes an interstate branch in  
 7-33 this state under this subtitle may conduct any activity at the  
 7-34 branch in this state that is permissible under the laws of the  
 7-35 bank's home state, to the extent the activity is permissible for a  
 7-36 Texas state bank or for a branch of an out-of-state national bank in  
 7-37 this state.

7-38 (d) This subtitle does not limit or affect the authority of:

7-39 (1) the home state regulator of a bank's home state to  
 7-40 enforce any law applicable to a branch of an out-of-state state  
 7-41 bank;

7-42 (2) a law enforcement officer, a regulatory  
 7-43 supervisor, other than the commissioner, or another official of  
 7-44 this state to enforce the laws of this state applicable to a branch  
 7-45 of an out-of-state state bank; or

7-46 (3) this state to adopt, apply, or administer any tax  
 7-47 or method of taxation to a bank, bank holding company, or foreign  
 7-48 bank, or any affiliate of a bank, bank holding company, or foreign  
 7-49 bank, to the extent that the tax or tax method is otherwise  
 7-50 permissible by or under the United States Constitution or other  
 7-51 federal law.

7-52 SECTION 21. Section 201.005, Finance Code, is amended by  
 7-53 adding Subsection (c) to read as follows:

7-54 (c) A cooperative agreement entered into by the  
 7-55 commissioner under this section does not limit the authority of a  
 7-56 law enforcement officer, regulatory supervisor, or other official  
 7-57 of this state who is not a party to the agreement to enforce the laws  
 7-58 of this state applicable to a branch of an out-of-state state bank  
 7-59 located in this state.

7-60 SECTION 22. Subsection (b), Section 201.009, Finance Code,  
 7-61 is amended to read as follows:

7-62 (b) If the commissioner determines that an interstate  
 7-63 branch maintained by an out-of-state state bank in this state is  
 7-64 being operated in violation of a law of this state that is  
 7-65 applicable to the branch under Section 24(j), Federal Deposit  
 7-66 Insurance Act (12 U.S.C. Section 1831a(j)), including a law that  
 7-67 governs community reinvestment, fair lending, or consumer  
 7-68 protection [or in an unsafe and unsound manner], the commissioner,  
 7-69 with written notice to the home state regulator and subject to the

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

8-13 SECTION 23. Subsection (a), Section 203.002, Finance Code,  
 8-14 is amended to read as follows:

8-15 (a) An out-of-state bank may establish a de novo branch in  
 8-16 this state if:

8-17 (1) ~~[the laws of the home state of the out-of-state~~  
 8-18 ~~bank would permit a Texas bank to establish and maintain a de novo~~  
 8-19 ~~branch in that state under substantially the same terms and~~  
 8-20 ~~conditions as set forth in this subchapter,~~

8-21 ~~[(2)]~~ the out-of-state bank confirms in writing to the  
 8-22 commissioner that as long as it maintains a branch in this state, it  
 8-23 will comply with all applicable laws of this state;

8-24 (2) ~~[(3)]~~ the applicant provides satisfactory  
 8-25 evidence to the commissioner of compliance with the applicable  
 8-26 requirements of Section 201.102; and

8-27 (3) ~~[(4)]~~ the commissioner, acting on or before the  
 8-28 30th day after the date the commissioner receives notice of an  
 8-29 application under Subsection (b), certifies to the responsible  
 8-30 federal bank supervisory agency that the requirements of this  
 8-31 subchapter have been met.

8-32 SECTION 24. Subsection (a), Section 203.003, Finance Code,  
 8-33 is amended to read as follows:

8-34 (a) Subject to Section ~~[Sections]~~ 203.004 ~~[and 203.005]~~,  
 8-35 one or more Texas banks may enter into an interstate merger  
 8-36 transaction with one or more out-of-state banks under this chapter,  
 8-37 and an out-of-state bank resulting from the transaction may  
 8-38 maintain and operate the branches in this state of a Texas bank that  
 8-39 participated in the transaction. An out-of-state bank that will be  
 8-40 the resulting bank in the interstate merger transaction shall  
 8-41 comply with Section 201.102.

8-42 SECTION 25. Section 203.007, Finance Code, is amended to  
 8-43 read as follows:

8-44 Sec. 203.007. EXAMINATIONS ~~[, PERIODIC REPORTS]~~. (a) With  
 8-45 respect to an interstate branch maintained by an out-of-state state  
 8-46 bank in this state, the [The] banking commissioner:

8-47 (1) with written notice to the home state regulator  
 8-48 and subject to the terms of any applicable cooperative agreement  
 8-49 with the home state regulator, may examine the branch for the  
 8-50 purpose of determining whether the branch is in [may make  
 8-51 examinations of a branch established and maintained in this state  
 8-52 pursuant to this chapter by an out-of-state bank as the banking  
 8-53 commissioner considers necessary to determine whether the branch is  
 8-54 being operated in] compliance with the laws of this state that are  
 8-55 applicable under Section 24(j), Federal Deposit Insurance Act (12  
 8-56 U.S.C. Section 1831a(j)), including laws governing community  
 8-57 reinvestment, fair lending, and consumer protection; and

8-58 (2) if expressly permitted under and subject to the  
 8-59 terms of any cooperative agreement with the home state regulator,  
 8-60 or if the bank has been determined to be in a troubled condition by  
 8-61 the home state regulator or the bank's appropriate federal banking  
 8-62 agency, may participate in the examination of the bank by the home  
 8-63 state regulator to ascertain whether the activities of the branch  
 8-64 in this state are being conducted in an unsafe or unsound manner  
 8-65 [and in accordance with safe and sound banking practices. Sections  
 8-66 31.105-31.107 or 96.054-96.057, as appropriate, apply to the  
 8-67 examinations].

8-68 (b) For purposes of this section, a bank is considered to be  
 8-69 in a troubled condition if the bank:



9-1 (1) has a composite rating, as determined in the bank's  
9-2 most recent report of examination, of four or five under the Uniform  
9-3 Financial Institutions Ratings System;

9-4 (2) is subject to a proceeding initiated by the  
9-5 Federal Deposit Insurance Corporation for termination or  
9-6 suspension of deposit insurance; or

9-7 (3) is subject to a proceeding initiated by the home  
9-8 state regulator to:

9-9 (A) vacate, revoke, or terminate the bank's  
9-10 charter;

9-11 (B) liquidate the bank; or

9-12 (C) appoint a receiver for the bank. [~~The~~  
9-13 ~~commissioner may prescribe requirements for periodic reports from~~  
9-14 ~~an out-of-state bank that operates a branch in Texas pursuant to~~  
9-15 ~~this chapter. Reporting requirements prescribed by the~~  
9-16 ~~commissioner under this section must be:~~

9-17 [~~(1) consistent with the reporting requirements~~  
9-18 ~~applicable to Texas state banks or state savings banks, as~~  
9-19 ~~appropriate; and~~

9-20 [~~(2) appropriate to discharge the responsibilities of~~  
9-21 ~~the commissioner under this chapter.]~~

9-22 SECTION 26. Subsection (c), Section 201.009, Subsection  
9-23 (c), Section 203.003, and Section 203.005, Finance Code, are  
9-24 repealed.

9-25 SECTION 27. This Act takes effect immediately if it  
9-26 receives a vote of two-thirds of all the members elected to each  
9-27 house, as provided by Section 39, Article III, Texas Constitution.  
9-28 If this Act does not receive the vote necessary for immediate  
9-29 effect, this Act takes effect September 1, 2013.

9-30 \* \* \* \* \*