

By: Campbell
(Holland)

S.B. No. 1400

A BILL TO BE ENTITLED

AN ACT

relating to state banks, state bank holding companies, and branches
of foreign banks.

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

SECTION 1. Section 33.002, Finance Code, is amended by
adding Subsection (a-1) and amending Subsections (d), (e), and (f)
to read as follows:

(a-1) The banking commissioner shall promptly notify the
applicant of the date the banking commissioner determines the
application to be informationally complete and accepted for filing.

(d) The applicant shall publish notice of the application,
the [its] date the application is accepted for [of] filing, and the
identity of the applicant and, if the applicant includes a group,
the identity of each group member. The notice must be published in
the form and frequency specified by the banking commissioner and in
a newspaper of general circulation in the county in which the bank's
home office is located, or in another publication or location as
directed by the banking commissioner.

(e) The applicant may defer publication of the notice until
not later than the 34th day after the date the application is
accepted for filing [filed] if:

(1) the application is filed in contemplation of a
public tender offer subject to 15 U.S.C. Section 78n(d)(1);

(2) the applicant requests confidential treatment and

1 represents that a public announcement of the tender offer and the
2 filing of appropriate forms with the Securities and Exchange
3 Commission or the appropriate federal banking agency, as
4 applicable, will occur within the period of deferral; and

5 (3) the banking commissioner determines that the
6 public interest will not be harmed by the requested confidential
7 treatment.

8 (f) The banking commissioner may waive the requirement that
9 a notice be published or permit delayed publication on a
10 determination that waiver or delay is in the public interest. If
11 publication of notice is waived under this subsection, the
12 information that would be contained in a published notice becomes
13 public information under Chapter 552, Government Code, on the 35th
14 day after the date the application is accepted for filing [~~filed~~].

15 SECTION 2. Section 59.109, Finance Code, is amended to read
16 as follows:

17 Sec. 59.109. TERMINATION OF [DELINQUENT] RENTAL; LIEN; SALE
18 OF CONTENTS. (a) A safe deposit company may not terminate an
19 agreement for the rental of a safe deposit box unless:

20 (1) the safe deposit company has delivered or sent to
21 the lessee a notice not later than the 90th day before the date of
22 the termination and has provided the lessee an opportunity to
23 retrieve the contents during normal business hours throughout the
24 duration of the notice period; or

25 (2) the payment for the rental of a safe deposit box is
26 delinquent for at least six months, and the lessee fails to pay the
27 rent due following notice provided under Subsection (a-1).

1 (a-1) If the payment for the rental of [~~for~~] a safe deposit
2 box is delinquent for at least six months, or if the rental
3 agreement is otherwise terminated, the safe deposit company shall
4 [~~may~~] send notice to each lessee that the company will remove the
5 contents of the box if the rent is not paid or, if the rental
6 agreement is otherwise terminated, the contents are not retrieved
7 before the date specified in the notice, which may not be earlier
8 than the 60th day after the date the notice is delivered or sent.

9 (a-2) If the delinquent rent is not paid or, if the rental
10 agreement is otherwise terminated, the contents are not retrieved
11 before the date specified in the notice, the safe deposit company
12 may open the box in the presence of two employees, at least one of
13 whom is an officer or manager of the safe deposit company and at
14 least one of whom is a notary public. The safe deposit company
15 shall inventory the contents of the box in detail as provided by the
16 comptroller's reporting instructions and place the contents of the
17 box in a sealed envelope or container bearing the name of the
18 lessee.

19 (b) The safe deposit company has a lien on the contents of
20 the box for an amount equal to the rental owed for the box and the
21 cost of opening the box. The safe deposit company may retain
22 possession of the contents not later than two years from the date of
23 the opening of the box plus a reasonable period to dispose of the
24 contents of the box. If the rental and the cost of opening the box
25 are not paid before the second anniversary of the date the box was
26 opened, or if the rental agreement is being terminated for a reason
27 other than delinquent payment, and the lessee has failed to

1 retrieve the contents in a reasonable period after notice of the
2 termination has been sent or delivered, the safe deposit company
3 may sell all or part of the contents at public auction in the manner
4 and with the notice prescribed by Section 51.002, Property Code,
5 for the sale of real property under a deed of trust. Any unsold
6 contents of the box and any excess proceeds from a sale of contents
7 shall be remitted to the comptroller as provided by Chapters 72-75,
8 Property Code.

9 SECTION 3. Section 202.001, Finance Code, is amended by
10 amending Subsection (a) and adding Subsection (a-1) to read as
11 follows:

12 (a) This section applies to a company intending to acquire a
13 Texas bank holding company or a Texas bank. For purposes of this
14 section, a Texas bank holding company does not include a bank
15 holding company of which the only subsidiaries are state savings
16 banks.

17 (a-1) A company described by Subsection (a) [~~intending to~~
18 ~~acquire a Texas bank holding company or a Texas bank~~] shall submit
19 to the commissioner a copy of the application for approval or notice
20 submitted to the Board of Governors of the Federal Reserve System
21 under Section 3, Bank Holding Company Act (12 U.S.C. Section 1842).
22 The copy must be:

23 (1) submitted to the commissioner when the application
24 is submitted to the board of governors;

25 (2) accompanied by any additional information
26 required under Subsection (b); and

27 (3) accompanied by any filing fee required by law.

1 SECTION 4. Sections 204.105(b) and (e), Finance Code, are
2 amended to read as follows:

3 (b) Among other exceptions to Subsection (a) that may be
4 required or authorized by the commissioner provided by this
5 subchapter or by rules adopted under this subtitle:

6 (1) a Texas state branch may not accept deposits of
7 less than an amount equal to the standard maximum deposit insurance
8 amount [~~\$100,000~~] from citizens or residents of the United States,
9 other than credit balances that are incidental to or arise out of
10 its exercise of other lawful banking powers, unless the Federal
11 Deposit Insurance Corporation determines that specific deposit
12 taking activities in lesser amounts do not constitute domestic
13 retail deposit activities requiring deposit insurance protection
14 within the meaning of Section 6, International Banking Act (12
15 U.S.C. Section 3104);

16 (2) a Texas state agency may not accept deposits from
17 citizens or residents of the United States, other than credit
18 balances that are incidental to or arise out of its exercise of
19 other lawful banking powers, but may accept deposits from persons
20 who are neither citizens nor residents of the United States; and

21 (3) a limitation or restriction based on the capital
22 and surplus of a Texas state bank is considered to refer, as applied
23 to a Texas state branch or agency, to the dollar equivalent of the
24 capital and surplus of the foreign bank, and if the foreign bank has
25 more than one Texas state branch or agency in this state, the
26 business transacted by all the branches and agencies must be
27 aggregated in determining compliance with the limitation.

1 (e) For purposes of this section:

2 (1) "Resident of the United States" [~~the term~~
3 ~~"resident of the United States"~~] means:

4 (A) [~~(1)~~] an individual residing in the United
5 States;

6 (B) [~~(2)~~] a corporation, partnership,
7 association, or other entity organized in the United States; or

8 (C) [~~(3)~~] a branch or office located in the
9 United States of an entity that is not organized in the United
10 States.

11 (2) "Standard maximum deposit insurance amount" means
12 the amount of the maximum amount of deposit insurance as determined
13 under the Federal Deposit Insurance Act (12 U.S.C. Section 1821).

14 SECTION 5. Section 204.203(a), Finance Code, is amended to
15 read as follows:

16 (a) A registered Texas representative office of a foreign
17 bank may engage in:

18 (1) representational and administrative functions in
19 connection with the banking activities of the foreign bank that:

20 (A) may include soliciting new business for the
21 foreign bank, conducting research, acting as liaison between the
22 foreign bank's head office and customers in the United States,
23 performing preliminary and servicing steps in connection with
24 lending, or performing back-office functions; and

25 (B) do not include contracting for any deposit or
26 deposit-like liability, lending money, or engaging in any other
27 banking activity for the foreign bank [~~solicit loans and in~~

1 ~~connection with a loan:~~

2 [~~(A) assemble credit information about the~~
3 ~~borrower;~~

4 [~~(B) inspect and appraise property;~~

5 [~~(C) obtain property title information; and~~

6 [~~(D) prepare a loan application];~~

7 (2) making credit decisions if:

8 (A) the foreign bank also operates one or more
9 branches or agencies in the United States;

10 (B) the loans approved at the representative
11 office are made by a United States office of the bank; and

12 (C) the loan proceeds are not disbursed in the
13 representative office [~~solicit purchasers for loans from the~~
14 ~~foreign bank]; and~~

15 (3) other functions for or on behalf of the foreign
16 bank or its affiliates, including operating as a regional
17 administrative office of the foreign bank, but only to the extent
18 that the functions are not banking activities and are not
19 prohibited by applicable federal or state law [~~solicit persons to~~
20 ~~contract for servicing the foreign bank loans;~~

21 [~~(4) conduct research;~~

22 [~~(5) perform services as liaison for customers and~~
23 ~~correspondents of the foreign bank;~~

24 [~~(6) execute loan documents relating to permitted~~
25 ~~loans with the written approval of the foreign bank;~~

26 [~~(7) perform back office administrative functions as~~
27 ~~may be more specifically defined by rule; and~~

1 ~~[(8) engage in other activities approved by the~~
2 ~~commissioner or permitted by rule].~~

3 SECTION 6. Sections [204.203](#)(b), (c), and (d), Finance Code,
4 are repealed.

5 SECTION 7. This Act takes effect September 1, 2017.