

BILL ANALYSIS

Senate Research Center
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S.B. 1900
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerned parties note that the Texas Department of Savings and Mortgage Lending (TDSML) lacks equivalent authority to the Texas Department of Banking regarding oversight of third-party service providers to state savings banks. What's more, its governing statute includes several outdated provisions, some of which actively impede commerce.

A TDSML recommendation, S.B. 1900 makes several updates to TDSML's statute. Specifically, S.B. 1900 would allow applicants for opening a state savings bank the option of posting in a local newspaper, rather than the Texas Register; grant TDSML equivalent authority as the Department of Banking to examine third-party service providers of state savings banks; grant TDSML enforcement authority over savings bank holding companies (also equivalent to Department of Banking provisions); eliminate the requirement that a mortgage company or credit union subsidiary have a physical presence in the state; update the standards for TDSML's recovery fund to better align with its role as a trust; and repeal unused and outdated provisions associated with said fund.

As proposed, S.B. 1900 amends current law relating to the regulatory authority of the savings and mortgage lending commissioner and authorizes fees.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 92.554(a), Finance Code, to require the savings and mortgage lending commissioner (commissioner), on receipt of an application for change of control, to submit to the Texas Register for publication in the next issue after the date the application is received or publish in a newspaper of general circulation that is printed in English in the county in which the savings bank is to have the savings bank's principal office certain information.

SECTION 2. Amends Subchapter B, Chapter 96, Finance Code, by adding Section 96.0551, as follows:

Sec. 96.0551. REGULATION AND EXAMINATION OF CERTAIN RELATED ENTITIES. (a) Defines "state savings bank."

(b) Authorizes the commissioner to regulate and examine, to the same extent as if the services or activities were performed by a state savings bank on its own premises:

(1) the activities of a state savings bank affiliate; and

(2) the services or activities of a third-party service provider that a state savings bank or state savings bank affiliate has contracted for or otherwise arranged to be performed on behalf of the state savings bank or state savings bank affiliate.

(c) Authorizes the commissioner to collect a fee from an examined third-party service provider or affiliate in connection with each examination to cover the cost of the examination or to collect that fee from the state savings banks that use the examined third-party service provider.

(d) Provides that, for purposes of this section, a state savings bank affiliate does not include a company in which ownership or membership is limited to individuals and conditioned by law on the existence and maintenance of professional licensing.

(e) Authorizes the commissioner, to promote regulatory efficiency, if, in the preceding 24 months, a third-party service provider or affiliate has been examined by a federal or state financial services regulatory agency or by a member agency of the Federal Financial Institutions Examination Council, or its successor agency, to accept the results of that examination instead of conducting the commissioner's own examination of the third-party service provider or affiliate. Requires that nothing in this subsection be construed as limiting or restricting the commissioner from participating in an examination of a third-party service provider or affiliate conducted by a federal or state financial services regulatory agency or by a member agency of the Federal Financial Institutions Examination Council, or its successor agency.

(f) Provides that a third-party service provider that refuses to submit to examination or to pay an assessed fee for examination under this section is subject to an enforcement action under Chapter 96 (Supervision and Regulation). Authorizes the commissioner, with respect to a third-party service provider's refusal to submit to examination, to notify all state savings banks of the refusal and warn that continued use of the third-party service provider may constitute an unsafe and unsound banking practice.

SECTION 3. Amends Section 97.006, Finance Code, by adding Subsections (f), (g), and (h), as follows:

(f) Authorizes the commissioner to:

(1) examine a holding company that controls a state savings bank to the same extent as if the holding company were a state savings bank; and

(2) bring an enforcement action under Chapter 96 against a holding company described by Subdivision (1) or other person that violates or participates in a violation of Subtitle C (Savings Banks), an agreement filed with the commissioner under Chapter 97 (Holding Companies), or a rule adopted by the Finance Commission of Texas or order issued by the commissioner under this subtitle, as if the holding company were a state savings bank.

(g) Provides that the grounds, procedures, and effects of an enforcement action brought under Subsection (f) apply to a holding company, an officer, director, or employee of a holding company, or a controlling shareholder or other person participating in the affairs of a holding company in the same manner as the grounds, procedures, and effects apply to a state savings bank, an officer, director, or employee of a state savings bank, or a controlling shareholder or other person participating in the affairs of a state savings bank.

(h) Requires that a state savings bank that is controlled by a holding company that is not a Texas holding company be subject to all laws of this state that are applicable to state savings banks that are controlled by Texas holding companies.

SECTION 4. Amends Section 156.2041(a), Finance Code, to delete existing text requiring an applicant, to be issued a mortgage company license, to maintain a physical office in Texas. Makes nonsubstantive changes.

SECTION 5. Amends Section 156.2042(a), Finance Code, to make conforming and nonsubstantive changes.

SECTION 6. Amends Section 156.501(c), Finance Code, as follows:

(c) Provides that amounts in the recovery fund are authorized to be invested and reinvested in accordance with Chapter 2256 (Public Funds Investment), Government Code, and under the prudent person standard described by Section 11b (Expanded Investment Authority for Permanent University Fund), Article VII (Education), Texas Constitution, rather than in the same manner as funds of the Employees Retirement System of Texas, and the interest from these investments is required to be deposited to the credit of the fund.

SECTION 7. Repealer Section 156.212(a) (relating to requiring certain residential mortgage loan companies to maintain a physical office in Texas), Finance Code.

Repealer: Section 156.212(a-1) (relating to a residential mortgage loan company satisfying certain requirements if the company has a branch office located in Texas), Finance Code.

Repealer: Section 156.501(d) (relating to authorizing the recovery fund to be used to reimburse expenses incurred to secure and destroy certain residential mortgage loan documents), Finance Code.

Repealer: Section 156.501(f) (relating to reimbursements for reasonable and necessary costs and expenses incurred in the management of the fund entitled to the commissioner), Finance Code.

Repealer: Section 156.502(b) (relating to requiring that excess money remaining in the recovery fund be available to the commissioner to offset certain expenses), Finance Code.

SECTION 8. Makes application of Section 92.554(a), Finance Code, as amended by this Act, prospective.

SECTION 9. Makes application of Section 156.501(c), Finance Code, as amended by this Act, prospective.

SECTION 10. Effective date: September 1, 2021.