

FINANCE CODE

TITLE 2. FINANCIAL REGULATORY AGENCIES

CHAPTER 16. FINANCIAL REGULATORY AGENCIES: SELF-DIRECTED AND
SEMI-INDEPENDENT

Sec. 16.001. DEFINITIONS. In this chapter:

(1) "Financial regulatory agency" means:

- (A) the Texas Department of Banking;
- (B) the Department of Savings and Mortgage Lending;
- (C) the Office of Consumer Credit Commissioner; and
- (D) the Credit Union Department.

(2) "Policy-making body" means:

- (A) the Finance Commission of Texas for:
 - (i) the Texas Department of Banking;
 - (ii) the Department of Savings and Mortgage Lending; and
 - (iii) the Office of Consumer Credit Commissioner; and
- (B) the Credit Union Commission for the Credit Union Department.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. [2774](#)), Sec. 28(a), eff. September 1, 2009.

Sec. 16.002. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF FINANCIAL REGULATORY AGENCIES. Notwithstanding any other provision of law, a financial regulatory agency is self-directed and semi-independent as specified by this chapter. Any Act of the 81st Legislature that relates to a financial regulatory agency and that is inconsistent with the agency being self-directed and semi-independent may be implemented by the financial regulatory agency only on authorization by the policy-making body of the financial regulatory agency.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. [2774](#)), Sec. 28(a), eff. September 1, 2009.

Sec. 16.003. BUDGET, REVENUES, AND EXPENSES. (a) A financial regulatory agency shall submit to the policy-making body of the financial regulatory agency a budget annually using generally accepted accounting principles. Notwithstanding any other provision of law, including the General Appropriations Act, the budget shall be adopted and approved only by the policy-making body of the financial regulatory agency.

(b) A financial regulatory agency shall be responsible for all direct and indirect costs of the agency's existence and operation. The financial regulatory agency may not directly or indirectly cause the general revenue fund to incur any cost.

(c) Subject to any limitations in a financial regulatory agency's enabling legislation, a financial regulatory agency may set the amounts of fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of the financial regulatory agency and funding the budget adopted and approved under Subsection (a).

(d) All fees and funds collected by a financial regulatory agency and any funds appropriated to the financial regulatory agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company. The comptroller shall contract with the financial regulatory agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers.

(e) Periodically, each financial regulatory agency shall submit to the agency's policy-making body, as directed by the policy-making body, a report of the receipts and expenditures of the financial regulatory agency.

(f) The fiscal year for a financial regulatory agency begins on September 1 and ends on August 31.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. [2774](#)), Sec. 28(a), eff. September 1, 2009.

Sec. 16.004. AUDITS. This chapter does not affect the duty of the state auditor to audit a financial regulatory agency. The state auditor shall enter into a contract and schedule with each

financial regulatory agency to conduct audits, including financial reports and performance audits. The financial regulatory agency shall reimburse the state auditor for all costs incurred in performing the audits and shall provide to the governor a copy of any audit performed.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. [2774](#)), Sec. 28(a), eff. September 1, 2009.

Sec. 16.005. RECORDS; REPORTING REQUIREMENTS. (a) A financial regulatory agency shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of the agency.

(b) Before the beginning of each regular session of the legislature, each financial regulatory agency shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

- (1) an audit as required by Section [16.004](#);
- (2) a financial report of the previous fiscal year, including reports on financial condition and results of operations;
- (3) a description of all changes in fees imposed on regulated industries;
- (4) a report on changes in the regulatory jurisdiction of the agency, including the number of chartered financial institutions, license holders, and registrants subject to the agency's jurisdiction and any changes in those figures; and
- (5) a list of all new rules adopted or repealed.

(c) In addition to the reporting requirements of Subsection (b), not later than November 1 of each year, each financial regulatory agency shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

- (1) the salary for all financial regulatory agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees;
- (2) the total amount of per diem expenses and travel

expenses paid for each member of the agency's policy-making body, provided that only one report must be submitted regarding the Finance Commission of Texas;

(3) the agency's operating plan and annual budget; and

(4) a detailed report of all revenue received and all expenses incurred by the financial regulatory agency in the previous 12 months.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(a), eff. September 1, 2009.

Sec. 16.006. ABILITY TO CONTRACT. (a) To carry out and promote the objectives of this chapter, a financial regulatory agency may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes, except as limited by Subsection (b).

(b) Any indebtedness, liability, or obligation of the financial regulatory agency incurred under this section may not:

(1) create a debt or other liability of this state or another entity other than the financial regulatory agency; or

(2) create any personal liability on the part of the members of the policy-making body or the body's or agency's employees.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(a), eff. September 1, 2009.

Sec. 16.007. PROPERTY. A financial regulatory agency may:

(1) acquire by purchase, lease, gift, or any other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency;

(2) sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the financial regulatory agency determines is not necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions;

(3) construct, extend, improve, maintain, and

reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the powers, rights, privileges, or functions of the financial regulatory agency; and

(4) borrow money, as may be authorized from time to time by an affirmative vote of a two-thirds majority of the policy-making body of the financial regulatory agency, for a period not to exceed five years if necessary or convenient to the exercise of the financial regulatory agency's powers, rights, privileges, or functions.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(a), eff. September 1, 2009.

Sec. 16.008. SUITS. The office of the attorney general shall represent a financial regulatory agency in any litigation. The attorney general may assess and collect from the financial regulatory agency reasonable attorney's fees associated with any litigation under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(a), eff. September 1, 2009.

Sec. 16.009. POST-PARTICIPATION LIABILITY. (a) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent financial regulatory agency. The agency's liability under this section includes liability for any lease entered into by the agency. This state is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(b) If a financial regulatory agency no longer has status under this chapter as a self-directed semi-independent financial regulatory agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent financial regulatory agency, including unexpended fees in a deposit account in the Texas

Treasury Safekeeping Trust Company, shall be transferred to this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(a), eff. September 1, 2009.

Sec. 16.010. DUE PROCESS; OPEN GOVERNMENT. A financial regulatory agency is:

(1) a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) a state agency for purposes of Chapters 2001 and 2005, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(a), eff. September 1, 2009.

Sec. 16.011. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the financial regulatory agencies are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the agencies' transition to independent status as provided by this chapter has no effect on their membership or any benefits under that system.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(a), eff. September 1, 2009.

Sec. 16.012. GIFTS. (a) Notwithstanding any other law, a financial regulatory agency may not accept a gift, grant, or donation:

(1) from a party to an enforcement action; or

(2) to pursue a specific investigation or enforcement action.

(b) A financial regulatory agency must:

(1) report each gift, grant, or donation that the agency receives as a separate item in the agency's report required under Section 16.005(b); and

(2) include with the report a statement indicating the purpose for which each gift, grant, or donation was donated and used.

Added by Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec.

28(a), eff. September 1, 2009.