

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE B. SAVINGS AND LOAN ASSOCIATIONS

CHAPTER 89. MISCELLANEOUS PROVISIONS APPLICABLE TO SAVINGS AND LOAN ASSOCIATIONS

SUBCHAPTER A. GENERAL MISCELLANEOUS PROVISIONS

Sec. 89.001. APPLICABILITY OF CHAPTER 4, BUSINESS & COMMERCE CODE. Chapter 4, Business & Commerce Code, applies to an association with respect to an item paid, collected, settled, negotiated, or otherwise handled by the association for a customer. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 89.002. ACKNOWLEDGMENT OR PROOF TAKEN BY MEMBER, STOCKHOLDER, OR EMPLOYEE OF ASSOCIATION. A public officer who is qualified to take an acknowledgment or proof of a written instrument and who is a member or employee of, or a shareholder in, an association or federal association is not disqualified because of that relationship to the association or federal association from taking an acknowledgment or proof of a written instrument in which an association or federal association is interested. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 89.003. RENDITION OF CERTAIN PERSONAL PROPERTY FOR AD VALOREM TAXATION. (a) Each association and each federal association shall render for ad valorem taxation all of its personal property, other than furniture, fixtures, equipment, and automobiles, as a whole at the value remaining after deducting the following from the total value of its entire assets:

- (1) all debts that it owes;
- (2) all tax-free securities that it owns;
- (3) its loss reserves and surplus;
- (4) its savings liability; and
- (5) the appraised value of its furniture, fixtures, and real property.

(b) The association or federal association shall render the

personal property, other than furniture, fixtures, equipment, and automobiles, to the chief appraiser of the appraisal district in the county in which its principal office is located.

(c) Furniture, fixtures, equipment, and automobiles of an association or federal association shall be rendered and valued for ad valorem taxation as provided by the Tax Code.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 89.004. INITIATION OF RULEMAKING BY ASSOCIATIONS. The finance commission shall initiate rulemaking proceedings if at least 20 percent of the associations petition the finance commission in writing requesting the adoption, amendment, or repeal of a rule.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 32, eff. Sept. 1, 2001.

Sec. 89.005. EXEMPTION FROM SECURITIES LAWS. A savings account, certificate, or other evidence of an interest in the savings liability of an association or federal association is not considered a security under The Securities Act (Title 12, Government Code). A security of these associations, other than an interest in the savings liability of an association, is not subject to the registration requirements of that act. A person whose principal occupation is being an officer of an association is exempt from the registration and licensing provisions of that act with respect to that person's participation in a sale or other transaction involving securities of the association of which the person is an officer.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 2.12, eff. January 1, 2022.

Sec. 89.006. LIABILITY OF COMMISSIONER AND OTHER COMMISSION PERSONNEL; DEFENSE BY ATTORNEY GENERAL. (a) The commissioner, a member of the finance commission, a deputy commissioner, an examiner, or any other officer or employee of the Department of

Savings and Mortgage Lending is not personally liable for damages arising from the person's official act or omission unless the act or omission is corrupt or malicious.

(b) The attorney general shall defend an action brought against a person described by Subsection (a) because of the person's official act or omission without regard to whether the person is an officer or employee of the department at the time the action is instituted.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 6.034, eff. September 1, 2007.

Sec. 89.007. ASSOCIATION AUTHORIZED TO CONDUCT SAVINGS AND LOAN BUSINESS UNDER PRIOR LAW NOW SUBJECT TO SUBTITLE. (a) An association or corporation that was authorized to conduct a building and loan association, savings and loan association, building society, or other similar business before January 1, 1964, and that has substantially the same purpose as a savings and loan association is subject to this subtitle. The name, rights, powers, privileges, and immunities of each of those associations or corporations are governed, construed, extended, and limited by this subtitle to the same extent and effect as if the association or corporation had been incorporated under this subtitle.

(b) Except as provided by Subsection (d) and notwithstanding anything to the contrary in the entity's certificate of incorporation, bylaws, constitution, or rules, each association or corporation described by Subsection (a) has the rights, powers, privileges, and immunities conferred by this subtitle and is subject to the duties, liabilities, and restrictions imposed by this subtitle.

(c) Except as provided by Subsection (d), the articles of association, certificate of incorporation, or charter and the bylaws, constitutions, or other rules of each of those associations or corporations are:

(1) considered modified and amended to conform to this subtitle, regardless of whether the commissioner has issued or

approved a conformed copy of the document; and

(2) void to the extent that the document is inconsistent with this subtitle.

(d) The obligations existing on January 1, 1964, of each association or corporation described by Subsection (a), including an obligation between the entity and one or more of its members and between the entity and any other person, are not impaired by this subtitle. Any valid contract existing on January 1, 1964, either between the members of the entity or between the entity and any other person, is not impaired by this subtitle. An association is not required to change its name.

(e) An association or corporation described by Subsection (a) may enforce in its name any contractual obligation of the association or corporation incurred before January 1, 1964. A demand, claim, or right of action against the association or corporation may be enforced against the association or corporation as fully and completely as it might have been enforced before January 1, 1964.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 89.008. OFFICES OF FEDERAL ASSOCIATIONS. A federal association that has been merged, consolidated, or converted into a domestic or foreign savings bank or association is entitled to retain any authorized office under the terms provided for a foreign savings bank under Subchapter I, Chapter 92.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.31(a), eff. Sept. 1, 1999.

SUBCHAPTER B. ACCESS TO AND DISCLOSURE OF CERTAIN INFORMATION

Sec. 89.051. ACCESS TO BOOKS AND RECORDS OF ASSOCIATION.

(a) The books and records of an association may be examined only by:

(1) the commissioner or the commissioner's representative in accordance with Sections 66.051, 66.053, and 66.054;

(2) a person authorized to act for the association;

(3) an agent of a governmental agency that has insured the savings accounts of the association; or

(4) a borrower or savings account holder of the association, in accordance with Subsection (b).

(b) A borrower or savings account holder of an association is entitled to examine only the books and records of the association that pertain to the person's loan or savings account.

(c) A person is entitled to a partial or complete list of the stockholders of a stock association or of the members of a mutual association only if expressly permitted by the association's board. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 89.052. DISCLOSURE OF INFORMATION HELD BY DEPARTMENT ABOUT AN ASSOCIATION; LIABILITY. (a) The commissioner and an examiner, supervisor, conservator, liquidator, inspector, deputy, assistant, clerk, or other employee of the Department of Savings and Mortgage Lending who is appointed or acting under this subtitle shall be removed from the person's position with the department if the person:

(1) does not keep secret a fact or information about an association obtained during an examination or because of the person's official position, except when the public duty of the person requires otherwise; or

(2) wilfully makes a false official report about the condition of an association.

(b) A report of an examination made to the commissioner is confidential and is not a public record or available for public inspection, except:

(1) for good reason the commissioner may make the report public; and

(2) a copy of the report may be furnished to the Federal Home Loan Bank Board or to the Federal Home Loan Bank to meet the requirements of the Federal Home Loan Bank Act (12 U.S.C. Section 1421 et seq.).

(c) When a supervisory order is issued under Chapter 66, the commissioner shall report the existence of the order promptly to the finance commission but shall maintain the confidentiality of

the content of the order.

(d) Unless this subtitle provides otherwise, this section does not apply to any fact or information or to a report of an investigation obtained or made by the commissioner or the commissioner's staff in connection with an application for a charter under this subtitle or with a hearing held by the commissioner under this subtitle. The fact, information, or report may be included in the record of the hearing.

(e) This section does not prevent the proper exchange of information relating to associations with the representatives of savings and loan departments of other states or any other department, agency, or instrumentality of this or another state or the United States if the commissioner determines the disclosure of the information is necessary or proper to enforce the laws of this or another state or the United States.

(f) An official who violates this section is liable to the person injured by the disclosure of the secrets.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.035, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 464 (S.B. 1008), Sec. 7, eff. September 1, 2013.

SUBCHAPTER C. OFFENSES AND PENALTIES

Sec. 89.101. CRIMINAL SLANDER. (a) A person commits an offense if the person:

(1) knowingly makes, utters, circulates, or transmits to another person a statement that is untrue and derogatory to the financial condition of an association; or

(2) with intent to injure an association counsels, aids, procures, or induces another person to originate, make, utter, transmit, or circulate a statement or rumor that is untrue and derogatory to the financial condition of the association.

(b) An offense under Subsection (a) is a state jail felony.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.062, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 464 (S.B. [1008](#)), Sec. 8, eff. September 1, 2013.

Sec. 89.102. GENERAL ADMINISTRATIVE PENALTY. (a) The commissioner may require an association that knowingly violates this subtitle or a rule adopted under this subtitle to pay to the Department of Savings and Mortgage Lending an administrative penalty not to exceed \$1,000 for each day that the violation occurs after notice of the violation is given by the commissioner.

(b) On the commissioner's certification that an association has not paid a penalty assessed under this section, the attorney general may file suit to collect the penalty.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 6.036, eff. September 1, 2007.