

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE C. SAVINGS BANKS

CHAPTER 92. ORGANIZATIONAL AND FINANCIAL REQUIREMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 92.001. APPLICABILITY OF OTHER LAW. (a) With respect to a savings bank, other than a savings bank organized as a limited savings bank, organized before January 1, 2006, the Texas Business Corporation Act, the Texas Miscellaneous Corporation Laws Act (Article 1302-1.01 et seq., Vernon's Texas Civil Statutes), and other law relating to general business corporations apply to a savings bank to the extent not inconsistent with this subtitle or the proper business of a savings bank.

(b) With respect to a savings bank organized as a limited savings bank before January 1, 2006, the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes) and any other law relating to a limited liability company organized in Texas apply to a limited savings bank to the extent not inconsistent with this subtitle or the proper business of a limited savings bank.

(c) With respect to a savings bank, other than a savings bank organized as a limited savings bank, organized on or after January 1, 2006, the provisions of the Business Organizations Code applicable to general business corporations apply to a savings bank to the extent not inconsistent with this subtitle or the proper business of a savings bank.

(d) With respect to a savings bank organized as a limited savings bank on or after January 1, 2006, the provisions of the Business Organizations Code applicable to a limited liability company organized in this state apply to a limited savings bank to the extent not inconsistent with this subtitle or the proper business of a limited savings bank.

(e) With respect to a savings bank or limited savings bank organized before January 1, 2006, the finance commission may establish rules permitting a savings bank or limited savings bank to elect to be governed by the provisions of the Business

Organizations Code to the extent not inconsistent with this subtitle or the proper business of a savings bank or limited savings bank.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.03, eff. September 1, 2005.

SUBCHAPTER B. INCORPORATION IN GENERAL

Sec. 92.051. APPLICATION TO INCORPORATE. (a) Five or more adult residents of this state may apply to incorporate a savings bank by submitting to the commissioner:

(1) an application to incorporate a savings bank that is:

- (A) in a form specified by the commissioner; and
- (B) signed by each incorporator; and

(2) the filing fee.

(b) An application must contain:

(1) two copies of the savings bank's articles of incorporation identifying:

- (A) the name of the savings bank;
- (B) the location of the principal office; and
- (C) the names and addresses of the initial directors;

(2) two copies of the savings bank's bylaws;

(3) data sufficiently detailed and comprehensive to enable the commissioner to make findings under Section 92.058, including statements, exhibits, and maps;

(4) other information relating to the savings bank and its operation that the finance commission by rule requires; and

(5) financial information about each applicant, incorporator, director, officer, or shareholder that the finance commission by rule requires.

(c) Financial information described by Subsection (b) is confidential and not subject to public disclosure unless the commissioner finds that disclosure is necessary and in the public

interest.

(d) The articles of incorporation and statements of fact must be signed and sworn to.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 35, eff. Sept. 1, 2001.

Sec. 92.052. ADDITIONAL REQUIREMENTS FOR CAPITAL STOCK SAVINGS BANK. (a) A capital stock savings bank's articles of incorporation must include a statement of:

(1) the aggregate number of shares of common stock that the savings bank may issue;

(2) the par value of each share or that the shares are without par value;

(3) whether the savings bank may issue preferred stock;

(4) the amount of stock that has been subscribed and will be paid for before the savings bank begins business;

(5) the name and address of each subscriber and the amount subscribed by each; and

(6) the amount of paid-in surplus with which the savings bank will begin business.

(b) Before approving the application of a capital stock savings bank, the commissioner shall require the savings bank to have an aggregate amount of capital in the form of stock and paid-in surplus the finance commission by rule specifies.

(c) The subscriptions for capital stock, less any lawful expenditures, shall be returned pro rata to the subscribers if:

(1) the application is not approved; or

(2) the savings bank does not begin business.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 36, eff. Sept. 1, 2001.

Sec. 92.053. ADDITIONAL REQUIREMENTS FOR MUTUAL SAVINGS BANK. (a) A mutual savings bank's articles of incorporation must include a statement of the amount of deposit liability of the savings bank and the amount of the expense fund with which the savings bank will begin business.

(b) Before approving the articles of incorporation of a mutual savings bank, the commissioner shall require the savings bank to have subscriptions for an aggregate amount of deposit accounts and an expense fund in an aggregate amount the finance commission by rule establishes as necessary for the successful operation of a mutual savings bank.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 37, eff. Sept. 1, 2001.

Sec. 92.054. MINIMUM INITIAL CAPITAL. (a) The finance commission by rule shall set the minimum initial capital of a savings bank in an amount not less than the greater of:

(1) the amount required to obtain insurance of deposit accounts by the Federal Deposit Insurance Corporation; or

(2) the amount required of a national bank.

(b) The initial capital must be paid in cash before the savings bank may begin business.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 38, eff. Sept. 1, 2001.

Sec. 92.055. APPROVAL OF MANAGING OFFICER. (a) A savings bank may not begin business before:

(1) it presents to the commissioner the name and qualifications of its managing officer; and

(2) the commissioner approves the managing officer.

(b) An applicant is not required at a hearing on the application or in a public record to specify the name and qualifications of the managing officer of the savings bank.

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

Sec. 92.056. CORPORATE NAME. (a) The name of a savings bank must include the words "State Savings Bank" or the abbreviation "SSB," preceded by one or more appropriate descriptive words approved by the commissioner.

(b) The commissioner may not approve the incorporation of a savings bank that has the same name as another financial institution authorized to do business in this state under this

subtitle, Subtitle A, or Subtitle B or a name so nearly resembling the name of another financial institution as to be calculated to deceive unless the savings bank is formed:

(1) by the reincorporation, reorganization, or consolidation of the other financial institution; or

(2) on the sale of the property or franchise of the other savings bank.

(c) A person that is not a state or federal savings bank may not do business under a name or title that:

(1) contains the words "savings bank";

(2) indicates or reasonably implies that the business being done is the type of business carried on or transacted by a savings bank; or

(3) is calculated to lead a person to believe that the business being done is the type of business carried on or transacted by a savings bank.

(d) On application by the commissioner or a savings bank, a court may enjoin a violation of this section.

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

Sec. 92.057. HEARING ON APPLICATION TO INCORPORATE. (a) On the filing of a complete application to incorporate, as defined by rules adopted by the finance commission, the commissioner shall:

(1) issue public notice of the application; and

(2) give any interested person an opportunity to appear, present evidence, and be heard for or against the application.

(b) A hearing officer designated by the commissioner shall hold the hearing.

(c) The hearing officer shall file with the commissioner a report on the hearing. The report must:

(1) specify findings of fact on each condition described by Section [92.058](#); and

(2) identify the evidence that forms the basis for those findings.

(d) A hearing is not required if:

(1) before the 11th day after the date the notice of

application is published, no person has notified the commissioner in writing that the person intends to appear and present evidence at the hearing; and

(2) the commissioner finds that the application complies with all statutory requirements for approval.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 39, eff. Sept. 1, 2001.

Sec. 92.058. DECISION ON APPLICATION TO INCORPORATE; ISSUANCE OF CERTIFICATE OF INCORPORATION. (a) Not later than the 30th day after the date the hearing ends, the commissioner shall enter a final order approving or denying the application.

(b) The commissioner may approve an application to incorporate only if:

(1) the prerequisites to incorporation required by this chapter are satisfied;

(2) the character, responsibility, and general fitness of each person named in the articles of incorporation command confidence and warrant belief that:

(A) the business of the savings bank will be honestly and efficiently conducted in accordance with the intent and purpose of this subtitle; and

(B) the savings bank will have qualified full-time management;

(3) there is a public need for the savings bank;

(4) the volume of business in the community in which the savings bank will conduct its business indicates a profitable operation is probable; and

(5) the operation of the savings bank will not unduly harm an existing savings bank or state or federal savings and loan association.

(c) On finding that each requirement of Subsection (b) is met, the commissioner shall:

(1) enter an order approving the application and stating the findings required by Subsection (b);

(2) issue under official seal a certificate of incorporation;

(3) deliver a copy of the approved articles of incorporation and bylaws to the incorporators; and

(4) permanently retain a copy of the articles of incorporation and bylaws.

(d) On delivery of the certificate to the incorporators, the savings bank:

(1) is a corporate body with perpetual existence unless terminated by law; and

(2) may exercise the powers of a savings bank beginning on the date the commissioner certifies receipt of satisfactory proof that the savings bank has received, free of encumbrance, the required amount of capital.

(e) If the commissioner cannot make all findings required by Subsection (b), the commissioner shall enter a written order denying the application and stating the grounds for denial. The commissioner by certified mail shall deliver a copy of the order to the designated representative of the incorporators.

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

Sec. 92.059. JUDICIAL REVIEW. (a) An applicant may appeal a final order with the commissioner as defendant.

(b) A party to the action may appeal the court's decision. The appeal is immediately returnable to the appellate court and has precedence over any cause of a different character pending in that court.

(c) The commissioner is not required to give an appeal bond in a cause arising under this section.

(d) Filing an appeal under this section does not stay an order of the commissioner.

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

Sec. 92.060. PREFERENCE FOR LOCAL CONTROL. If more than one application to incorporate a new savings bank or establish an additional office of an existing savings bank in the same community is before the commissioner at the same time, the commissioner may give additional weight to the application of the applicant that has the greater degree of control vested in or held by residents of the

community.

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

Sec. 92.061. DEADLINE FOR COMMENCING BUSINESS. (a) A savings bank shall begin business not later than the first anniversary of the date the commissioner approves the savings bank's application.

(b) On the request of the incorporators and for good cause shown, the commissioner may grant a reasonable extension of the deadline prescribed by Subsection (a).

(c) The commissioner may rescind the authority to operate of a savings bank that does not begin business as required by this subtitle.

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

Sec. 92.062. AMENDMENT OF ARTICLES OF INCORPORATION OR BYLAWS. (a) A savings bank may amend its articles of incorporation or bylaws by a resolution adopted by a majority vote of those entitled to vote attending an annual meeting or a special meeting called for that purpose.

(b) An amendment may not take effect before it is filed with and approved by the commissioner.

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

Sec. 92.063. CHANGE OF OFFICE OR NAME; ESTABLISHMENT OF ADDITIONAL OFFICES. (a) Only with the prior approval of the commissioner given in accordance with rules of the finance commission may a savings bank:

(1) establish an office other than the principal office stated in the savings bank's articles of incorporation;

(2) move an office from its immediate vicinity; or

(3) change the savings bank's name.

(b) The commissioner may permit a savings bank to establish additional offices in this state or another state in accordance with rules of the finance commission.

(c) On request, the commissioner shall give a person who might be affected by the establishment of additional offices or the

change of office location or name an opportunity to be heard under Section 91.004.

(d) A savings bank may not establish or maintain a branch on the premises or property of an affiliate if the affiliate engages in commercial activities not permitted for a state savings bank or subsidiary of a state savings bank.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 40, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 217 (H.B. 944), Sec. 3, eff. May 25, 2007.

SUBCHAPTER C. INCORPORATION TO REORGANIZE OR MERGE

Sec. 92.101. PURPOSE OF INCORPORATION. A person may apply to incorporate a savings bank for the purpose of:

(1) purchasing the assets, assuming the liabilities other than liability to shareholders, and continuing the business of a financial institution the commissioner considers to be in an unsafe condition;

(2) acquiring an existing financial institution by merger; or

(3) facilitating a reorganization or merger with or into a savings bank under rules adopted by the finance commission.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.04, eff. September 1, 2005.

Sec. 92.102. INCORPORATION REQUIREMENTS. (a) An application to incorporate a savings bank under this subchapter must be submitted to the commissioner.

(b) The application must include information required by the commissioner or by rule of the finance commission.

(c) The savings bank must have capital in an amount determined by the commissioner to be sufficient to carry out the purposes for which incorporation is requested.

(d) Chapter 2001, Government Code, does not apply to the application if:

(1) the commissioner considers the financial institution to be reorganized or merged to be in an unsafe condition; or

(2) the savings bank incorporated under this subchapter does not survive the merger or is facilitating the continuation of an existing savings bank corporate reorganization as defined by rules adopted by the finance commission.

(e) If the commissioner considers the financial institution to be reorganized or merged to be in an unsafe condition, the application and all information relating to the application are confidential and not subject to public disclosure.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 41, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.05, eff. September 1, 2005.

Sec. 92.103. DECISION ON APPLICATION; ISSUANCE OF CERTIFICATE OF INCORPORATION. (a) The commissioner shall approve an application under this subchapter if the commissioner finds that:

(1) the business of the financial institution that is to be reorganized or merged can be effectively continued under the articles of incorporation; and

(2) the reorganization or merger is in the best interest of the public and the savers, depositors, creditors, and shareholders of the financial institution that is to be reorganized or merged.

(b) If the commissioner approves an application under Subsection (a), the commissioner shall:

(1) state findings under that subsection in writing; and

(2) issue a certificate of incorporation.

(c) Notwithstanding Section 92.353, the commissioner may approve an application to incorporate under this subchapter if the

commissioner:

(1) considers the institution to be reorganized or merged to be in an unsafe condition; and

(2) finds from the application and all information submitted with the application that the reorganization or merger is in the best interest of the public and the savers, depositors, creditors, and shareholders of the institution that is to be reorganized or merged.

(d) On issuance of the certificate of incorporation, the savings bank:

(1) is a corporate body and a continuation of the former institution, subject to all its liabilities, obligations, duties, and relations; and

(2) may exercise the powers of a savings bank.

(e) In a merger, a shareholder of a capital stock financial institution has the same dissenter's rights as a shareholder of a domestic business corporation under the Texas Business Corporation Act.

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

SUBCHAPTER D. ADMINISTRATION

Sec. 92.151. ORGANIZATIONAL MEETING. (a) Not later than the 30th day after the date the corporate existence of a savings bank begins, the initial board shall hold an organizational meeting and elect officers and take other appropriate action to begin the business of the savings bank.

(b) For good cause shown, the commissioner by order may extend the deadline prescribed by Subsection (a).

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

Sec. 92.152. BOARD OF DIRECTORS. (a) A board of not fewer than five or more than 21 directors shall direct the business of a savings bank. The members or shareholders may change the number of directors, within the prescribed limits, by resolution adopted at an annual meeting or a special meeting called for that purpose.

(b) The members or shareholders shall elect the board by a

majority vote at the annual meeting. The directors may be elected for staggered terms of longer than one year as provided by the savings bank's bylaws or articles of incorporation.

(c) The bylaws of a capital stock savings bank may require that all or a majority of the board be shareholders.

(d) A vacancy on the board is filled by the election by a majority vote of the remaining directors, regardless of whether a quorum exists, of a director to serve until the next annual meeting of members or shareholders. The remaining directors may continue to direct the savings bank until the vacancy is filled.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.33(a), eff. Sept. 1, 1999.

Sec. 92.153. QUALIFICATION OF DIRECTORS. (a) A person is not qualified to be a director of a savings bank if the person:

(1) is less than 18 years of age;

(2) has been adjudicated bankrupt or convicted of a criminal offense involving dishonesty or breach of trust, unless the commissioner gives the person prior written approval to be a director;

(3) has a final judgment entered against the person for an amount of money that has remained unsatisfied or unsecured for more than six months after the date of the judgment's entry, unless:

(A) the commissioner gives the person prior written approval to be a director; or

(B) the judgment was satisfied of record more than one year before the election date; or

(4) is a director, officer, or employee of another savings bank, unless the commissioner gives the person prior written approval to be a director.

(b) The bylaws of a savings bank may prescribe other qualifications for a director.

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

Sec. 92.154. OFFICERS. (a) The officers of a savings bank are:

- (1) a president;
 - (2) one or more vice presidents;
 - (3) a secretary; and
 - (4) other officers prescribed by the bylaws.
- (b) The board elects the officers by a majority vote.
- (c) The managing officer must be a director.

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

Sec. 92.155. CONFLICTS OF INTEREST. (a) Except as the finance commission by rule provides, a director or officer may not:

(1) receive directly or indirectly a commission on or benefit from a loan made by the savings bank;

(2) pay for services rendered to a borrower from the savings bank in connection with a loan;

(3) direct or require a borrower on a mortgage to negotiate an insurance policy on the mortgage property through a particular insurance company;

(4) attempt to divert to a particular insurance broker the business of borrowers from the savings bank;

(5) refuse to accept an insurance policy on the mortgaged property because the policy was not negotiated through a particular insurance broker;

(6) become an obligor, including an endorser, surety, or guarantor, on a loan made by the savings bank;

(7) borrow or use, individually or as agent or partner of another, directly or indirectly, money of the savings bank;

(8) become the owner of real property on which the savings bank holds a mortgage unless the loan is fully secured by:

(A) a first-lien mortgage on property that:

(i) is to be occupied as the director's or officer's primary residence; and

(ii) is specifically approved in writing by the board; or

(B) a deposit maintained by the officer or director with the savings bank; or

(9) engage in any other activity the finance commission by rule prohibits.

(b) Except as the finance commission by rule provides, a savings bank may not make a loan to a corporation in which:

(1) a director or officer of the savings bank holds stock, options, or warrants to purchase stock in the amount of five percent or more of the outstanding stock; or

(2) the directors of the savings bank together hold stock, options, or warrants to purchase stock in the amount of five percent or more of the outstanding stock.

(c) A deposit with a banking corporation is a loan for purposes of this section.

(d) This section does not prohibit a savings bank from:

(1) making a loan to a religious corporation, club, or other membership corporation of which one or more directors or officers are members but in which they have no financial interest; or

(2) making a loan to or purchasing a guaranteed mortgage from a stock corporation if:

(A) a director does not own more than 15 percent of the corporation's capital stock; and

(B) the total amount of the corporation's capital stock owned by all directors of the savings bank is less than 25 percent.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 42, eff. Sept. 1, 2001.

Sec. 92.156. FINANCIAL INSTITUTION BOND. (a) A savings bank shall maintain a financial institution bond that provides adequate coverage to protect the savings bank from loss:

(1) by or through dishonest or criminal action or omission, including fraud, theft, or misplacement, by any of the following persons:

(A) an officer or employee of the savings bank;

(B) an attorney retained by the savings bank;

(C) a nonemployee performing data processing services for the savings bank; or

(D) a director of the savings bank performing a duty of an officer or employee; or

(2) by other perils such as robbery, burglary, forgery, or alteration.

(b) A savings bank that employs a collection agent who is not covered by the bond required by Subsection (a) shall:

(1) ensure that the savings bank is included as a loss payee in the collection agent's crime coverage; and

(2) obtain a certificate of insurance evidencing the sufficiency of the collection agent's crime coverage.

(c) Subject to rules adopted under Subsection (e), the board shall, at least annually, review and approve:

(1) the coverage, including the amount of the coverage, provided by the bond and the form of the bond; and

(2) the sustainability of the corporate surety or insurer that issued the bond.

(d) The bond must provide that a cancellation or other termination by the corporate surety or insurer or by the insured is not effective until the earlier of:

(1) the date the commissioner approves; or

(2) the 30th day after the date written notice of the cancellation is given to the commissioner.

(e) The finance commission may adopt rules establishing:

(1) the coverage, including the amount of the coverage, that must be provided by the bond and the form of the bond; and

(2) the sustainability of the corporate surety or insurer that issues the bond.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.06, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 165 (H.B. 2579), Sec. 1, eff. September 1, 2017.

Sec. 92.157. MEETINGS OF MEMBERS OR SHAREHOLDERS. (a) The members or shareholders of a savings bank shall hold an annual meeting at the time fixed in the savings bank's bylaws.

(b) A special meeting may be called as provided by the

savings bank's bylaws.

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

Sec. 92.158. VOTING RIGHTS. (a) The voting rights of a person entitled to vote at an annual or special meeting of a savings bank are the same as those of a shareholder of a domestic business corporation under the Texas Business Corporation Act.

(b) The bylaws of a savings bank must specify the voting requirements, including quorum requirements, for conducting business at a meeting of the members or shareholders.

(c) The bylaws of a savings bank must provide for the voting rights of the members or shareholders. The bylaws must provide the manner of computing the number of votes that a member or shareholder is entitled to cast. The bylaws of a capital stock savings bank may provide that only shareholders may vote.

(d) Voting may be in person or by proxy. A proxy must be in writing and signed by the member or shareholder or the member's or shareholder's duly authorized attorney-in-fact and be filed with the secretary of the savings bank. Unless otherwise specified in the proxy, a proxy continues until:

(1) a written revocation is delivered to the secretary; or

(2) the proxy is superseded by a subsequent proxy.

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

SUBCHAPTER E. OPERATIONS AND FINANCES

Sec. 92.201. BOOKS AND RECORDS. A savings bank shall maintain its books and records according to generally accepted accounting principles and to rules adopted by the finance commission.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 43, eff. Sept. 1, 2001.

Sec. 92.203. REGULATORY CAPITAL. A savings bank shall maintain regulatory capital in the amount prescribed by rule of the finance commission. The amount may not be less than the amount of

regulatory capital required for a corresponding national bank. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 45, eff. Sept. 1, 2001.

Sec. 92.204. QUALIFIED THRIFT LENDER TEST. (a) A savings bank must:

(1) qualify under and continue to meet the qualified thrift lender test of Section 10(m), Home Owners' Loan Act (12 U.S.C. Section 1467a(m)); or

(2) maintain more than 50 percent of its portfolio assets in qualified thrift assets on a monthly average basis in at least nine out of 12 months.

(b) For purposes of Subsection (a)(2), "qualified thrift assets" means:

(1) qualified thrift investments as defined by 12 U.S.C. Section 1467a(m)(4)(C); and

(2) other assets determined by the commissioner, under rules adopted by the finance commission, to be substantially equivalent to qualified thrift investments described by Subdivision (1) or which further residential lending or community development.

(c) The commissioner may grant temporary or limited exceptions to the requirements of this section as the commissioner considers necessary.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.34(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. [955](#)), Sec. 5.07, eff. September 1, 2005.

Sec. 92.205. COMPUTATION OF INCOME. (a) A savings bank shall close its books at the times provided by its bylaws to determine its gross income for the period since the date of the last closing of its books.

(b) A savings bank's net income for a period is computed by subtracting the amount of the savings bank's operating expenses for the period from the savings bank's gross income for the period.

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

Sec. 92.206. INSURANCE OF DEPOSIT ACCOUNTS. A savings bank shall obtain and maintain federal insurance of deposit accounts through an insurance corporation created by an Act of the United States Congress.

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

Sec. 92.207. LIMITATION ON ISSUANCE OF SECURITIES. A savings bank may issue a form of stock, share, account, or investment certificate only as authorized by this subtitle or as permitted for a national bank, federal savings and loan association, federal savings bank, or state bank.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.08, eff. September 1, 2005.

Sec. 92.208. COMMON STOCK. (a) A savings bank may not issue common stock before the common stock is fully paid for in cash.

(b) A savings bank may not make a loan against the shares of its outstanding common stock.

(c) A savings bank may not purchase, directly or indirectly, its own issued common stock, except under a stock repurchase plan approved in advance by the commissioner.

(d) A savings bank may not retire or redeem common stock until:

(1) all liabilities of the savings bank are satisfied, including all amounts due to holders of deposit accounts, unless:

(A) prior written permission is obtained from the commissioner; and

(B) the retirement or redemption is authorized by a majority vote of the savings bank's shareholders at an annual meeting or a special meeting called for that purpose;

(2) the basis of the retirement or redemption is approved by the commissioner; and

(3) the savings bank files written consent of the Federal Deposit Insurance Corporation with the commissioner.

(e) Subsections (b) and (c) apply to the securities of the savings bank's holding company and affiliates.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.09, eff. September 1, 2005.

Sec. 92.209. PREFERRED STOCK. (a) A savings bank may not issue preferred stock before the preferred stock is fully paid for in cash.

(b) A savings bank may not make a loan against the shares of its outstanding preferred stock.

(c) A savings bank may retire or redeem preferred stock in the manner provided by:

(1) the articles of incorporation; or

(2) a resolution of the board of the savings bank establishing the rights and preferences relating to the stock.

(d) The extent to which preferred stock may be included as regulatory capital of a savings bank is subject to the rules adopted by the finance commission.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 46, eff. Sept. 1, 2001.

Sec. 92.210. SERIES AND CLASSES OF PREFERRED STOCK. (a) The articles of incorporation may:

(1) authorize that shares of preferred stock be divided into and issued in series; and

(2) determine the rights and preferences of each series or part of a series.

(b) Each series must be clearly designated to distinguish its shares from the shares of other series or classes.

(c) The articles of incorporation may authorize the board by resolution to divide classes of preferred stock into series and to determine the rights and preferences of the shares of each series. A copy of the resolution must be submitted to the commissioner

before the shares may be issued. The commissioner shall file the resolution in the commissioner's office if the resolution conforms to this subtitle. After the resolution is filed, it is considered an amendment of the savings bank's articles of incorporation.

(d) All shares of the same class of preferred stock must be identical except for the following rights and preferences:

- (1) the rate of dividend;
- (2) the terms, including price and conditions, under which shares may be redeemed;
- (3) the amount payable for shares on involuntary liquidation;
- (4) the amount payable for shares on voluntary liquidation;
- (5) a sinking fund provision for the redemption or purchase of shares;
- (6) the terms, including conditions, of conversion of shares that may be converted; and
- (7) voting rights.

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

Sec. 92.211. DIVIDENDS ON CAPITAL STOCK. (a) The board of a capital stock savings bank may declare and pay a dividend out of current or retained income, in cash or additional stock, to the holders of record of the stock outstanding on the date the dividend is declared.

(b) Without the prior approval of the commissioner, a cash dividend may not be declared by the board of a savings bank that the commissioner considers:

- (1) to be in an unsafe condition; or
- (2) to have less than zero total retained income on the date of the dividend declaration.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.10, eff. September 1, 2005.

Sec. 92.212. USE OF SURPLUS ACCOUNTS AND EXPENSE FUND

CONTRIBUTIONS. (a) At a savings bank's closing date, the savings bank may use all or part of a surplus account, whether earned or paid in, or expense fund contributions on its books to:

(1) meet expenses of operating the savings bank for the period just closed;

(2) make required transfers to loss reserves; or

(3) pay or credit earnings on deposit accounts.

(b) Paid-in surplus may be used instead of earnings to pay organizational and operating expenses and earnings on deposit accounts and to meet any loss reserve requirements.

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

Sec. 92.213. USE OF EXPENSE FUND CONTRIBUTIONS. (a) The expense of organizing a savings bank, its operating expenses, and earnings on accounts declared and paid or credited to its deposit account holders may be paid out of the expense fund until the savings bank's earnings are sufficient to pay those amounts.

(b) The amounts contributed to the expense fund are not a liability of the savings bank except as provided by this subchapter.

(c) The savings bank shall pay to the contributor dividends on the amount contributed to the same extent the savings bank pays dividends on a deposit account. An amount contributed to the expense fund is considered a deposit account of the savings bank.

(d) Contributions to the expense fund may be repaid to the contributors pro rata from the net earnings of the savings bank after provision for required loss reserve allocations and payment or credit of earnings declared on accounts.

(e) If the savings bank is liquidated before contributions to the expense fund are repaid, contributions to the expense fund that remain unspent after the payment of expenses of liquidation, creditors, and the withdrawal value of deposit accounts shall be repaid to the contributors pro rata.

(f) The savings bank's books must reflect the expense fund.

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

SUBCHAPTER F. CONVERSION OF SAVINGS BANK TO OTHER FINANCIAL

INSTITUTION

Sec. 92.251. CONDITIONS FOR CONVERSION. (a) The finance commission by rule shall establish the conditions under which a savings bank may convert to another financial institution.

(b) The rules must ensure that a conversion does not cause undue harm to the public interest or to another existing financial institution.

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

Sec. 92.252. APPLICATION FOR CONVERSION. (a) A savings bank may convert to another financial institution if a resolution declaring the conversion is adopted by a majority vote of the members or shareholders of the savings bank who are entitled to vote at an annual meeting or a special meeting called to consider the conversion.

(b) The application to convert must:

(1) be filed in the office of the commissioner not later than the 30th day after the date of the meeting; and

(2) include a copy of the minutes of the meeting, sworn to by the secretary or an assistant secretary.

(c) The copy of the minutes filed under Subsection (b) is presumptive evidence that the meeting was held and the resolution was adopted.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.11, eff. September 1, 2005.

Sec. 92.253. ACTION BY COMMISSIONER ON APPLICATION. Not later than the 10th day after the date an application to convert is received, the commissioner shall:

(1) consent by written order to the conversion; or

(2) set a hearing on whether the conversion complies with rules adopted under Section 92.251.

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

Sec. 92.254. HEARING ON APPLICATION. (a) A hearing set under Section 92.253(2) must be held not later than the 25th day after the date the application is filed unless a later date is agreed to by the applicant and the commissioner.

(b) The commissioner or a hearing officer designated by the commissioner shall conduct the hearing.

(c) The hearing shall be conducted as a contested case under Chapter 2001, Government Code, except that:

(1) a proposal for decision may not be made; and

(2) the commissioner shall render a final decision or order not later than the 15th day after the date the hearing is closed.

(d) Chapter 2001, Government Code, governs a motion for rehearing and the availability of judicial review if the commissioner denies the application to convert.

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

Sec. 92.255. CONSUMMATION OF CONVERSION. Within three months after the date of the commissioner's written order consenting to the conversion, the savings bank shall consummate the conversion in the manner prescribed by the applicable law of this state or the United States.

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

Sec. 92.256. FILING OF CHARTER OR CERTIFICATE. (a) The new financial institution shall file with the commissioner:

(1) a copy of the charter issued to the new financial institution by the appropriate banking agency; or

(2) the certificate showing the organization of the new financial institution, certified by the secretary or assistant secretary of the appropriate banking agency.

(b) Failure to file the charter or certificate with the commissioner does not affect the validity of the conversion.

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

Sec. 92.257. EFFECT OF ISSUANCE OF CHARTER. On the issuance of a charter by the appropriate banking agency, the savings bank:

(1) ceases to be a savings bank incorporated under this subtitle; and

(2) is not subject to the supervision and control of the commissioner under this subtitle.

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

Sec. 92.258. CONTINUATION OF CORPORATE EXISTENCE. After a savings bank is converted to another financial institution:

(1) the corporate existence of the savings bank continues; and

(2) the new financial institution is considered to be a continuation of the savings bank that was converted.

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

Sec. 92.259. PROPERTY AND OBLIGATIONS OF CONVERTED SAVINGS BANK. The new financial institution:

(1) retains any property, right, or obligation of the converted savings bank; and

(2) to the extent the provisions can be made applicable, is subject to Sections 92.306-92.308 as if it were a new savings bank.

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

SUBCHAPTER G. CONVERSION OF OTHER FINANCIAL INSTITUTION TO SAVINGS BANK

Sec. 92.301. APPLICATION TO CONVERT. (a) Another financial institution may convert to a savings bank if the conversion is approved by a majority vote of the members or shareholders of the financial institution cast at an annual meeting or a special meeting called to consider the conversion.

(b) The application to convert must:

(1) be submitted to the commissioner and mailed to the appropriate banking agency not later than the 30th day after the date of the meeting; and

(2) include a copy of the minutes of the meeting, sworn to by the secretary or an assistant secretary.

(c) The copy of the minutes filed under Subsection (b) is presumptive evidence that the meeting was held and the conversion was approved.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.12, eff. September 1, 2005.

Sec. 92.302. ELECTION OF DIRECTORS; EXECUTION AND ACKNOWLEDGMENT OF APPLICATION AND BYLAWS. (a) At the meeting under Section 92.301(a), the members or shareholders shall elect directors of the savings bank.

(b) The directors, or the president and secretary, shall execute two copies of an application for certificate of incorporation as provided by Subchapter B.

(c) Each director, or the president and secretary, shall sign and acknowledge the application for certificate of incorporation as a subscriber and shall sign and acknowledge the bylaws as an incorporator.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.13, eff. September 1, 2005.

Sec. 92.303. REVIEW BY COMMISSIONER; APPROVAL. (a) On receipt of the application, the commissioner shall conduct an examination of the financial institution seeking conversion.

(b) After the examination, the commissioner shall approve the conversion without a hearing if the commissioner determines that the converting financial institution is in sound condition and meets all requirements of Subchapter B and relevant rules of the finance commission.

(c) On approval of the conversion, the incorporators shall insert a paragraph preceding the testimonium clause in the certificate of incorporation stating that the savings bank is incorporated by conversion from another financial institution.

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

by Acts 2001, 77th Leg., ch. 867, Sec. 47, eff. Sept. 1, 2001.

Sec. 92.304. HEARING ON DENIAL; APPEAL. (a) An applicant is entitled to a hearing under Chapter 2001, Government Code, if:

(1) the commissioner denies an application to convert; and

(2) a written request for a hearing is delivered to the commissioner not later than the 10th day after the date the application is denied.

(b) A hearing officer designated by the commissioner shall hold the hearing.

(c) The commissioner shall enter a final order approving or denying the application not later than the 30th day after the date the hearing is completed.

(d) An applicant may appeal a final order with the commissioner named as defendant. The commissioner is not required to file an appeal bond in a cause arising under this section. Filing an appeal under this section does not stay an order of the commissioner.

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

Sec. 92.305. CONTINUATION OF CORPORATE EXISTENCE. After another financial institution is converted to a savings bank:

(1) the corporate existence of the financial institution continues; and

(2) the savings bank is considered to be a continuation of the financial institution that was converted.

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

Sec. 92.306. PROPERTY AND OBLIGATIONS OF CONVERTED INSTITUTION. (a) The property of another financial institution that converts to a savings bank vests in the savings bank.

(b) The savings bank:

(1) holds the property in its own right to the extent the property was held by the financial institution that was converted; and

(2) on the date the conversion takes effect, succeeds

to the rights, obligations, and relations of the financial institution that was converted.

(c) In this section, the property of a financial institution includes each right, title, or interest of the institution in and to property, including things in action, and each right, privilege, interest, or asset of the institution that exists or that inures to the benefit of the institution.

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

Sec. 92.307. EFFECT OF CONVERSION ON PENDING LEGAL ACTION.

(a) A judicial proceeding to which the financial institution that converted is a party is not abated or discontinued by reason of the conversion and may be prosecuted to final judgment, order, or decree as if the conversion had not occurred.

(b) The savings bank may continue a judicial proceeding in its own corporate name. A judgment, order, or decree that might have been rendered for or against the financial institution that converted may be rendered for or against the savings bank.

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

Sec. 92.308. LOCAL FILING OF CONVERSION ORDER REQUIRED.

The savings bank shall file a copy of the order of conversion in each county in which the financial institution that converted owned real property at the time the conversion took effect.

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

SUBCHAPTER H. REORGANIZATION, MERGER, AND CONSOLIDATION IN GENERAL

Sec. 92.351. AUTHORITY TO REORGANIZE, MERGE, OR CONSOLIDATE. (a) A savings bank may reorganize, merge, or consolidate with a corporation, another financial institution, or another entity under a plan adopted by the board.

(b) The plan must be approved:

(1) at an annual meeting or a special meeting called to consider the action by a majority of the total vote the members or shareholders are entitled to cast; and

(2) by the commissioner.

(c) A shareholder of a capital stock savings bank has the same dissenter's rights as a shareholder of a domestic corporation under the Texas Business Corporation Act.

(d) A reorganization, merger, or consolidation is subject to Section 16, Article XVI, Texas Constitution. A merger or consolidation of a domestic savings bank with a foreign savings bank is also subject to Subchapter I.

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

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.14, eff. September 1, 2005.

Sec. 92.352. NOTICE AND HEARING; CONFIDENTIALITY. (a) On receiving a plan of reorganization, merger, or consolidation, the commissioner shall give:

(1) public notice of the reorganization, merger, or consolidation in each county in which a financial institution participating in the plan has an office; and

(2) any interested person an opportunity to appear, present evidence, and be heard for or against the plan.

(b) A hearing officer designated by the commissioner shall hold the hearing.

(c) If a protest is not received on or before the date of the hearing, the commissioner or hearing officer may waive the hearing.

(d) Except as provided by Subsection (e), the provisions of Chapter 2001, Government Code, applicable to a contested case apply to the hearing.

(e) If the commissioner designates a merger as a supervisory merger under rules adopted by the finance commission:

(1) the notice and hearing provisions of Chapter 2001, Government Code, and of this section do not apply to the application; and

(2) the application and all information relating to the application are confidential and not subject to public disclosure.

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

Sec. 92.353. DENIAL BY COMMISSIONER OF PLAN. The commissioner shall issue an order denying the plan if:

(1) the reorganization, merger, or consolidation would substantially lessen competition or restrain trade and would result in a monopoly or further a combination or conspiracy to monopolize or attempt to monopolize the financial industry in any part of the state, unless the anticompetitive effects of the reorganization, merger, or consolidation are clearly outweighed in the public interest by the probable effect of the reorganization, merger, or consolidation in meeting the convenience and needs of the community to be served;

(2) the plan is not in the best interest of the financial institutions that are parties to the plan;

(3) the experience, ability, standing, competence, trustworthiness, or integrity of the management of the financial institutions proposing the plan is such that the reorganization, merger, or consolidation would not be in the best interest of the financial institutions that are parties to the plan;

(4) after reorganization, merger, or consolidation, the surviving financial institution would not:

(A) be solvent;

(B) have adequate capital structure; or

(C) be in compliance with the law of this state;

(5) the financial institutions proposing the plan have not furnished all the information pertinent to the application that is reasonably requested by the commissioner; or

(6) the financial institutions proposing the plan are not acting in good faith.

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

Sec. 92.354. ALTERNATIVE OR ADDITIONAL PROCEDURES. If the surviving financial institution is an entity other than a savings bank, the commissioner may accept, in addition to or instead of the requirements of this subchapter, the procedures and decision of the appropriate banking agency with jurisdiction over the surviving financial institution.

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

Sec. 92.355. CONTINUATION OF CORPORATE EXISTENCE; HOME OFFICE OF SURVIVING ENTITY. (a) An entity that results from a reorganization, merger, or consolidation as provided by Section 92.351 has the property rights and obligations of the reorganized, merged, or consolidated entity in the same manner as an entity that results from the conversion of a savings bank under this chapter has the property rights and obligations of the savings bank.

(b) The home office of the surviving financial institution is the home office of the financial institution in the merger that has the largest assets unless the commissioner approves a different home office.

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

SUBCHAPTER I. ADDITIONAL PROVISIONS FOR MERGER OR CONSOLIDATION OF FOREIGN AND DOMESTIC SAVINGS BANKS

Sec. 92.401. APPLICABILITY OF SUBCHAPTER. (a) Except as provided by Section 92.407, this subchapter applies only to the merger or consolidation of a domestic savings bank with a foreign savings bank.

(b) The requirements of and authority and duties provided by this subchapter are in addition to those provided by Subchapter H.

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

Sec. 92.402. ADOPTION OF MERGER OR CONSOLIDATION PLAN. The board of the foreign savings bank must adopt the merger or consolidation plan.

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

Sec. 92.403. NOTICE AND HEARING; CONFIDENTIALITY. If the commissioner considers the domestic savings bank to be in an unsafe condition:

(1) the provisions of Chapter 2001, Government Code, applicable to a contested case do not apply to the application; and

(2) the application and all information related to the application are confidential and not subject to public disclosure.

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

Sec. 92.404. DENIAL BY COMMISSIONER OF APPLICATION. If the surviving savings bank is a foreign savings bank, the commissioner shall deny the application if:

(1) the law of the state in which the foreign savings bank has its principal place of business does not permit a savings bank of that state to merge or consolidate with a domestic savings bank if the surviving savings bank is a domestic savings bank; or

(2) the foreign savings bank is controlled by a holding company that has its principal place of business in a state whose law does not permit a savings bank of that state to merge or consolidate with a domestic savings bank if the surviving savings bank is a domestic savings bank.

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

Sec. 92.405. APPROVAL BY COMMISSIONER OF PLAN. (a) If the commissioner approves the plan of merger or consolidation, the commissioner shall issue an order approving the merger or consolidation.

(b) If the surviving savings bank is a foreign savings bank, the commissioner shall issue and deliver to the surviving savings bank a certificate of authority to do business as a savings bank in this state for a period that expires January 31 of the next calendar year.

(c) A surviving savings bank that is a domestic savings bank shall operate under:

(1) the articles and bylaws of the merging or consolidating domestic savings bank; and

(2) the law applicable to a domestic savings bank.

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

Sec. 92.406. ENFORCEMENT OF CONDITION, RESTRICTION, OR REQUIREMENT ON SURVIVING FOREIGN SAVINGS BANK. If the surviving savings bank is a foreign savings bank, the commissioner may enforce a condition, restriction, or requirement on the surviving savings bank that could have been enforced by the state in which the

foreign savings bank has its principal place of business if the merger or consolidation had occurred in that state and the surviving savings bank were a domestic savings bank.

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

Sec. 92.407. MERGER OF FOREIGN SAVINGS AND LOAN ASSOCIATION. (a) A foreign savings and loan association may merge with a domestic savings bank under this subchapter as if the foreign savings and loan association were a foreign savings bank.

(b) If the surviving institution is the foreign savings and loan association, the commissioner shall issue and deliver to the foreign savings and loan association a certificate of authority under Section 92.405 to do business in this state.

(c) In this section, "foreign savings and loan association" means a savings and loan association:

(1) whose principal office is located outside this state; and

(2) that was organized under the law of another state or the law of the United States.

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

SUBCHAPTER J. MERGER OF SUBSIDIARY CORPORATION

Sec. 92.451. AUTHORITY TO MERGE. One or more corporations organized under the law of this state may merge into a savings bank that owns all the corporations' capital stock if:

(1) the board of the savings bank and each corporation by majority vote adopt a plan of merger; and

(2) the secretary of state and the commissioner approve the merger.

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

Sec. 92.452. ARTICLES OF MERGER. (a) The articles of merger must:

(1) be executed by the president or vice president and a secretary or assistant secretary of the savings bank and each corporation; and

(2) include:

(A) the name of the savings bank and each corporation;

(B) a copy of the resolution of the savings bank and each corporation adopting the plan of merger;

(C) a statement of the number of shares of each class issued or authorized by each corporation;

(D) a statement that all capital stock of each corporation is owned by the savings bank; and

(E) a statement incorporating the provisions of Section 92.454(b).

(b) The original and a copy of the articles of merger must be submitted to the secretary of state and the commissioner.

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

Sec. 92.453. APPROVAL OF MERGER. (a) The secretary of state shall approve the articles of merger if the secretary of state determines that:

(1) the articles of merger comply with applicable law; and

(2) all fees and franchise taxes due from each corporation have been paid.

(b) The commissioner shall approve the articles of merger if the commissioner determines that:

(1) the articles of merger comply with applicable law; and

(2) the merger is in the best interest of the savings bank.

(c) On approval of the articles of merger, each approving officer shall:

(1) endorse on the original and a copy of the articles of merger the word "filed" and the date of the approval;

(2) file the original and a copy of the articles of merger in the records of the officer's office; and

(3) issue and deliver to the savings bank a certificate of merger with an attached copy of the articles of merger.

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

Sec. 92.454. EFFECT OF MERGER. (a) A merger takes effect on the date the last required certificate of merger is issued.

(b) After the merger takes effect:

(1) a corporation that was merged ceases to exist;

(2) the savings bank assumes the rights and obligations of the corporation and owns the property of the corporation; and

(3) the savings bank's articles of incorporation are considered amended to the extent that a change is stated in the plan of merger.

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

Sec. 92.455. INAPPLICABILITY OF SUBCHAPTER H. Subchapter H does not apply to a merger under this subchapter.

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

SUBCHAPTER K. VOLUNTARY LIQUIDATION

Sec. 92.501. RESOLUTION TO LIQUIDATE AND DISSOLVE. (a) A savings bank may liquidate and dissolve if:

(1) at an annual meeting or a special meeting called for the purpose, the members or shareholders by majority vote adopt a resolution to liquidate and dissolve; and

(2) a copy of the resolution certified by the president and secretary of the savings bank and an itemized statement of the savings bank's assets and liabilities sworn to by a majority of its board is filed with and approved by the commissioner.

(b) After the commissioner approves the resolution:

(1) the savings bank may not accept additional deposit accounts or additions to deposit accounts or make additional loans; and

(2) the savings bank's income and receipts in excess of actual expenses of liquidation shall be applied to the discharge of its liabilities.

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

Sec. 92.502. DISTRIBUTION OF ASSETS. (a) The board, under the commissioner's supervision and in accordance with the approved liquidation plan, shall liquidate the affairs of the savings bank and reduce its assets to cash for the purpose of paying, satisfying, and discharging all existing liabilities and obligations of the savings bank, including the full withdrawal value of all deposit accounts.

(b) The board shall distribute any remaining balance to the members or shareholders of record on the date the savings bank adopted the resolution to liquidate, according to their liquidation rights.

(c) The board shall pay from the savings bank's assets all expenses incurred by the commissioner or any of the commissioner's representatives during the course of liquidation.

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

Sec. 92.503. FINAL REPORT AND ACCOUNTING. (a) On completion of the liquidation, the board shall file with the commissioner a final report and accounting of the liquidation.

(b) The commissioner's approval of the report is a complete and final discharge of the board and each member in connection with the liquidation of the savings bank.

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

SUBCHAPTER L. CHANGE OF CONTROL OF SAVINGS BANK

Sec. 92.551. INAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a conversion, reorganization, merger, consolidation, or voluntary liquidation under Subchapter F, G, H, J, or K.

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

Sec. 92.552. EFFECT OF SUBCHAPTER ON OTHER LAW. This subchapter does not:

- (1) excuse or diminish notice requirements prescribed

by this subtitle; or

(2) prevent the commissioner from investigating, commenting on, or seeking to enjoin or set aside a transfer of voting securities of a savings bank that the commissioner considers to be against the public interest, regardless of whether the transfer is subject to this subchapter.

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

Sec. 92.553. APPLICATION FOR CHANGE OF CONTROL. (a) Control of a savings bank may change only if an application for approval of the change of control is filed with and approved by the commissioner.

(b) The application must be:

- (1) on a form prescribed by the commissioner;
- (2) sworn to; and
- (3) accompanied by the filing fee.

(c) Unless the commissioner expressly waives a requirement of this subsection, the application must contain:

(1) the identity, history, business background and experience, and financial condition of each person by whom or on whose behalf the acquisition is to be made, including a description of:

(A) the managerial resources and future prospects of each acquiring party; and

(B) any material pending legal or administrative proceedings to which the applicant is a party;

(2) the terms of any proposed acquisition and the manner in which the acquisition is to be made;

(3) the identity, source, and amount of the money or other consideration used or to be used in making the acquisition and, if any part of the money or other consideration was or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and arrangements, agreements, or understandings with those parties;

(4) any plan or proposal of an acquiring party to liquidate the savings bank, sell the savings bank's assets, merge

the savings bank with another company, or make other major changes in the savings bank's business, corporate structure, or management;

(5) the terms of any offer, invitation, agreement, or arrangement under which a voting security of the savings bank will be acquired and any contract affecting that security or its financing after it is acquired;

(6) information establishing that the requirements under Section 92.556(a) are satisfied; and

(7) other information that:

(A) the finance commission by rule requires; or

(B) the commissioner orders to be included in a particular application.

(d) The commissioner may require each member of a group proposing to acquire voting securities of a savings bank under this subchapter to provide the information required by the commissioner. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 48, eff. Sept. 1, 2001.

Sec. 92.554. NOTICE OF APPLICATION. (a) On receipt of an application, the commissioner shall 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:

(1) notice of the application;

(2) the date the application was filed; and

(3) the identity of each party to the application.

(b) The commissioner may waive the publication requirement of this section or may permit delay of publication if the commissioner determines that the waiver or delay is in the public interest.

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

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 1, eff. September 1, 2021.

Sec. 92.555. CONFIDENTIALITY. (a) Except as provided by

this section, information the commissioner obtains under this subchapter that is not published is confidential and may not be disclosed by the commissioner or an officer or employee of the Department of Savings and Mortgage Lending.

(b) Information that would have been contained in a published notice waived by the commissioner under Section 92.554 becomes public information under Chapter 552, Government Code, on the 34th day after the date the application is filed.

(c) On request, the commissioner may disclose the identity of an actual or beneficial owner of a savings bank incorporated under this subtitle.

(d) The commissioner may disclose information to an appropriate banking agency or another appropriate government department, agency, or instrumentality of this state, another state, or the United States if the commissioner considers the disclosure necessary or proper to enforce the laws of any state or the United States and in the best interest of the public.

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. 6.038, eff. September 1, 2007.

Sec. 92.556. DENIAL OF APPLICATION. (a) The commissioner by order shall deny an application unless the applicant establishes that:

- (1) the acquisition would not:
 - (A) substantially lessen competition;
 - (B) restrain trade in a manner that would result in a monopoly; or
 - (C) further a combination or conspiracy to monopolize or attempt to monopolize the financial industry in any part of this state;
- (2) the financial condition of an acquiring party does not jeopardize the financial stability of the savings bank being acquired;
- (3) the plan or proposal to liquidate or sell the savings bank or any assets is in the best interest of the savings

bank;

(4) the experience, ability, standing, competence, trustworthiness, and integrity of the applicant are sufficient to ensure that the acquisition is in the best interest of the savings bank; and

(5) the savings bank would be solvent, have adequate capital structure, and be in compliance with the law of this state.

(b) The commissioner is not required to deny an application that does not comply with Subsection (a)(1) if the commissioner determines that:

(1) the anticompetitive effects of the acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served; and

(2) the acquisition does not violate a law of this state or the United States.

(c) Notwithstanding Subsections (a) and (b), the commissioner shall issue an order denying an application if the commissioner determines that the applicant:

(1) has not furnished all information pertinent to the application reasonably requested by the commissioner; or

(2) is not acting in good faith.

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

Sec. 92.557. NOTICE OF INTENT TO DENY; HEARING. (a) Not later than the 60th day after the date the application is filed, the commissioner shall:

(1) approve the application without a hearing; or

(2) notify the transferee in writing that the commissioner intends to deny the application and state the grounds for denial.

(b) Not later than the 30th day after the date notice of intent to deny is mailed to the transferee, the transferee may file a written request for a hearing on the application.

(c) The commissioner may immediately enter a final and nonappealable order denying the application if a hearing is not timely requested.

(d) If a hearing is to be held, the commissioner shall issue public notice of the application and shall give any interested person an opportunity to appear, present evidence, and be heard for or against the application. A hearing officer designated by the commissioner shall hold the hearing.

(e) After the hearing, the commissioner shall enter a final order approving or denying the application.

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

Sec. 92.558. JUDICIAL REVIEW. (a) An applicant may appeal a final order with the commissioner as defendant.

(b) A party to the action may appeal the court's decision. The appeal is immediately returnable to the appellate court and has precedence over any cause of a different character pending in that court.

(c) The commissioner is not required to give an appeal bond in a cause arising under this section.

(d) Filing an appeal under this section does not stay an order of the commissioner.

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

Sec. 92.559. UNAUTHORIZED CHANGE OF CONTROL. If it appears that a change in control may have occurred without prior approval, the commissioner may call a hearing to determine whether:

(1) a change in control has occurred or an unauthorized person without any apparent ownership interest in the savings bank, acting alone or with others, effectively has indirect controlling or dominating influence over the management or policies of the savings bank; and

(2) an appropriate supervisory order should be issued, including an order requiring divestiture of unapproved or indirect control.

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

Sec. 92.560. INJUNCTION. (a) The attorney general on behalf of the commissioner may apply for equitable relief as the case may require, including an order prohibiting the violation, if

it appears to the commissioner that a person has violated or is about to violate this subchapter or a rule of the finance commission or order of the commissioner adopted under this subchapter.

(b) The suit must be brought in a district court of Travis County.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 49, eff. Sept. 1, 2001.

Sec. 92.561. CRIMINAL PENALTY. (a) A person commits an offense if the person intentionally makes a materially false or misleading statement to the commissioner with respect to the information required by this subchapter.

(b) An offense under this section is a Class A misdemeanor.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER M. LIMITED SAVINGS BANK

Sec. 92.601. APPLICATION TO ORGANIZE. (a) Five or more adult residents of this state may apply to organize a savings bank as a limited savings bank by submitting to the commissioner:

(1) an application to organize a limited savings bank that is:

- (A) in a form specified by the commissioner; and
- (B) signed by each organizer; and

(2) the filing fee.

(b) An application must contain:

(1) two copies of the limited savings bank's certificate of formation containing:

- (A) the name of the savings bank;
- (B) the location of the principal office;
- (C) the names and addresses of the initial managers; and

(D) to the extent not inconsistent with this subtitle, the proper business of a savings bank, or a rule adopted by the finance commission related to savings banks, other provisions included in:

- (i) the articles of organization of a

limited liability company organized under the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes) if the limited savings bank was organized before January 1, 2006; or

(ii) the certificate of formation of a limited liability company organized under Chapter 101, Business Organizations Code, if:

(a) the limited savings bank was organized on or after January 1, 2006; or

(b) the organizers elect to include those provisions, if the limited savings bank was organized before January 1, 2006;

(2) two copies of the savings bank's company agreement;

(3) data sufficiently detailed and comprehensive in nature to enable the commissioner to make findings under Section 92.058, including statements, exhibits, and maps;

(4) financial information about each applicant, organizer, manager, officer, or member that the finance commission requires by rule; and

(5) other information relating to the savings bank and its operation that the finance commission requires by rule.

(c) Financial information described by Subsection (b) is confidential and not subject to public disclosure unless the commissioner finds that disclosure is necessary and in the public interest.

(d) The statement of fact must be signed and sworn to.

(e) Subchapter B applies to the organization of a limited savings bank except to the extent inconsistent with this section.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.602. LIABILITY OF MEMBERS AND MANAGERS. A member, transferee of a member, or manager of a limited savings bank is not liable for a debt, obligation, or liability of the limited savings bank, including a debt, obligation, or liability under a judgment, decree, or order of a court. A member or a manager of a limited

savings bank is not a proper party to a proceeding by or against a limited savings bank unless the object of the proceeding is to enforce a member's or manager's right against or liability to a limited savings bank.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.603. CONTRIBUTIONS. A member of a limited savings bank is obligated to make contributions as required in the company agreement.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.604. MANAGERS OF LIMITED SAVINGS BANK. (a) Management of a limited savings bank shall be exercised by a board of managers consisting of not fewer than five or more than 21 persons.

(b) A manager must meet the qualifications for a director under Section 92.153.

(c) The governing documents of a limited savings bank may use "director" instead of "manager" and "board" instead of "board of managers."

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.605. WITHDRAWAL OR REDUCTION OF MEMBER'S CONTRIBUTION. (a) A member may not receive from a limited savings bank any part of the member's contribution except as provided by rule adopted by the finance commission regulating withdrawal or reduction.

(b) A member may not receive any part of the member's contribution if, after the withdrawal or reduction, the capital of the savings bank would be reduced to less than the minimum capital established for the incorporation or operation of a savings bank by this subtitle or a rule adopted under this subtitle.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.606. COMPANY AGREEMENT OF LIMITED SAVINGS BANK. (a) A limited savings bank shall adopt a company agreement that contains provisions regulating the management and organization of the limited savings bank. The agreement is subject to the approval of the commissioner and must contain provisions the finance commission may require by a rule adopted under this subchapter.

(b) At the option of the limited savings bank, the term "bylaws" may be substituted for the term "company agreement."

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.607. DISSOLUTION. (a) A limited savings bank organized under this subchapter is dissolved on:

(1) the expiration of the period fixed for the duration of the limited savings bank; or

(2) the occurrence of events specified in the certificate of formation or company agreement to cause dissolution.

(b) A dissolution under this section is considered a resolution to close the savings bank under Section 96.251.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.608. ALLOCATION OF PROFITS AND LOSSES. The profits and losses of a limited savings bank may be allocated among the members and among classes of members as provided by the company agreement. Without the prior written approval of the commissioner to use a different allocation method, the profits and losses must be allocated according to the relative interests of the members in the limited savings bank.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.609. DISTRIBUTIONS. Subject to rules adopted by the finance commission, distributions of cash or other assets of a limited savings bank may be made to the members as provided by the company agreement. Without the prior written approval of the

commissioner to use a different distribution method, distributions must be made to the members according to the relative interests of the members as reflected in the governing documents of the limited savings bank filed with and approved by the commissioner.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.610. AMENDMENT OF GOVERNING DOCUMENTS. (a) A limited savings bank may amend its certificate of formation by a majority vote of the members cast at any annual meeting or a special meeting called for that purpose unless the certificate of formation requires a higher percentage.

(b) If provided in the governing documents, the company agreement of a limited savings bank may be amended by a majority vote of the board of managers unless the governing documents require a higher percentage. In the absence of an express provision in the governing documents, the company agreement may be amended by a majority vote of the members cast at any annual meeting or special meeting called for that purpose.

(c) An amendment to the governing documents may not take effect before it is filed with and approved by the commissioner.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.15, eff. September 1, 2005.

Sec. 92.611. APPLICATION OF OTHER PROVISIONS TO LIMITED SAVINGS BANKS; MISCELLANEOUS PROVISIONS. (a) This subtitle applies to a savings bank organized as a limited savings bank under this subchapter. In the event of a conflict between this subchapter and a provision of this subtitle, this subchapter controls unless the finance commission by rule provides that this subtitle controls.

(b) For purposes of provisions of this chapter other than this subchapter, as the context requires:

(1) a manager is considered to be a director and the board of managers is considered to be the board of directors;

(2) a member is considered to be a shareholder; and

(3) a distribution is considered to be a dividend.

(c) A reference in a statute or rule to a savings bank includes a savings bank organized as a limited savings bank unless the context clearly requires that a limited savings bank is not included within the term or the provision contains express language excluding a limited savings bank.

(d) In this subchapter, "governing document" means a limited savings bank's certificate of formation or company agreement.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. [955](#)), Sec. 5.15, eff. September 1, 2005.