

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE C. SAVINGS BANKS

CHAPTER 93. GENERAL POWERS

Sec. 93.001. GENERAL CORPORATE POWERS. (a) A savings bank has the powers authorized by this subtitle and any other right, privilege, or power incidental to or reasonably necessary to accomplish the purposes of the savings bank.

(b) With the commissioner's prior approval, a savings bank may engage in business as a savings bank in any state of the United States to the extent permitted by the laws of that state, either directly or through the ownership of a savings bank incorporated under the laws of another state.

(c) A savings bank may:

(1) sue and be sued in its corporate name;

(2) adopt and operate a reasonable bonus plan, profit-sharing plan, stock bonus plan, stock option plan, pension plan, or similar incentive plan for its directors, officers, or employees, subject to any limitations under this subtitle or rules adopted under this subtitle;

(3) make reasonable donations for the public welfare or for a charitable, scientific, religious, or educational purpose;

(4) pledge its assets to secure deposits of public money of the United States, if required by the United States, including revenue and money the deposit of which is subject to control or regulation of the United States;

(5) pledge its assets to secure deposits of public money of any state or of a political corporation or political subdivision of any state or of any other entity that serves a public purpose according to rules adopted by the finance commission;

(6) become a member of or deal with any corporation or agency of the United States or this state, to the extent that the corporation or agency assists in furthering the purposes or powers of savings banks, and for that purpose may purchase stock or securities of the corporation or agency or deposit money with the corporation or agency and may comply with any other condition of

membership credit;

(7) become a member of a federal home loan bank or the Federal Reserve System;

(8) hold title to any assets acquired because of the collection or liquidation of a loan, investment, or discount and may administer those assets as necessary;

(9) receive and repay any deposit or account in accordance with this subtitle and rules of the finance commission; and

(10) lend and invest its money as authorized by this subtitle and rules of the finance commission.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 50, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.16, eff. September 1, 2005.

Sec. 93.002. ENLARGEMENT OF POWERS. (a) The finance commission by rule may expand the powers of savings banks to accommodate or take advantage of changing technology and to enable domestic savings banks to respond to the needs of and convenience demanded by consumers and businesses through on-premises or off-premises operations.

(b) The finance commission may not authorize a domestic savings bank to offer a financial service prohibited to a domestic savings bank by a law of this state other than this subtitle.

(c) In adopting a rule under this section, the finance commission shall consider the need to:

(1) promote a stable environment for financial institutions;

(2) provide the public with convenient, safe, and competitive financial services; and

(3) allow for economic development in the state.

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

Sec. 93.003. POWERS OF FEDERAL SAVINGS BANK. A federal savings bank and its members have all of the powers, privileges,

benefits, immunities, and exemptions that are provided by the law of this state for a savings bank and the savings bank's members.

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

Sec. 93.004. POWER TO BORROW. (a) A savings bank may borrow and give security, subject to rules adopted by the finance commission.

(b) A savings bank at any time through action of its board may issue a capital note, debenture, or other capital obligation authorized by 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. 51, eff. Sept. 1, 2001.

Sec. 93.005. FISCAL AGENT. (a) A savings bank may act as fiscal agent of the United States. A savings bank designated as fiscal agent of the United States by the secretary of the treasury shall act under regulations as required by the secretary and may act as fiscal agent for an instrumentality of the United States.

(b) A savings bank may act as fiscal agent of this state or of a governmental subdivision or instrumentality of this state.

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

Sec. 93.006. POWER TO ACT UNDER CERTAIN FEDERAL RETIREMENT PLANS. A savings bank or a federal savings bank, to the extent that its charter and applicable federal regulations permit, may:

(1) exercise any power necessary to qualify as a trustee or custodian for a retirement plan permitted or recognized by federal law; and

(2) invest money the bank holds as trustee or custodian under Subdivision (1) in the bank's accounts if the plan does not prohibit that investment.

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

Sec. 93.007. TRUST POWERS. (a) A savings bank may exercise trust powers only with the commissioner's prior written approval.

(b) The commissioner may approve the exercise of trust powers only after finding that the applicant's savings bank:

(1) is complying with applicable regulatory capital requirements;

(2) is well managed; and

(3) has earnings, resources, and managerial talent adequate to maintain a trust department.

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

Sec. 93.008. POWERS RELATIVE TO OTHER FINANCIAL INSTITUTIONS. (a) Subject to limitations prescribed by rule of the finance commission, a savings bank may make a loan or investment or engage in an activity permitted:

(1) under state law for a bank or savings and loan association; or

(2) under federal law for a federal savings and loan association, savings bank, or national bank if the financial institution's principal office is located in this state.

(b) Notwithstanding any other law, a savings bank organized and chartered under this chapter may perform an act, own property, or offer a product or service that is at the time permissible within the United States for a depository institution organized under federal law or the law of this state or another state if the commissioner approves the exercise of the power as provided by this section, subject to the same limitations and restrictions applicable to the other depository institution by pertinent law, except to the extent the limitations and restrictions are modified by rules adopted under Subsection (e). This section may not be used to alter or negate the application of the laws of this state with respect to:

(1) establishment and maintenance of a branch in this state or another state or country;

(2) permissible interest rates and loan fees chargeable in this state;

(3) fiduciary duties owed to a client or customer by the bank in its capacity as fiduciary in this state;

(4) consumer protection laws applicable to transactions in this state; or

(5) compliance with the qualified thrift assets test

contained in Section 92.204.

(c) A savings bank that intends to exercise a power, directly or through a subsidiary, granted by Subsection (b) that is not otherwise authorized for savings banks under the statutes of this state shall submit a letter to the commissioner describing in detail the power that the savings bank proposes to exercise and the specific authority of another depository institution to exercise the power. The savings bank shall attach copies, if available, of relevant law, regulations, and interpretive letters. The commissioner may deny the bank from exercising the power if the commissioner finds that:

(1) specific authority does not exist for another depository institution to exercise the proposed power;

(2) if the savings bank is insured by the Federal Deposit Insurance Corporation, the savings bank is prohibited from exercising the power under Section 24, Federal Deposit Insurance Act (12 U.S.C. Section 1831a), and related regulations;

(3) the exercise of the power by the bank would adversely affect the safety and soundness of the bank; or

(4) at the time the application is made, the savings bank is not well capitalized and well managed.

(d) A savings bank that is denied the requested power by the commissioner under this section may appeal. The notice of appeal must be in writing and must be received by the commissioner not later than the 30th day after the date of the denial. An appeal under this section is a contested case under Chapter 2001, Government Code.

(e) To effectuate this section, the finance commission may adopt rules implementing the method or manner in which a savings bank exercises specific powers granted under this section, including rules regarding the exercise of a power that would be prohibited to savings banks under state law but for this section.

(f) The exercise of a power by a savings bank in compliance with and in the manner authorized by this section is not a violation of any statute of this state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 52, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 5.17, eff. September 1, 2005.

Sec. 93.009. RIGHT TO ACT TO AVOID LOSS. (a) This subtitle does not deny a savings bank the right to invest its money, operate a business, manage or deal in property, or take other action during any period that is reasonably necessary to avoid loss on a loan or on an investment made or obligation created in good faith in the usual course of the bank's business, as authorized by this subtitle or a rule adopted under this subtitle.

(b) This subtitle does not prohibit a savings bank from:

(1) developing or building on land it has acquired under this section; or

(2) completing the construction of a building under a construction loan contract in which the borrower has not complied with the contract.

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

Sec. 93.010. CLOSING PLACE OF BUSINESS. A savings bank may close its place of business at any time its board of directors determines.

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

Sec. 93.011. EMERGENCY CLOSING. (a) If the officers of a savings bank determine that an emergency that affects or may affect the savings bank's offices or operations exists or is impending, the officers, as reasonable, may determine:

(1) not to conduct the involved operations or open the offices on any business or banking day; or

(2) if the savings bank is open, to close the offices or the involved operations for the duration of the emergency.

(b) Subject to Subsection (c), a closed office or operation may remain closed until the officers determine that the emergency has ended and for any additional time reasonably required to reopen.

(c) A savings bank that closes an office or operation under

this section shall notify the commissioner of its action by any means available and as promptly as conditions permit. An office or operation may not be closed for more than 48 consecutive hours, excluding other legal holidays, without the commissioner's approval.

(d) In this section, "emergency" means a condition or occurrence that physically interferes with the conduct of normal business at the offices of a savings bank or of a particular savings bank operation or that poses an imminent or existing threat to the safety or security of persons, property, or both. The term includes a condition or occurrence arising from:

- (1) fire, flood, earthquake, hurricane, tornado, wind, rain, or snowstorm;
- (2) labor dispute and strike;
- (3) power failure;
- (4) transportation failure;
- (5) interruption of communication facilities;
- (6) shortage of fuel, housing, food, transportation, or labor;
- (7) robbery or burglary;
- (8) actual or threatened enemy attack;
- (9) epidemic or other catastrophe;
- (10) riot or civil commotion; or
- (11) any other actual or threatened unlawful or violent act.

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

Sec. 93.012. EFFECT OF CLOSING. (a) A day on which a savings bank or one or more of its operations are closed under Section 93.011 during all or part of its normal business hours is considered to be a legal holiday to the extent the savings bank suspends operations.

(b) A savings bank or a director, officer, or employee of a savings bank does not incur liability or loss of rights from a closing authorized by Section 93.011.

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