

BILL ANALYSIS

Senate Research Center

S.B. 1400
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Banking (TDB) must evaluate and approve persons seeking to acquire control of a Texas bank. Certain statutory provisions in this area are not working as intended by requiring a decision before TDB has complete information, and by requiring submission of information from persons already subject to the jurisdiction of another agency charged with similar responsibility. Additionally, federal law regarding the permissible activities of foreign banks has changed over time, resulting in now obsolete references in other provisions. Recent events also demonstrate that state law regarding safe deposit box rentals does not address the ability of a company in the business of owning and leasing safe deposit boxes to withdraw from the business.

These inconsistencies and omissions create avoidable regulatory burdens. S.B. 1400 corrects these inefficiencies by more fully addressing certain banking relationships, eliminating overlapping jurisdiction, clarifying certain application processes, and modernizing state law regarding foreign banks to conform to current federal law.

S.B. 1400 amends current law relating to state banks, state bank holding companies, and branches of foreign banks.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 33.002, Finance Code, by adding Subsection (a-1) and amending Subsections (d), (e), and (f), as follows:

(a-1) Requires the banking commissioner (commissioner) to promptly notify the applicant for approval of the acquisition of control (applicant) of the date the commissioner determines the application to be informationally complete and accepted for filing.

(d) Requires the applicant to publish a certain notice, to include the date the application is accepted for filing, rather than its date of filing. Makes nonsubstantive changes.

(e) Authorizes the applicant to defer publication of the notice until not later than the 34th day after the date the application is accepted for filing, rather than the date the application is filed, under certain circumstances.

(f) Makes conforming changes.

SECTION 2. Amends Section 59.109, Finance Code, as follows:

Sec. 59.109. New heading: TERMINATION OF RENTAL; LIEN; SALE OF CONTENTS. (a) Prohibits a safe deposit company from terminating an agreement for the rental of a safe deposit box unless the safe deposit company has delivered or sent to the

lessee a notice not later than the 90th day before the date of the termination and has provided the lessee an opportunity to retrieve the contents during normal business hours throughout the duration of the notice period; or the payment for the rental of a safe deposit box is delinquent for at least six months, and the lessee fails to pay the rent due following notice provided under Subsection (a-1).

(a-1) Creates this subsection from existing text. Requires, rather than authorizes, a safe deposit company, if the payment for the rental of a safe deposit box is delinquent for at least six months, or if the rental agreement is otherwise terminated, to send notice to each lessee that the company will remove the contents of the box if the rent is not paid or, if the rental agreement is otherwise terminated, the contents are not retrieved before a certain date specified in the notice.

(a-2) Creates this subsection from existing text. Authorizes the safe deposit company to open the box in the presence of certain employees if the delinquent rent is not paid or, if the rental agreement is otherwise terminated, the contents are not retrieved before the date specified in the notice.

(b) Authorizes the safe deposit company to retain possession of the contents not later than two years from the date of the opening of the box plus a reasonable period to dispose of the box's contents. Authorizes the safe deposit company to sell all or part of the contents of the box in a specified manner if certain costs are not paid before the second anniversary of the date the box was opened, or if the rental agreement is being terminated for a reason other than delinquent payment, and the lessee has failed to retrieve the contents in a reasonable period after notice of the termination has been sent or delivered.

SECTION 3. Amends Section 202.001, Finance Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that this section applies to a company intending to acquire a Texas bank holding company or a Texas bank. Provides that for purposes of this section, a Texas bank holding company does not include a bank holding company of which the only subsidiaries are state savings banks.

(a-1) Creates this subsection from existing text. Requires a company described by Subsection (a), rather than a company intending to acquire a Texas bank holding company or a Texas bank, to submit certain information to the commissioner.

SECTION 4. Amends Sections 204.105(b) and (e), Finance Code, as follows:

(b) Prohibits a Texas state branch from accepting deposits of less than an amount equal to the standard maximum deposit insurance amount, rather than deposits of less than \$100,000, from citizens or residents of the United States unless certain criteria are met, among certain other exceptions to Subsection (a) (relating to certain circumstances under which a Texas state branch or agency is subject to certain statutes as if the Texas state branch or agency were a Texas state bank).

(e) Provides that for purposes of this section:

(1) creates this subdivision from existing text. Makes conforming changes and redesignates existing Subdivisions (1) through (3) as Paragraphs (A) through (C).

(2) defines "standard maximum deposit insurance amount."

SECTION 5. Amends Section 204.203(a), Finance Code, as follows:

(a) Authorizes a registered Texas representative office of a foreign bank to engage in:

(1) certain representational and administrative functions in connection with the banking activities of the foreign bank, rather than soliciting loans and taking certain actions in connection with a loan;

(2) making certain credit decisions, rather than soliciting purchasers for loans from the foreign bank; and

(3) other functions for or on behalf of the foreign bank or its affiliates, including operating as a regional administrative office of the foreign bank, but only to the extent that the functions are not banking activities and are not prohibited by applicable federal or state law, rather than soliciting persons to contract for servicing the foreign bank loans.

Deletes existing Subdivisions (4) through (8) authorizing an office to engage in certain activities relating to research and administrative functions.

SECTION 6. Repealers: Sections 204.203(b) (relating to prohibiting an office from soliciting or accepting credit balances or deposits or making final credit decisions), (c) (relating to the authorization for certain Texas representative offices to engage in credit approval activities), and (d) (relating to requiring that written notice under Subsection (c) be in a certain form), Finance Code.

SECTION 7. Effective date: September 1, 2017.