

2601 North Lamar - Suite 201  
Austin, Texas 78705  
Telephone: (512) 475-1350



---

## APPLICATION TO REORGANIZE, MERGE, AND/OR CONSOLIDATE

---

### INTRODUCTION

This application shall be prepared by the state savings bank that plans to reorganize, merge, and/or consolidate with, acquire the assets of, assume the liability to pay the deposits made in another financial institution, if the state savings bank is to be the surviving entity. The application must demonstrate that the applicant complies with the provisions of 92.351 of the *Texas Finance Code*, Subtitle C. Texas Savings Banks (the "Act") and 75.81-75.88 of the Rules and Regulations Applicable to Texas Savings Banks (the "Rules"). However, the procedures in 75.81 through 75.86 do not apply if the Commissioner designates the transaction as a supervisory merger pursuant to 75.87. One complete originally signed and one copy with all exhibits, accompanied by the application fee as provided in 79.99 of the Rules, shall be filed with the Commissioner, Texas Savings and Mortgage Lending Department, 2601 North Lamar, Suite 201, Austin, Texas 78705.

The required application format is set forth beginning on page 3 and the submission should clearly identify the item to which each response applies. The application and all required supporting information shall be executed by the officer submitting the application.

If the surviving institution is other than the state savings bank, then the state savings bank that is party to the transaction should provide notice to the Commissioner by filing a copy of the application submitted to the regulator of the surviving institution and meet the other requirements set forth in 75.89 of the Rules.

### **Confidential Treatment**

All materials filed as part of this application are available for public inspection, except the personal financial data supplied and identified as "CONFIDENTIAL" and that which the Commissioner determines to hold from public availability because of its confidential nature under the Texas Open Records Act. If the applicant submits information it deems to be confidential, such information must be separately bound and labeled "CONFIDENTIAL" and a statement shall be submitted briefly setting forth the Texas Open Records Act exception under which such information should be treated as confidential. Final determination of confidentiality of any information submitted with this application shall rest with the Commissioner.

## REORGANIZATION, MERGER, AND/OR CONSOLIDATION APPLICATION PROCEDURE

The process is initiated by the adoption of a resolution by the savings bank's board of directors that authorizes the submission of an application for reorganization, merger, and/or consolidation pursuant to a plan. Besides submitting the application to the Department, an application must be submitted to the Federal Deposit Insurance Corporation and the primary regulator of the other financial institution. Any information requested herein duplicated by an application submitted to another regulatory agency may be copied from that application to submit to the Commissioner. Additionally, the applicant may file in its entirety the application required by another regulatory agency regarding the same transaction and supplement such application by letter to address requirements of the State statute and rules.

Upon receipt of the application, the Commissioner and the Department will review the application and determine whether any additional information will be required. After review of the filed material, the applicant may be requested to furnish additional information as an amendment to the application. Further, the applicant may amend the application at its discretion. All amendments shall be clearly identified as such, numbered consecutively and shall comply with all pertinent requirements of the application, including signature. Upon receipt of all necessary information, the application will be deemed complete and the applicant so advised in writing.

Once the application is deemed complete, the Commissioner shall give public notice of the proposed application in the county or counties in which the financial institutions participating in the proposed plan have offices and shall give any interested party an opportunity to appear, present evidence, and be heard for or against the proposed plan. Each institution involved in a plan must publish a notice at least 20 days prior to the date of the hearing in a newspaper of general circulation in the county where they have their office, and file proof of publication at least 10 days prior to the hearing. A hearing officer designated by the Commissioner shall hold the hearing pursuant to 79.71 through 79.73 of the Rules. If a protest is not received on or before the date of the hearing, the Commissioner may dispense with the hearing. The provisions of the administrative procedure act applicable to a contested case apply to the hearing, except that the notice and hearing provisions do not apply to this application if the Commissioner has designated the merger to be a supervisory merger pursuant to 75.87 of the Rules.

The Commissioner's approval of the application will be rendered within 60 days after the date the hearing is closed and shall be conditioned upon the receipt of all necessary regulatory approvals. Following the adoption of the plan by the stockholders or members, the applicant shall provide certified copies of the minutes of the meeting of the stockholders or members evidencing the adoption of the plan by a majority vote of the stockholders or members of the applicant and specifically providing the total number of votes eligible to be cast and the total number of votes cast, and the total number of votes approving or rejecting the applicant's plan.

An appeal of an order or action of the Commissioner shall be made pursuant to the Administrative Procedure Act, and 91.006 of the Act.

**TEXAS SAVINGS AND MORTGAGE LENDING DEPARTMENT**

2601 North Lamar Suite 201

Austin, Texas 78705

**APPLICATION FOR REORGANIZATION, MERGER,  
AND/OR CONSOLIDATION**

---

(Full Name of Applicant)

---

(Street Address of Applicant)

---

(City, State and Zip Code)

---

---

(Full Name of Other Institution)

---

(Street Address of Other Institution)

---

(City, State and Zip Code)

---

---

(Date of Application)

Additional Information Concerning This Application May Be Obtained From:

---

(Name and Title)

---

(Address)

---

---

(Telephone Number)

**HOLDING COMPANY**

---

(Title of Holding Company for Applicant)

---

(Street Address)

---

(Title of Holding Company for Other Institution)

---

(Street Address)

---

(Title of Holding Company for Resulting Institution)

---

(Street Address)

---

**NOTE:** Include an organization chart of each holding company before and after the consummation of the reorganization, merger, or consolidation.

The undersigned hereby makes this application to the Savings and Mortgage Lending Commissioner for approval to reorganize, merge, and/or consolidate with, acquire the assets of, assume the liability to pay the deposits made in (Name of Other Institution) pursuant to Section 92.351 of the Texas Savings Bank Act, (the "Act") and 7 TAC 75.81-75.87 of the Rules and Regulations Applicable to Texas Savings Banks (the "Rules"), and submits a statement of the proposed plan and other information and exhibits required by the Commissioner.

**Item 1. DIRECTOR AND SHAREHOLDER APPROVAL.** This application has been approved by the board of directors of the applicant and the other institution as evidenced by a copy of the resolution of the board of directors adopting the plan and authorizing the filing of this application certified by the chief executive officer and/or secretary of the applicant and the other institution. Before consummation of the transaction, the plan shall be submitted to the eligible stockholders or members of the applicant and the other institution, with the Commissioner provided a certified copy of the minutes of the meetings of the stockholders or members evidencing the adoption of the plan by a majority vote including the total number of votes eligible to be cast and the total number of votes cast, and the total number of votes approving or rejecting the application.

**Item 2.** The proposed name and home office of the surviving entity shall be \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_ County, Texas, which is the current home office of \_\_\_\_\_.

**Item 3. PLAN OF REORGANIZATION, MERGER, AND/OR CONSOLIDATION.** The application must include a true copy of the plan that sets forth the terms and conditions of the transaction and the manner in which it is to be accomplished. The plan shall specifically provide a statement that the corporate continuity of the resulting institution shall possess the same incidents as that of a savings bank that has converted in accordance with the Act.

**Item 4. FINDINGS.** Section 92.353 of the Act requires that the Commissioner deny an application received under that section unless he finds from the data submitted in the application that the following are true:

(A) The reorganization, merger, or consolidation would not substantially lessen competition or be in restraint of trade and would not result in a monopoly or be in furtherance of a combination or conspiracy to monopolize the financial industry in any part of the state, unless the anticompetitive effects of the proposed 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.

(1) Provide a schedule of the current branch offices of each institution, with each branch assigned consecutive numbers to be located on an enclosed map. Indicate the number and total dollar amount of loans and deposits at each location. Note any changes in services to be offered in any market, and document the need for such additional services.

(2) For the principal location of each institution and for any SMSA in which the applicant or the other institution has 10% of the deposits in financial institutions for the relevant market area, or the resulting state savings bank would have 20% or more of the deposits:

(a) Prepare a schedule of competing banking offices, including the participating institutions, located within or competing in the noted geographic markets. For each banking office listed, provide exact street addresses, total deposits, and road miles and direction from the nearest office of the applicant and the other institution. Include offices approved but not yet open, and indicate such. Include a map keyed to the list of offices.

(b) Provide a schedule of the names, addresses, and competitive services provided by non-bank institutions in the relevant market areas (i.e., credit unions, industrial banks, insurance companies, finance companies, and government agencies). Indicate the effect, if any, of these institutions on competition in the area for the services that will be offered by the resulting entity.

(c) If the resulting state savings bank would have 20% or more of the deposits in financial institutions in any one or more SMSA markets, indicate the markets where this would occur. Provide a certification or opinion of counsel that the proposed transaction does not violate Texas antitrust laws, V.T.C.A., Business & Commerce Code, Chapter 15.

(B) The proposed plan is in the best interest of the financial institutions that are parties to the plan. Describe the corporate organizational and merger history, including the date of original organization and any other previous structural changes for the applicant and the other institution. Briefly summarize all negotiations that led to this application, who initiated them, and why the plan was finally adopted in the form included with this application.

(C) 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 be in the best interest of the financial institutions that are parties to the plan.

(1) For the resulting state savings bank, list the names of the directors and principal executive officers, their ages, titles and salaries if they come from the other institution or are new. Provide a brief summary of the educational background, banking experience and other qualifications of each.

(2) Indicate ownership of shares in each institution and in the resulting state savings bank by insiders such as directors, officers, and 5% or more shareholders. Include any common ownership between the applicant and the other institution, if any, and when the common ownership began.

(3) Non-inducement affidavits must be executed by each senior executive officer, director, and person(s) controlling over 5% of stock, and each attorney or law firm regularly serving the involved institutions. The form on Page 9 of this application may be modified to provide for multiple signatures for each institution.

(D) After the reorganization, merger, or consolidation the surviving state savings bank would be solvent, have adequate capital, and be in compliance with all of the laws of this State.

(1) Include a schedule of the components of current capital for each institution, and a pro forma projected capital structure of the resulting state savings bank upon consummation including

detailed descriptions for adjustments. Describe any capital programs of the participating institutions approved by the shareholders but not yet consummated.

(2) Prepare a balance sheet and statement of income for each institution as of the most recent quarter end, and pro forma consolidating statements for the resulting state savings bank upon consummation and for the first four calendar quarters after consummation. Also, indicate the net income of each institution for the past five years.

**Item 5.** SIGNATURES. The application shall be signed by the chief executive officer of each institution involved with the following preceding such signatures:

SIGNATURES

\_\_\_\_\_, being duly sworn, on his oath deposes and says: "I am the Chief Executive Officer of \_\_\_\_\_ and acting pursuant to resolution of the board of directors of said institution I am filing this application; and I have reviewed all statements, facts and graphic representations contained in this application, and they are true and correct. I further state that the application is made in good faith with the purpose and intent that the affairs and business of the resulting institution shall be honestly conducted upon good and sound business principles."

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Chief Executive Officer

Sworn to and subscribed before me, the undersigned authority, by \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_, being duly sworn, on his oath deposes and says: "I am the Chief Executive Officer of \_\_\_\_\_ and acting pursuant to resolution of the board of directors of said institution I am filing this application; and I have reviewed all statements, facts and graphic representations contained in this application, and they are true and correct. I further state that the application is made in good faith with the purpose and intent that the affairs and business of the resulting institution shall be honestly conducted upon good and sound business principles."

\_\_\_\_\_  
Name of Other Institution

\_\_\_\_\_  
Chief Executive Officer

Sworn to and subscribed before me, the undersigned authority, by \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas



**AFFIDAVIT OF NON-INDUCEMENT**

Non-inducement affidavits must be executed by each managing officer, chairman of the Board, if not the same person, and by each controlling person. The form may be modified to provide for multiple signatures for each institution.

---

AFFIDAVIT

STATE OF TEXAS)

COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn, deposes and says that:

1. I am \_\_\_\_\_ of  
(Title)

(Name of Institution)

(Street Address)

(City, State, and Zip)

2. Except as disclosed in the agreement of (reorganization, merger, consolidation, purchase of assets, or assumption of liabilities) between  
and

and the supporting documents, or set forth below, I have not received and will not receive, directly or indirectly, any fee, remuneration, compensation or thing of value of any sort from any source, including subsidiary, affiliate or parent corporation, in connection with the aforementioned transaction.

Signature

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

Signature of Notary